NOTICE ….. OF 2017

FINANCIAL SERVICES BOARD

FINANCIAL MARKETS ACT, 2012 (ACT NO. 19 OF 2012)

CODE OF CONDUCT FOR PARTIES TO SECURITIES FINANCING TRANSACTIONS IN THE SOUTH AFRICAN SECURITIES MARKETS

I, Dube Phineas Tshidi, the Registrar of Securities Services, hereby prescribe under section 74(1)(ii) of the Financial Markets Act, 2012 (Act No. 19 of 2012) the Code of Conduct for parties to securities financing transactions in the South African securities markets as set out in the Schedule.

DP TSHIDI
REGISTRAR OF SECURITIES SERVICES

SCHEDULE

CODE OF CONDUCT FOR PARTIES TO SECURITIES FINANCING TRANSACTIONS

1. Definitions

For the purposes of this code, unless the context indicates otherwise-

(1) **"Act"** means the Financial Markets Act, 2012 (Act No. 19 of 2012).

(2) **"Agent"** means a party to a securities financing transaction that acts on behalf of a client by virtue of a specific mandate.

(3) **"Authorised Financial Institution"** can include, but are not limited to, brokers and financial services providers, which have been authorised as such by the Board.

(4) **"Authority"** means the Financial Sector Conduct Authority established in terms of section 32 of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017).

(5) **"Beneficial owner"** refers to a person or entity that is entitled to receive some or all of the rights deriving from ownership of a security (for example, income, voting rights, and power to transfer).

(6) **"Central Counterparty"** refers to a clearing house that –

(a) interposes itself between counterparties to transactions in securities, becoming the buyer to every seller and the seller to every buyer and thereby ensuring the performance of open contracts; and

(b) becomes a counterparty to trades with market participants through novation, an open offer system or through a legally binding agreement.

(7) **"Central securities depository"** means a central securities depository as defined in the Act.

(8) **"Client"** refers to a person or institution on behalf of which a securities financing transaction is effected.

(9) **"Collateral"** refers to securities or cash delivered by a borrower to a lender to support a loan in securities or cash.

(10) **"Corporate action"** is an action taken by an entity, third party or an issuer which affects the owner of securities in terms of entitlements or notifications.

(11) **"Custodian"** is an entity, usually a bank, but may include an authorised financial institution, that safe-keeps and administers securities or other assets for its customers and that may provide various other services, including clearing and settlement, cash management, foreign exchange transactions, securities lending and collateral management.

(12) **"Custody"** refers to the safekeeping and administration of securities or other assets on behalf of others.

(13) **"Default"** is an event stipulated in an agreement as constituting a default. Generally, such events relate to a failure to complete a transfer of funds or securities in accordance with the terms and conditions of the securities finance agreement in question.

(14) **"Equivalent"** means economically but not necessarily legally identical to the original securities.

(15) **"Fee"** means the fee which is the interest rate as charged by the lender and paid to the lender by the borrower on the value of the loan transaction.

(16) **"Global Master Securities Lending Agreement"** is a standardised, bilateral master agreement that governs the relationship between the lender and borrower.

(17) **"Haircut"** is a control measure applied to underlying assets whereby the value of those underlying assets is calculated as the market value of the assets reduced by a certain percentage.

(18) **"Income Tax Act"** means the Income Tax Act, 1962 (Act No. 58 of 1962).

(19) **"Initial margin"** is the excess of cash over the value of securities or the value of securities over cash in a SFT. One party may require an initial margin due to the perceived credit risk of the counterparty.

(20) **"Lending agent"** means a company duly registered as a market maker, custodian, licensed dealing member or any other market participant who acts as a principal intermediary or an agent intermediary through whom

the lender will deposit the securities for lending and the borrower will borrow the securities.

(21) **"Manufactured dividends"** refers to a payment that is received by a securities lender from the borrower for a dividend distributed on a loaned security. By agreement, the borrower in securities lending remits to the lender any dividends, interest, or other distributions that are paid during the time that the securities are on loan.

