



ISLA[®]

ISLA & PASLA Addendums
& Country Annexes Explained

Contents

Introduction	3
The Annexes	4
Korean Broker Annex	5
Korean Securities Depository (KSD) Annex	6
Korea Securities Finance Corporation (KSFC) Annex	7
Malaysia Addendum	8
Taiwan Addendum	9 - 10
Thailand Addendum – Onshore Transactions	11
Thailand Addendum - Offshore Transactions	12

Introduction

The International Securities Lending Association (ISLA) publishes two forms of the Global Master Securities Lending Agreement (GMSLA), the 2010 Title Transfer, and the 2018 Security Interest ('Pledge') version, together with several annexes/addenda to tailor the GMSLA for use with specific securities or with counterparties incorporated in certain countries, ISLA publishes four of these annexes jointly with PASLA.

ISLA commission and publish legal opinions covering the use of the GMSLA in 64 jurisdictions. The opinions, for the first time this year covers the Korean Broker Annex and the Korean Securities Depository (KSD) Annex, the Malaysian Addendum and the Taiwan Addendum, but do not currently extend to the Korea Securities Finance Corporation (KSFC) Annex and the Thailand Addendum for Onshore and Offshore Transactions.

The material contained in this overview document does not constitute legal advice, it is for general information only and should not be relied on.

The Annexes

A summary of the Annexes / Addenda

1. Korean Broker Annex

Modifies the 2010 GMSLA between two non-Korean parties who have no permanent establishment in Korea in relation to loans of securities which are registered or deposited with the Korea Securities Depository under the Law on the Electronic Registration of Stocks, Bonds, etc. or the Financial Investment Services and Capital Markets Act of Korea which are intermediated by Korean Securities Company.

Non-Korean entities - Securities registered with Korea Securities Depository – Intermediated by Korean Securities Company

2. Korean Securities Depository (KSD) Annex

Modifies the 2000 or 2010 GMSLA between two non-Korean parties who have no permanent establishment in Korea in relation to loans of securities permitted to be borrowed and lent by way of a Customized Transaction under Article 3(1) of the KSD Regulation on Intermediation of Securities Lending and Borrowing Transactions which are intermediated by the Korean Securities Depository.

Non-Korean entities - Securities permitted under Customized Transactions – Intermediated by Korean Securities Depository

3. Korea Securities Finance Corporation (KSFC) Annex

Modifies the 2010 GMSLA between either (i) two non-Korean parties who have no permanent residence establishment in Korea or (ii) one non-Korean party and one Korean securities company, in relation to loans of Korean Securities permitted to be included in a Customized Transaction as defined in Article 3(1)(4) of the KSFC Regulation on Intermediation of Securities Lending and Borrowing Transactions which are intermediated by the KSFC.

Non-Korean entities or Non-Korean entity and Korean securities company – Securities permitted under Customized Transactions – intermediated by KSFC

4. Malaysia Addendum

Modifies the 2000 or 2010 GMSLA between two parties in relation to loans of securities listed and quoted on the Malaysian Stock Exchange and prescribed by the Bursa Malaysia Securities Clearing Sdn Bhd (the Clearing House) as approved for Loan. Loans to be conducted through the SBLNT System.

Loans of securities quoted on Malaysian Stock Exchange Loans conducted through SBLNT System

5. Taiwan Addendum

Modifies the 2000 or 2010 GMSLA between two parties in relation to loans of Taiwan equity securities under the Taiwan Stock Exchange Corporation Securities Lending and Borrowing Regulations.

Loans of equity securities under Taiwan Stock Exchange regulations

6. Thailand Addendum - Onshore Transactions

Modifies the 2010 version of the GMSLA in relation to transactions where one party is a resident of Thailand and the securities subject to the loan are listed on the Stock Exchange of Thailand and are Common Shares, Foreign Shares or Non-Voting Depository Receipts registered with the Thailand Securities Depository Company Limited.

