

2 July 2021

Attn:

Mr. Benjamin CHAN
Assistant Commissioner
Inland Revenue Department ("IRD")
1/F, Revenue Tower
5 Gloucester Road
Wan Chai
Hong Kong

Re: New Securities Lending Agreement for Stamp Duty Relief Purposes

Dear Mr. Chan,

As you may be aware, that International Securities Lending Association (ISLA) has developed a new model of securities lending documentation which includes Global Master Securities Lending Agreement – 2018 Version ("GMSLA 2018 Version") and is intended to be used in conjunction with Security Agreement and other tri-party custody documentation (collectively "Pledge GMSLA").

In light of the above, the Asia Securities Industry & Financial Markets Association ("ASIFMA¹"), the Capital Markets Tax Committee of Asia ("CMTC²") and the Pan Asia Securities Lending Association ("PASLA³") respectfully submit that the following items be updated to incorporate the new model agreement as one of the approved standard versions of Stock Borrowing and Lending Agreements published by International Securities Lending Association ("ISLA") for satisfying the stamp duty relief registration purposes.

¹ ASIFMA is an independent, regional trade association with over 145 member firms comprising a diverse range of leading financial institutions from both the buy and sell side, including banks, asset managers, law firms and market infrastructure service providers. Together, we harness the shared interests of the financial industry to promote the development of liquid, deep and broad capital markets in Asia. ASIFMA advocates stable, innovative, competitive and efficient Asian capital markets that are necessary to support the region's economic growth. We drive consensus, advocate solutions and effect change around key issues through the collective strength and clarity of one industry voice. Our many initiatives include consultations with regulators and exchanges, development of uniform industry standards, advocacy for enhanced markets through policy papers, and lowering the cost of doing business in the region. Through the GFMA alliance with SIFMA in the United States and AFME in Europe, ASIFMA also provides insights on global best practices and standards to benefit the region.

² CMTC is a financial services industry body consisting of a number of banks, investment banks, securities firms and other diversified financial services institutions operating in Asia who are represented through their regional tax directors. The main objects of the CMTC, according to its Constitution, are "to provide a forum for discussion by corporate tax managers responsible for the tax affairs of investment banks, securities firms, banks and other diversified financial services institutions of topical taxation issues in Asia affecting their capital and securities markets and similar activities; ... to keep members informed of up to date information on taxation matters affecting capital and securities markets, and to exchange views on the technical analysis thereof; [and] to represent the interests of its members through acting as the respected voice of investment banks, securities firms, banks and other diversified financial services institutions, and to participate in liaison or advocacy activities on tax matters either directly or indirectly through representation with other groups or societies concerned with or by fiscal matters."

³ PASLA was incorporated in Hong Kong in 1995 and is an association of firms that are active in the business of borrowing and/or lending securities within Asian markets. PASLA membership is open to both international firms which are active in several markets and local firms which are active primarily in their home market. While individual firms involved in securities borrowing and lending may have their own unique marketing and business development strategies in Asia PASLA, as a collective group, creates an industry consensus on issues that affect the development of the securities lending business and, by maintaining regular communication and contact with regional regulators and exchanges, creates an open forum for discussion and the exchange of information.

- Stamp Office Interpretation and Practice Notes No. 2 (Revised) Relief for Stock Borrowing and Lending Transactions (SOIPN No. 2) as well as other relevant guidance,
- the table of approved standard versions of SBLA on the IRD website (<https://www.ird.gov.hk/eng/tax/sdu.htm#appsbla>), and
- Stock Borrowing Relief e-Registration portal (https://www.gov.hk/en/residents/taxes/etax/services/stock_borrowing_relief.htm).

Below is an extraction of the existing approved agreements in stock borrowing relief e-Registration portal for easy reference.

4. Agreement Type:*

Approved version

International Securities Lending Association

Overseas Securities Lender's Agreement, version 1995
 Master Gilt Edged Stock Lending Agreement, version 1996
 Master Equity & Fixed Interest Stock Lending Agreement, version 1997
 Global Master Securities Lending Agreement, version 2000
 Global Master Securities Lending Agreement, version 2010

(A) obtaining stock by the borrower from

It is further noted that GMSLA version 2010, although reflected in the table above, is yet to be updated in the SOIPN No. 2 (Revised).

By way of additional background, GMSLA 2018 Version is adapted from the GMSLA 2010 version, whereby instead of transferring collateral by title transfer under GMSLA 2010, the Borrower (collateral provider) pledges collateral to the Lender (collateral receiver) through a tri-party custody arrangement. Much of the provisions in GMSLA 2018 remain unchanged from the GMSLA 2010, which only caters for title transfer mechanism for collateral. In particular, there is no change to the stock borrowing and lending mechanism and the GMSLA 2018 Version contains the same clauses as the GMSLA 2010 version that satisfy the requirements for a stock borrowing and lending agreement as defined in Section 19 (16) of the Stamp Ordinance.

The GMSLA 2018 Version is intended to be widely used in the cross border and domestic markets. We attach the standard GMSLA 2018 Version and FAQs published by ISLA for your reference. The standard GMSLA 2018 Version can be found via: <https://www.islaemea.org/gmsla-security-interest/>.

In response to market needs, the industry is currently rolling out offering Pledge GMSLA model for SBL transactions and hence would be grateful if IRD could make necessary update to include GMSLA 2018 Version as soon as possible to accommodate the market development.

We thank you in advance for your prompt attention to this matter; we will certainly make ourselves available to discuss the same in more detail if required.

If you have any questions or comments, please feel free to contact Mr. Patrick Pang (ASIFMA Head of Compliance and Tax at ppang@asifma.org), Mr. Patrick Donovan (CMTC Chairperson at patrick-j.donovan@ubs.com) and Mr. Stuart Jones (PASLA Chairman at stuart.jones@jefferies.com).

Yours sincerely,



Patrick Pang
Head of Compliance and Tax
ASIFMA



Patrick Donovan
Chairperson
CMTC



Stuart Jones
Chairman
PASLA