(22) **"Margin"** refers to the excess of cash (or other collateral) over securities or securities over cash.

(23) **"Margin call"** means extra collateral required or paid due to changes in the value of securities borrowed.

(24) **"Margin trading transaction"** means a transaction where the lender (i.e. the buyer of the collateral) extends credit to a borrowing counterparty against collateral.

(25) **"Margin Trading"** means the transaction where a financial institution pays a percentage of the market value of the purchased securities for its client in accordance with a legal agreement governing the relationship between the parties.

(26) **"Margin Trading Agreement or Margin Trading Customer Agreement"** is the agreement entered into between the parties.

(27) **"Mark-to-market"** is the practice of revaluing securities using current market prices.

(28) **"Master Repurchase Agreement"** is a standardised, bilateral master agreement that governs the relationship between the parties to the repurchase.

(29) **"Maturity"** means the date upon which a repurchase agreement comes to an end.

(30) **"Party"** means any person or institution involved in a securities financing transaction.

(31) **"Principal"** is a party to a securities financing transaction that acts on its own behalf or substitutes its own risk for that of its client when trading.

(32) **"Principal intermediary"** means a lending agent who lends securities on behalf of a beneficial owner to the borrower, it sources and assumes principal risk, offers credit intermediation and takes a position in the

securities lent to the borrower, i.e. it guarantees the return of the equivalent securities of the same type and class to the lender along with corporate benefits accrued on them during the tenure of the borrowing and agrees to be liable for making good any loss caused by the failure of the borrower to return the securities or corporate benefits.

(33) **"Rate"** means the rate of interest on the cash leg in a repurchase transaction expressed in percentage.

(34) **Re-hypothecation"** is a particular form of re-use of client assets by a financial intermediary.

(35) **"Repurchase transaction"** means a sale of a quantity of a security with a commitment by the seller to buy the same or equivalent security back from the buyer at a specified price and at a designated date in the future on demand for their original value plus a return on the use of the cash.

(36) **"Securities"** means securities as defined in terms of the Act.

(37) **"Securities Financing Transaction"** is any transaction where securities are used to borrow cash, or vice versa and include the following:

(a) a repurchase transaction;

(b) securities lending and securities borrowing;

(c) a margin trading transaction.

(38) **"Securities lending"** is the practice of lending securities from an investor's portfolio to meet the temporary needs of another party. The borrower agrees to return identical securities to the lender in the future, to deliver collateral of value in excess of the loan and to pay the lender a fee.

(39) **"Securities Transfer Tax"** is tax levied on every transfer of a security and was implemented from 1 July 2008 under the Securities Transfer Tax Act, 2007 (Act No. 25 of 2007), together with the Securities Transfer Tax Administration Act, 2007 (Act No. 26 of 2007).

(40) **"Settlement date"** means the date upon which securities are due to be transferred to the borrower.

(41) **"Substitution"** means the ability of a lender of securities to recall them from a borrower and replace them with other securities of the same type and value.

(42) **"Term transactions"** means transactions with a fixed maturity date.

(43) **"Trade Repository"** means a trade repository as defined in the Act.

2. Application

This Code of Conduct is binding on all parties involved in securities financing transactions (SFTs), their officers, employees and clients.

3. Principles of Conduct that parties to SFTs must adhere to

(1) All parties and their staff are required to adopt prudent practices, act at all times with integrity, and observe the highest standards of market conduct. In particular, parties must act honestly, fairly with due skill, care and diligence when conducting SFTs.

(2) Parties must disclose the capacity they are acting in when involved in a SFT, i.e. either in a principal or agent capacity.

(3) Parties must ensure that they have the required permission from the beneficial owners of the securities for the security to be on-lent.

(4) Parties must ensure that they familiarise themselves and their staff with the business and practices of SFTs, and all the risks associated with such transactions, and parties must accept responsibility for the actions of their staff.

(5) Parties and their employees must observe this Code at all times in carrying out their responsibilities with regards to a SFT.

(6) Parties must understand and be mindful that these transactions are subject to the tax regulations issued under the Income Tax Act.