One resident of Thailand – Securities are Common Shares, Foreign Shares or NVDRs listed on the Stock Exchange of Thailand

7. Thailand Addendum - Offshore Transactions

Modifies the 2010 GMSLA in relation to transactions between two parties, neither of whom are registered in Thailand and where the securities subject to the loan are listed on the Stock Exchange of Thailand and are Common shares, Foreign Shares or Non-Voting Depository Receipts registered with the Thailand Securities Depository Company Limited or other securities issued in Thailand.

Two non-residents of Thailand – Securities are Common Shares, Foreign Shares or NVDR's listed on the Stock Exchange of Thailand or other securities issued in Thailand



Korean Broker Annex

Summary of the Korean Broker Annex:

Covers a loan of Korean Securities intermediated by a Korean Securities Company, where both parties are non-Korean and do not have a permanent establishment in Korea.

No collateral to be delivered or held onshore in Korea. Additional collateral-related documentation would be required if collateral were to be held onshore.

The parties appoint the Qualified Intermediary in respect of all Korean Loans and require the parties to enter a side letter with the qualified intermediary. A sample letter is provided.

Representations included from each party that it has the appropriate and valid investment ID (Investment Registration Certificate issued by the Financial Supervisory Service of Korea) as required under Korean laws and regulations and any other governmental or regulatory consents.

Automatic termination of Korean Loan if any Corporate Action falling within paragraph 1 of Article 165-5 of the Financial Investment Services and Capital Markets Act of Korea occurs – Securities to be returned in 3 business days from termination.

Upon the occurrence of an Event of Default the non-Defaulting party notifies the Qualified Intermediary of the termination of the Korean Loans and ensure the termination is reported to the Korean regulators and reflected in the Foreign Investment Management System.

Tax clause covering provision of documents, responsibility for withholding tax payment, tax residency (Lender), neither party having a permanent establishment in Korea, both parties carry on securities lending in other markets and an indemnity.

Fees – Borrower to pay to the Qualified Intermediary such fees as they agree from time to time.

Korean Securities Depository (KSD)

Annex

Summary of the KSD Annex:

Covers loans of securities permitted to be borrowed and lent by way of a Customized Transaction under Article 3(1) of the KSD Regulation on Intermediation of Securities Lending and Borrowing Transactions which are intermediated by the KSD and are between two non-Korean entities, with no permanent establishment in Korea.

Loan is deemed to have been entered into when the KSD system confirms matched terms between Borrower and Lender.

Hierarchy in the event of inconsistency – KSD rules, then Annex, then GMSLA.

Where KSD lender calls for delivery of equivalent securities pursuant to paragraph 8.2/8.1 of the GMSLA (2000 version and the 2010 version respectively), the process is run through the KSD system and different timings apply.

Where KSD borrower terminates a loan pursuant to 8.3 / 8.2, notice to be given through KSD system.

Pursuant to KSD rules borrower to deliver such equivalent securities on the date specified and KSD Lender to accept.

No collateral to be delivered or held onshore in Korea.

Two options in relation to distributions – external from KSD system or within the KSD system.

Automatic termination of Korean Loan if any corporate action falling within paragraph 1 of article 165-5 of the Financial Investment Services and Capital Markets Act of Korea occurs.

Simple representations from both parties i.e., each has securities account for securities lending at the KSD and has any governmental or regulatory consents, licenses etc. required under Korean Law.

Tax clause covering provision of documents, responsibility for withholding tax payment, tax residency (Lender), neither party having a permanent establishment in Korea, both parties carry on securities lending in other markets and an indemnity.

Fees – Option for each party or the Borrower to shall pay the KSD Intermediation Fee.

Korea Securities Finance Corporation (KSFC) Annex

The KSFC Annex is not covered by the ISLA Legal Opinions published in April 2023 and may be considered to amend the following Core Provisions identified in Legal Opinions:

Loan is deemed to have been entered into when the KSFC system confirms matched terms between Borrower and Lender.

Where an event of default occurs under paragraph 10.1 of the GMSLA, the Non-Defaulting Party may apply in writing to the KSFC for termination of the Korean loans in accordance with the KSFC rules.

