**Recommendation of the Association Concerning Written Documentation Governing Securities Forward Transactions**

**RECOMMENDATION**

The Association recommends, as a good business practice, that all market participants who are regularly engaged in the forward trading and delivery of mortgage-backed, asset-backed and other securities execute a written agreement governing their business relationship.

Such an agreement should set forth the basic rights and duties of each party, including, at a minimum, the manner in which individual transactions may be initiated and confirmed; the mechanics to be observed for payments of cash and transfers of securities; details of any margin or mark-to-market provisions elected by the parties (including the creation of a security interest in any collateral that may be pledged to secure the performance of obligations arising under the agreement); events of default; and remedies that may be exercised by a non-defaulting party.

The Association has developed and introduced a "Master Securities Forward Transaction Agreement" and related Guidance Notes. The Association recommends that market participants use this agreement as a means of complying with this recommendation.

**BACKGROUND**

The purchase and sale of mortgage-backed, asset-backed and other securities on a delayed-delivery basis entails significant market and counterparty risks. The value of securities at settlement may vary substantially from their price at trade date. In addition, at settlement one party to such a transaction may be unable to perform. These and other risks, which are especially pronounced during times of market stress and volatility, may result in substantial losses. In the absence of a clear, written agreement, conflicts can arise over the rights and remedies available to protect counterparties against such losses. The Association believes that the widespread usage and acceptance of a standardized written agreement will contribute to greater legal certainty, efficiency and uniformity in forward securities transactions, and will reduce the legal, transactional and operational costs and risks that would otherwise be borne by market participants.

The Association’s Master Securities Forward Agreement was designed to provide the basic legal protections that are regarded as essential for forward transaction market participants. In particular, the Agreement is intended to bolster the default remedies available to parties under common law through provisions included in confirmations, specifically by conferring the ability, upon default, to close out a trade without a cure period. Identical rights and obligations attach to each party, whether they are acting as buyer, seller or both. To promote standardization, the provisions of the agreement were drafted to conform to the structure and language of other Association standard agreements. The Association hopes that the familiarity of parties with its other, existing master agreements will increase their comfort with and willingness to use this Master Securities Forward Agreement for their securities forward transactions. Finally, several annexes have been prepared for use in connection with frequently negotiated supplemental terms, such as mark-to-market provisions for arrangements involving collateralized forward transactions.