(7) Parties must ensure that the accounting treatment of any SFT reflects in their financial statements in accordance with prescribed financial accounting standards.

(8) SFTs must be done with, or arranged through, authorised financial institutions which are subject to regulatory oversight.

(9) Parties are obliged to adhere to the principles of Treating Customers Fairly and ensure that clients are treated fairly during every step of the SFT.

(10) Parties must ensure that they have adequate and effective systems, arrangements, administrative processes and controls in place when

entering into SFTs to account for, among others, tax purposes for any manufactured payments in accordance with the relevant regulations, which should be subject to independent review.

(11) Parties must keep clear and timely records of all clients and transactions for at least five years. These records must be available to the management of any party involved in SFTs showing, inter alia, the value of securities borrowed or lent, collateral given or taken and, where appropriate any fee income received. This information must be available in aggregate and by counterparty to enable accurate monitoring of credit risk.

(12) Parties must ensure that the names of the parties to the transaction are always kept confidential, unless otherwise required by law or where the client gave permission to disclose the required information.

(13) Parties to a SFT must not enter into such a transaction with the intention of creating a false or distorted market or disrupting an orderly and a fair market in the underlying securities.

(14) Parties to SFTs must report any market abuse practice such as insider trading, market manipulation, or false and misleading statements that they become aware of to the Authority.

(15) Parties must undertake an assessment of the creditworthiness of their corresponding counterparties and must establish appropriate limits per counterparty prior to entering into SFTs, ensuring that the granting of the credit does not expose them to undue risk that impacts their liquidity or solvency. Parties must continually monitor its exposures against these limits.

(16) A party may outsource key functions within the SFT, however, it is still responsible for the governance, risk management and controls relating to the SFT. It must therefore ensure that the third party to which it outsources the functions to, has the necessary skills and expertise and that it still has the ability to monitor and manage the risks.

(17) Parties must engage with the Authority in an open and cooperative way, and must disclose to the Authority appropriately any material incidence of non-compliance with the Code or material operational failure relating to the party.

4. Lending agents

(1) The lending agent must disclose to beneficial owners who have not previously engaged in SFTs or who otherwise seem unfamiliar with SFTs, the basic flows of SFTs, and the structure of and primary parties involved in SFTs.

(2) The lending agent must disclose to the beneficial owners the risks related to SFTs, to enable beneficial owners to understand and accept such risks and understand how those risks are addressed. The lending agent must obtain the written authorisation from the beneficial owner before undertaking SFTs.

(3) Where the administration of SFTs is outsourced to a lending agent –

(a) the lending agent to which it is outsourced has the necessary experience and expertise to perform the outsourced duties in a competent and responsible manner; and

(b) administrative and reporting arrangements are clearly set out and agreed to in writing.

(4) Where a lender is acting through a lending agent there must be a written agreement between the lending agent and the principal in respect of–

(a) the safeguarding of collateral and the allocation of any earnings on that collateral; and

(b) what reinvestment vehicles are acceptable and on other investment parameters.

(5) The lending agent must explain to the beneficial owners any entitlements during corporate events, and that they will have no voting rights during such time that the securities are on-lent, unless the lender recalled those securities.

(6) When dealing with a client, the lending agent must, amongst others, ensure the following:

(a) That the client is aware of this Code and its contents;

(b) the capacity in which he or she is acting, namely principal or agent, including any fees that will be charged by the lending agent, is disclosed in writing; and

(c) that there is a legal agreement in place specifying the terms on which the securities can be lent and the collateral taken.

(7) Regular reports must be sent to clients whose securities have been loaned out by the lending agent.

(8) Where one of the parties, the lender, chooses to make use of a third party (non-custodial) agent to facilitate a SFT, the lender must ensure that:

(a) The third party agent is independent;

(b) the third party agent has adequate segregation mechanisms to segregate its assets from the assets of its clients; and

(c) there is a specified agreement or mandate between the lender and the third party agent in place governing the arrangement between them.