Additionally, an acknowledgment that any Korean Loan may be terminated due to the occurrence of an event listed in Article 12(1) of the KSFC Regulation.

Summary of Other Details of the KSFC Annex:

Covers loans of securities permitted to be borrowed and lent by way of a Customized Transaction under Article 4(1) of the KSFC Regulation on Intermediation of Securities Lending and Borrowing Transactions (as amended) which are intermediated by the KSFC and are between either (i) two non-Korean entities, with no permanent establishment in Korea or (ii) a non-Korean entity with no permanent establishment in Korean and a Korean securities company.

Hierarchy in the event of inconsistency - KSFC rules, then Annex then GMSLA.

Where Korean Loaned Securities are bonds the Loan must terminate by the third KFSC Business Day prior to the maturity of the bonds.

Where Lender calls for delivery of equivalent securities pursuant to 8.1 of the GMSLA the process is run through the KSFC system and different timings apply.

If Borrower is unable to procure Equivalent Loaned Korean Securities through circumstances beyond its control, there is a process for the Borrower to pay cash equivalent to 101% of the market value.

Borrower, with the consent of Lender, may pay cash in lieu of Equivalent Loaned Korean Securities where such securities are de-listed.

No special provisions for Borrower to terminate the loan.

Agreement that any collateral to be delivered or held onshore in Korea shall be governed by a separate Korean collateral annex.

Distributions to be handled through KSFC, provided the parties may elect in a confirmation to handle directly. Where the parties elect to handle directly and Borrower fails to deliver, the Lender to notify KSFC and Borrower to pay overdue penalties in accordance with KSFC Detailed Regulation.

Simple representations from both parties that they are: acting as principal and not agent; are qualified to enter into Korean Loans; have a securities account for securities lending; have a Korean custodian or Korean Securities Depository; and have any governmental or regulatory consents, licenses etc required under Korean Law.

Tax provision for two non-Korean entities, Korean Lender and non-Korean Borrower, Korean Borrower, and non-Korean Lender.

Fees – Option for each party or the Borrower to pay the KSFC Intermediation Fee.

Malaysia Addendum

Summary of the Malaysia Addendum:

Addendum relates to securities borrowing and lending transactions relating to Malaysian securities where the loan is facilitated by the Bursa Malaysia Securities Clearing Sdn Bhd (and its successors).

Hierarchy in the event of inconsistency, first SBL Circulars and applicable local laws and regulations, then the Addendum, then the Agreement.

Various provisions relating to the Clearing House requirements relating to status, disclosure etc. Details to be inserted of the representatives of each party.

Two options for Intermediary Fee – either Approved Borrower pays or 50/50 split.

Modifications to the Agreement:

Amendment to definition of Act of Insolvency (Paragraph 2.1) applicable only to Malaysian entities.

Approved SBLN Lender shall be deemed to have complied with its obligations under Paragraph 4.1 re-delivering loaned Malaysian Securities when its Lending Representative has done all acts required by the Clearing House Rules even if they have not been delivered due to an omission of the Borrower.

Requirements for Malaysian Tax exemptions.

5.4 and 5.5 modified so that collateral transfers are made without demand.

Additional Event of Default for Approved Lender or Approved Borrower failing to comply with the rules and circulars of the clearing house, Malaysian stock exchange or Central Depository.

Lender and Borrower warranties re-approval as an Approved SMLNT Borrower and Lender.

Various warranties.

Taiwan Addendum

Summary of Taiwan Addendum:

Addendum covers loans of Taiwan Equity Securities under the Taiwan Stock Exchange Corporation (TSEC) Securities Lending and Borrowing Regulations.

Hierarchy in the event of inconsistency – first the Regulations, then Addendum, then Agreement.

Operational Provisions

Parties agree to provide the details of each trade to the securities firm. Securities firm is appointed to report trade details.

Lender to generate confirmation.

The TSEC will confirm to the securities firm the execution of each Loan.