5. Legal agreements between parties governing SFTs

(1) Agreements, such as the Master Repurchase Agreement, Margin Trading Agreement or the Global Master Securities Lending Agreement, specifying the rights, duties and obligations of each party, must be in place before a SFT is entered into.

(2) The following aspects are minimum requirements to consider in a SFT agreement, referred to in subparagraph (1):

(a) Identify the parties to the agreement and the capacity (principal or agent) in which the parties are acting;

(b) describe the securities that will form part of the SFT;

(c) state the period for which the securities will be lent out;

(d) confirmation that the agent has authorisation from the beneficial owners or a party suitably authorised by the beneficial owners to undertake the transaction;

(e) absolute transfer of title to securities or pledge of collateral. Where the collateral is transferred outright, it must be agreed and where the collateral is pledged it must be in accordance with section 39 of the Act;

(f) collateral requirements:

(i) Acceptable collateral with respect to asset types, issuer, maturity, liquidity as well as the collateral diversification and correlation policies;

(ii) collateral valuation, i.e. description of the collateral valuation methodology used and its rational, and whether daily mark-to-market and daily variation margins are used;

(iii) the agreed aggregate value of the collateral and margin percentages;

(iv) arrangements for the delivery of collateral and maintenance of the margin whenever the mark-to-market reveals a material change in value;

(v) the rights of the parties regarding substitution of the collateral;

(g) daily mark-to-market of transactions;

(h) specify the fees or charges payable between the parties, and the fee calculation methods;

(i) clearly specify how interest is calculated;

(j) clearly set out the obligations and responsibilities for repaying the loan;

(k) procedures for re-calling of securities and arrangements if called securities cannot be delivered;

(l) re-hypothecation requirements. Any right of a party to re-hypothecate client assets, shall be subject to the following conditions:

(i) The counterparty placing collateral is aware of the risks and consequences that may be involved in either allowing the right of use of collateral or concluding a full title transfer of collateral. The risks and consequences must be made clear by the party requesting to re-use collateral, and confirmed in writing;

(ii) the counterparty placing collateral has granted its prior express consent, in the form of a signature, in writing or in a legally equivalent manner, to the party requesting to re-use collateral either for the right of use of collateral or for concluding a full title transfer of collateral;

(iii) client assets must not be re-hypothecated for the purpose of financing parties' own-account (i.e. a party to an SFT that acts on a principal basis) activities;

(iv) re-hypothecation of client assets will only be allowed for financial entities subject to adequate regulation of liquidity risk.

(m) clear specification of the events of default, the consequential rights and obligations of the counterparties, including the setting off of obligations between the parties at the instance of a default and the consequential step by step process when a default occurs;

(n) procedures for disputes or breach of an agreement;

(o) the governing law and jurisdiction for the agreement;

(p) provide for a notice period for termination of the agreement.

(3) Parties must ensure that their agreement is not in direct contravention of applicable South African legislation.

(4) Parties must maintain a record of all agreements and must make them available promptly upon request to the Authority.

6. Risk management

The authorised financial institution must ensure that the following is in place in an attempt to mitigate any risk that may result from a SFT:

(1) Ensure that it has adequate systems and controls in place for the business of SFTs;

(2) ensure that they have adequate human, financial and operational resources available;

(3) ensure that there are proper procedures to identify employees authorised to engage in SFTs;

(4) ensure that credit risk control systems are in place associated with SFTs;

(5) ensure that proper records are kept showing the value of collateral taken and given;

(6) ensure clients' accounts are monitored daily and immediately notify clients of any shortfall in required limits in respect of margin trading; and

(7) appoint a licensed financial markets infrastructure (central securities depository or central counterparty) to act as a preferred collateral management system operator, where necessary.

7. Custody arrangements

The following principles provide guidance to parties and custodians:

(1) Parties must ensure that SFTs are identified as such to the custodian;
(2) parties must ensure that the custodian is authorised as such with the requisite regulatory authority;
(3) parties must satisfy themselves that the custodian has appropriate, independently audited, systems and controls for segregation arrangements;
(4) securities, collateral and margins in the instances applicable, must be delivered to the account of the counterparty or lending agent;
(5) parties must consider the creditworthiness of the custodian before agreeing to place its assets with that institution;
(6) parties who do not have the capacity to perform extensive credit analysis may use a licensed central counterparty as their counterparty or may utilise the services of a central securities depository, as it is easier to monitor the lending transactions if the lending is centralised with such a market infrastructure.

8. Margin and collateral requirements and mark-to-market applicable to SFTs

(1) A party or the agent of the party who receives or holds any funds or securities of a counterparty as collateral or margin, must, with regard to such funds or securities, observe utmost good faith, exercise proper care and diligence and deal therewith in the best interests of the counterparty.
(2) The lender or intermediary needs to have effective arrangements and administrative processes in place to ensure secure settlement of the collateral and adequate collateral margins and timely mark-to-market.
(3) Any SFT must be entered into on a collateralised basis against collateral acceptable to the lender, and must be agreed on prior to the loan taking place.

(4) The borrower needs to deliver to the account of or deposit with the lender (or in accordance with the lender's instructions) or his agent or a designated third party collateral simultaneously with delivery of the securities to which the loan relates and in any event no later than close of business on the settlement date.

(5) Acceptable forms of collateral may include the following-

(i) Listed South African uncertificated money market securities such as negotiable certificates of deposits and bankers' acceptances;

(ii) listed equities;

(iii) listed uncertificated debt securities; and

(iv) currency, including foreign currency deposits.

(6) With the exception of margin trades, the collateral must be mark-to-market on a daily basis adopting the appropriate accounting standards and fair value methodologies and more frequently if the need arises. Mark-to-market must be done at the end of a business day. Where intra-day fluctuations are material, the necessary adjustments must be made. Intra-day fluctuations adjustments need to be agreed to on inception of the transaction and it must be specified what circumstances will call for those adjustments.

(7) All non-centrally cleared over-the-counter SFTs must include a minimum margin over the value of the securities, which should be specified in the agreement between the parties. The margin must, as a minimum, take into consideration both the risks inherent in the loan and the underlying collateral.

(8) The margin must continually be revised to take into account the changes in the mark-to-market value of the loan and collateral.

(9) For centrally cleared SFTs, the margining requirements per the central counterparty's rules must be adhered to.

(10) Collateral security must be held in a manner which is legally enforceable. A party –

(a) must open and maintain a separate account designated for counterparty's funds at a bank;

(b) must within one business day of receipt pay into the account all funds held on behalf of counterparties; and

(c) must ensure that the separate account only contains funds of counterparties and not those of the party.

(11) Haircut levels must be risk-based and be calibrated appropriately to reflect the underlying risks that affect the value of eligible collateral, such as market price volatility, liquidity, credit risk and forex volatility, during both normal and stressed market conditions. Haircuts must be set conservatively to avoid pro-cyclicality.

(12) In the event of collateral in the form of a pledge, the lender must ensure that the process of liquidating the pledge is made simple and flexible and would be in accordance with section 39 of the Act.

(13) The degree or level of a counterparty's exposure that is regarded as material will call for collateral to be returned and this must be agreed upon in advance by both counterparties.

(14) The time at which a substitution call is to be made must be determined carefully bearing in mind that some lenders may not be in possession of the securities. Consideration should be given to increase the time for lenders to find a substitution for those securities.

(15) If parties to a SFT agree to the use of a collateral management system, they need to ensure that the system can fulfil all the required functions to ensure efficient collateral management.

9. Default and close-out

(1) Parties to SFTs must ensure they have an understanding of the default processes and what it entails.

(2) In the event where a default has been declared, the process of close-out must be carried out with care.

(3) The market values used in the close-out calculation must be fair, especially in a default situation.

(4) During the time of the default both parties must ensure that the market is not disrupted.

(5) Parties to the transaction must ensure that the legal agreement allows their claims to be offset immediately against the claims of their counterparty in the event of a default.

(6) Parties must be allowed to make alternative arrangements in order to manage their risk exposure.