Once TSEC confirm the loan they will instruct the Taiwan Depository & Clearing Corporation (TDCC) to transfer the Loaned Securities from the Lender to the Borrowers custodial book entry account.

Definition of Market Value Amended

Currency conversion clause (paragraph 2.4) amended for converting NT Dollars.

Collateral – paragraph 5.5 deleted and replaced. Wording included for reverse Stock Loans (Taiwan RSLs) and optional wording for non RSL where title transfer is replaced with a pledge under Republic of Chinese Law.

The optional amendment for Taiwan Loans which are not RSL – adds a second provision to paragraph 2.3 (Market Terminology) – securities located in Taiwan which are not book entry central government bonds shall be subject not to a title transfer but by a pledge by execution of a pledge application as prescribed by the TDCC and the TDCC Pledge Document is a confirmation.

Taiwan Addendum Continued.

Optional clause (7.1) to deal with Income, covering the right/obligation of Borrower or Lender to recall Equivalent Securities (Terminate Loan or partially terminate Loan) in respect of any Taiwan Loan, by giving not less than 3 Business Days Notice. Clause covers notice requirements in relation to the securities firm and the TSEC. Footnote states that parties can handle income as they please, but this optional clause requires the recall of Taiwan Loans.

Clause (7.2) requiring the parties to cause the securities firm to report to the TSEC any information relating to income via the TSEC Securities lending computer system.

Optional clause (7.3) dealing with income in the form of securities.

Clause relating to Taiwan Loans which are not Taiwan RSLs which amends clause 3 covering regulations limiting tenor but allowing rollover. Footnote indicates that this clause is necessary as Non-Taiwan RSL loans are limited in tenor to 6 months with 2 rollovers, although plans are in place to increase this.

Taiwan RSL Rollovers & Successor Loans

These provisions allow for the cash loan to extend beyond the regulatory loan tenor and rollover limit on securities loans by including mechanisms to both renew loans and enter into "Successor Loans". It is necessary for reverse stock lending to include the substance of these clauses.

Substitutions

There are two subsections, the first in relation to Taiwan RSLs, covers timings and securities firm updating TSEC. The second is more general in relation to Taiwan Loaned Securities and exercising rights under 8.4 or 8.1 to substitute the Taiwan securities for other permissible securities. Borrower can accept or refuse and propose other securities.

Events of Default

This is an obligation for a party to notify the other party if an Event of Default occurs and for the parties to notify the TSEC as required by the regulations. The clause reflects the requirements to notify the stock exchange.

Consent to disclosure incorporated.



Thailand Addendum – Onshore Transactions

The Thailand Addendum – Onshore Transactions is not covered by the ISLA Legal Opinions published in April 2023 and may be considered to amend the following Core Provisions identified in Legal Opinions:

Amends definition of Market Value in paragraph 2.1 of the GMSLA.

Other Details:

Applies in relation to loans where one party is a resident of Thailand and the securities subject to the loan are:

- Common Shares (designated for local investors)
- Foreign Shares (registered as capable of being owned by non-residents of Thailand for the purposes of applicable foreign ownership restrictions) or
- Non-Voting Depository Receipts issued by Thai NVDR Co., Ltd, in each case listed on the Stock Exchange of Thailand and registered with the Thailand Securities Depository Company Limited.

Optional wording included to be used where Lender is an SBL Licensee to limit collateral to onshore collateral which is defined within the Addendum.

Hierarchy in the event of inconsistency in relation to Thai loans - Thai Addendum prevails over GMSLA.

Amends paragraph 6.7 (Corporate Actions) of the GMSLA to specify that where the exercise of the right requires a fee to be paid, the Lender will pay such sum in Thai Baht to the Borrower on the official payment date specified in the offer document or on such other date as agreed.

An optional clause is included to change the notice period required for the Lender to call for the redelivery of Equivalent Securities to not less than One Business Day less than the standard settlement time for such Equivalent Securities on the Stock Exchange of Thailand.

Clarification included concerning what constitutes an Equivalent Security.