(7) In the case of insolvency, it is regarded as an automatic default and would trigger one party to declare a default immediately.

10. Acceleration of obligations

(1) In the event that any of the events listed below, occur prior to the maturity or termination date of a SFT, it shall give rise to the buyer's or lender's right to accelerate the obligations of the seller or borrower. Consequently, this will also result in the maturity or termination date of the SFT to be the day following the occurrence of an acceleration event, where payment shall be required. Events that may trigger acceleration may include, but are not limited to:

(a) Failure of the seller or lender to respond to a margin call from the buyer or borrower in the specified timeframe as agreed;

(b) where the seller or lender becomes insolvent or his acts lead to his insolvency;

(c) any representations made by the seller or lender proves to be untrue; and

(d) a failure by the seller or lender to perform his obligations under the SFT and failing to remedy such failure within a specified timeframe agreed upon by both parties.

11. Confirmation and settlement of SFTs

(1) Parties must ensure that transparency prevails in the market at all times by issuing a written or electronic confirmation on the day of the transaction.

(2) Where material changes such as collateral adjustments or substitutions of collateral occur during the life of the transaction, these must be agreed upon between the parties.

(3) The following information must be disclosed in the event of a loan confirmation:

(a) Loaned securities (type, International Securities Identification Number or other identifying number and quantity);

(b) details of the lender (underlying principal unless otherwise agreed);

(c) details of the borrower;

(d) lender and borrower's documentation required under the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001);

(e) rates applicable to loaned securities;

(f) rates applicable to cash collateral;

(g) specified settlement and delivery dates;

(h) acceptable collateral and margin percentages and whether pledge of collateral is accepted or not (if not specified in the legal agreement);

(i) borrower's and lender's settlement system and account;

(j) contract date; and

(k) term of the agreement.

(4) Settlement will occur on the basis of payment against delivery of the security transacted unless otherwise agreed to between the parties.

(5) Where one party caused any delay in settlement of the transaction, the counterparty shall have the right to claim from the other party the loss of interest that should have accrued.

(6) Parties must ensure that any confirmations they receive are checked carefully as soon as possible, normally on the day of receipt, and that any queries on their terms are promptly conveyed back to the issuer.

12. Delivery and re-delivery

(1) Parties involved in SFTs must familiarise themselves with the procedures for calling of securities, where applicable.

(2) The parties must be aware of their rights and obligations in such instances, and timelines and procedures for recalling securities should clearly be defined amongst the parties.

(3) Policies and procedures must be in place to ensure that only a limited percentage of the counterparty's individual security portfolio is lent.

(4) Parties must be aware of equivalent securities that may be delivered in the process of substitution.

(5) There must be clear guidelines or an agreement between the parties if called securities cannot be delivered.

(6) There must be written procedures in place in the instance where collateral will be redelivered late.

(7) Parties must consider whether arrangements are necessary in order to deal with the possibility of securities or collateral being redelivered too late in the day to enable the recipient to meet an onward delivery obligation.

(8) Parties must be aware of the procedures to be followed in the event of failed trades in all markets in which the securities have been lent.

(9) Any party that wants to recall or return securities on loan must have regard for the implications for its counterparty and should notify the other party as soon as possible.

(10) Where a lender intends to recall securities in order to meet part of a sale or delivery obligation, consideration must be given whether partial or large delivery should be done to avoid a total transaction failure.

13. Corporate Actions

(1) The authorised financial institution is required to implement appropriate systems and to continuously monitor corporate actions to ensure that it preserves the economic equivalent of the rights and obligations of all parties.

(2) Securities may be recalled by the lender or collateral be substituted by the borrower if they wish to exercise the voting rights attached to that particular securities.

(3) Lenders must be aware that if they lend their entire holding of particular securities, they may cease to receive information about corporate events in relation to it.

(4) With regard to rights issues or any other corporate action, arrangements must be established by all parties before a security is loaned. This must be done with due recognition of local market rules and practices.

(5) Arrangements must be made to compensate the lender for any dividends due while the security is on loan. These arrangements must make each

party's obligations clear including, for example, the timing of any payments.

(6) Parties must ensure that any tax due on manufactured dividends is properly accounted for in accordance with the relevant tax regulations.

(7) Parties must agree at the onset how dividends and any corporate actions in respect of borrowed securities or collateral are to be dealt with in valuation. Consideration in the legal agreements must be given to the possibility of credit exposures that may arise as a result of these corporate actions.

14. Term transactions

The following must be considered with reference to term transactions:

(1) Parties need to agree upfront in a legal agreement whether the term of the loan is fixed or indicative.

(2) Where a term is fixed, there will be no obligations on the lender to accept early return of securities or on the borrower to comply with a recall request.

(3) Where the securities lending involves cash as collateral, the parties must establish whether it is the amount of the specific securities which is fixed, or the overall value.

(4) Where appropriate, the parties will need to agree on the procedure for adjusting the rate if securities are returned early by the borrower or compensating the borrower in the event of early recall by the lender.

15. Responsibility of the Parties' management

Management must ensure that -

(1) the related policies that address the governance, risk management and controls relating to its SFTs be established and annually be reviewed and assessed;

(2) policies and procedures to verify the identity of potential counterparties must be established, maintained and monitored. Management should

ensure that members of staff understand the laws and regulations relating to the reporting of suspicious transactions;

(3) the enforcing of credit limits and monitoring of net exposures is performed independently of the Institution;

(4) the interests of the clients are looked after and they are treated fairly at all times;

(5) the reinvestment of cash collateral is done conservatively in terms of the lender's (or its agent) formal documented cash collateral reinvestment strategy and investment guidelines and in line with the written agreement between the intermediary and the client. The securities lender and/or its agent must reinvest the cash collateral in a way that limits the potential for a maturity mismatch, and hold assets that are sufficiently liquid and low risk to meet reasonably foreseeable demands for cash collateral redemption, together with a buffer to guard against stress scenarios;

(6) in the event where the party has its own proprietary trading desk, a conflict of interest policy is developed to prevent any conflict between proprietary and client lending and borrowing;

(7) proprietary business is managed under a division separate from the division that services clients; and

(8) the assets of the clients are segregated from the assets of the intermediary at all times.

16. Reporting obligations in respect of SFTs

(1) Parties or its lending agents must report the details of the concluded SFTs or any modification or termination thereof to a licensed or recognised trade repository, as prescribed by the Authority.

(2) Those details must be reported to the trade repository no later than one working day following the conclusion, modification or termination of the SFT transaction.

(3) The reporting function may be delegated to a third party, i.e. a licensed central counterparty.

(4) Records of these SFTs must be kept for at least 5 years.

17. Disclosure of SFT activity

(1) Parties must disclose to investors the details of the concluded SFTs in its half-yearly and annual reports, as prescribed by the Authority.

(2) The net income obtained from SFTs must be separately accounted for in regular reports to beneficiaries, since it is neither appropriate to regard it as a part of investment return, nor be allowed to conceal the actual costs of custody, transfer, and other administrative costs, or the costs attendant upon the actual lending program itself.

(3) In addition to any public report on voting decisions made during the preceding year, the instances in which shares were not voted because they were out on loan, and the resultant 'under-vote' of shares, by percentage or by actual number, must be disclosed to beneficiaries of the reporting funds.

18. Advertising or solicitation

A statement, advertisement, brochure or similar communication by a party that relates to a SFT must be fair, clear, correct, not misleading or contrary to the public interest.

19. Confidentiality and privacy

A party may not disclose any information obtained from a counterparty, except –

(1) the party to whom the confidential information relates has given consent;

(2) disclosure is required or permitted in terms of a law or a court order;

(3) disclosure is necessary to carry out the functions of the party or in the course of performing duties under any law; or

(4) disclosure is required for the purposes of legal proceedings.

20. Policies and procedures

The policies and procedures referred to in this Notice must be approved, in writing, by senior management of the party.

21. Commencement

This Code of Conduct comes into operation on the date of publication.