Optional clause to be included where the Lender is an SBL Licensee with different options of minimum onshore collateral levels depending upon whether the Borrower is an Institutional Investor or not.

Borrower Warranties included covering the Borrower not being licensed in Thailand as a securities broker, securities dealer or for securities lending or borrowing business and that each transaction will be conducted as an offshore transaction from outside of Thailand.

Clause included covering the interaction with the Agency Annex.

Both parties represent and warrant that no payment received by it, or to be received by it, is attributable to a trade or business carried on through a permanent establishment in Thailand.

Paragraph 15 (Interest on Outstanding Payments) of the GMSLA amended to remove the section on compounding interest as Thai Civil and Commercial Code provides that during the default period, charging of interest on interest is prohibited.

Addendum includes the right for either party to terminate the Thailand Addendum by giving not less than a set number of days notice, (provisionally set at 15 Business Days) subject to discharging all obligations. This relates to the Thai law which gives a right to terminate a contract by giving a reasonable period of notice to the other party.

Thailand Addendum – Offshore Transactions

The Thailand Addendum – Offshore Transactions is not covered by the ISLA Legal Opinions published in April 2023.

Summary of the Thailand Addendum – Offshore Transactions:

Applies in relation to loans where neither party is a resident of Thailand and the securities subject to the loan are:

- Common Shares (designated for local investors);
- Foreign Shares (registered as capable of being owned by non-residents of Thailand for the purposes of applicable foreign ownership restrictions);
- Non-Voting Depositary Receipts issued by Thai NVDR Co., Ltd, in each case listed on the Stock Exchange of Thailand and registered with the Thailand Securities Depository Company Limited; and any other securities issued in Thailand.

Hierarchy in the event of inconsistency in relation to Thai loans - the Thailand Addendum prevails over GMSLA.

Amends paragraph 6.7 (Corporate Actions) of the GMSLA to specify that where the exercise of the right requires a fee to be paid, the Lender will pay such sum to the Borrower on the official payment date specified in the offer document or on such other date as agreed. Option to specify whether the fee will be paid in Thai Baht or US Dollars.

An optional clause is included to change the notice period required for the Lender to call for the redelivery of Equivalent Securities to not less than One Business Day less than the standard settlement time for such Equivalent Securities on the Stock Exchange of Thailand.

Clarification included concerning what constitutes an Equivalent Security.

Borrower Warranties included covering the Borrower not being licensed in Thailand as a securities broker, securities dealer or for securities lending or borrowing business and that each transaction will be conducted as an offshore transaction from outside of Thailand.

Clause included covering the interaction with the Agency Annex.

Both parties represent and warrant that no payment received by it or to be received by it is attributable to a trade or business carried on through a permanent establishment in Thailand.

Paragraph 15 (Interest on Outstanding Payments) of the GMSLA amended to remove the section on compounding interest as Thailand Civil and Commercial Code provides that during the default period, charging of interest on interest is prohibited.

Addendum includes the right for either party to terminate the Thailand Addendum by giving not less than a set number of days notice (provisionally set at 15 Business Days) subject to discharging all obligations. This relates to the Thai law which gives a right to terminate a contract by giving a reasonable period of notice to the other party.



Disclaimer

While we have made every attempt to ensure that the information contained in this paper has been obtained from reliable sources, the International Securities Lending Association (ISLA) is not responsible for any errors or omissions, or for the results obtained from the use of this information. All information in this Report is provided “as is”, with no guarantee of completeness, accuracy, timeliness or of the results obtained from the use of this information, and without warranty of any kind, express or implied, including, but not limited to warranties of performance, merchantability and fitness for a particular purpose. Nothing herein shall to any extent substitute for the independent investigations and the sound technical and business judgment of the reader. In no event will ISLA, or its Board Members, employees or agents, be liable to you or anyone else for any decision made or action taken in reliance on the information in this Report or for any consequential, special or similar damages, even if advised of the possibility of such damages.

General Enquiries

Email: support@islaemea.org | www.islaemea.org
