

**ONPOINT** / A legal update from Dechert's Financial Services Group

# Treasury Clearing Rule: Compliance Date Extensions, Temporary Relief and FICC Implementation

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# Treasury Clearing Rule: Compliance Date Extensions, Temporary Relief and FICC Implementation

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This *OnPoint* is intended to provide buy-side participants in the Treasury repo markets:

- An overview of the recent SEC action to extend the compliance dates for rules requiring submission for central clearing of certain Treasury repo transactions.
- An overview of the temporary exemption providing relief to FICC (and potentially other covered clearing agencies) from enforcing policies and procedures implementing a requirement on their members to separately and independently calculate, collect and hold margin posted by an indirect participant.
- A high-level summary of the Treasury Repo Transaction clearing and related requirements and implementation thereof to date by FICC, including the trade submission requirement and its implications for market participants.
- A detailed description of the FICC margin separation and margin calculation methodologies and other related provisions of FICC's rulebook, which buy-side participants can use to assess alternative arrangements for margining their cleared Treasury repo transactions.

The Appendix to this *OnPoint* provides further explanation of the scope of the transactions covered by the SEC Treasury Repo Transaction clearing and related requirements, a description of relevant FICC indirect participant access models and the conditions of the SEC's no-action relief granted to registered funds in connection with posting margin to FICC.

## Summary of Extension and Temporary Exemption

### *Extension of Compliance Dates for U.S. Treasury Security Clearing Requirement*

On December 13, 2023, the U.S. Securities and Exchange Commission adopted amendments to a rule under the Securities Exchange Act of 1934 that require that any covered clearing agency providing central counterparty services for U.S. Treasury securities (a "Treasury CCA"):

- Require its direct participants to submit certain secondary cash market transactions in U.S. Treasury securities ("Cash Market Transactions") and certain repurchase agreement transactions in U.S. Treasury securities ("Treasury Repo Transactions") for clearance and settlement with the Treasury CCA.
- Monitor its direct participants' submission of such transactions for clearing, including how the Treasury CCA would address a failure to submit transactions that are required to be cleared (collectively, the "Trade Submission Requirement").<sup>1</sup>

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<sup>1</sup> [Standards for Covered Clearing Agencies for U.S. Treasury Securities and Application of the Broker-Dealer Customer Protection Rule With Respect to U.S. Treasury Securities](#), Exchange Act Rel. 99149, 89 Fed. Reg. 2714 (Jan. 16, 2024) (the "Treasury Clearing Rule Adopting Release").

On February 25, 2025, the SEC adopted a final rule extending the compliance dates for these requirements by one year, to December 31, 2026, for Cash Market Transactions, and June 30, 2027, for Treasury Repo Transactions.<sup>2</sup> On February 26, 2025, it appears that the Fixed Income Clearing Corporation (“FICC”) withdrew its proposed amendments to the FICC rulebook that would implement the Trade Submission Requirement.

Details on the Trade Submission Requirement and how it applies indirectly to certain U.S. Treasury security market participants, such as registered funds, are provided under **More Detail on the Treasury Clearing Trade Submission and CCA Access Requirements** below.

### ***Temporary Exemption for Treasury CCA Enforcement of Margin Separation***

Also on December 13, 2023, the SEC adopted amendments to a rule under the Exchange Act that require any Treasury CCA to have and enforce written policies and procedures reasonably designed to separately and independently calculate, collect and hold (i) margin amounts from a direct participant for its proprietary positions in U.S. Treasury securities from (ii) margin calculated and collected from such direct participant in connection with U.S. Treasury securities transactions by an indirect participant that relies on the services provided by such direct participant to access the covered clearing agency’s payment, clearing or settlement facilities through such direct participant.<sup>3</sup>

On February 25, 2025, the SEC issued an order granting a temporary exemption from the requirement that a Treasury CCA enforce such policies and procedures for six months, until September 30, 2025.<sup>4</sup> FICC’s amendments to the FICC rulebook implementing the margin separation requirements will take effect March 24, 2025.<sup>5</sup>

Details on the Margin Separation Requirement (as defined below) and FICC’s implementation are provided under **Details on the Margin Separation Requirement and Segregated Account Conditions** below.

### ***Compliance Dates for Segregated Account Conditions and Access Requirement***

A Treasury CCA continues to be required to comply with the Segregated Account Conditions (as defined below) and the Access Requirement (as defined below) by March 31, 2025.

The SEC did not extend the compliance date or issue any temporary exemption for the amendments to Rule 15c3-3 and Rule 15c3-3a under the Exchange Act, which permit broker-dealers to include margin required and on deposit

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<sup>2</sup> [Extension of Compliance Dates for Standards for Covered Clearing Agencies for U.S. Treasury Securities and Application of the Broker-Dealer Customer Protection Rule With Respect to U.S. Treasury Securities](#), Exchange Act Rel. 102487, 90 Fed. Reg 11134 (Mar. 4, 2025).

<sup>3</sup> See Treasury Clearing Rule Adopting Release, *supra* note 1.

<sup>4</sup> [Order Granting Temporary Exemptive Relief, Pursuant to Sections 17A and 36\(a\) of the Securities Exchange Act of 1934, from Certain Aspects of Rule 17ad-22\(e\)\(6\)\(i\) and Section 19\(g\)\(1\) of the Securities Exchange Act of 1934](#), Exchange Act Rel. 102486, 90 Fed. Reg. 11079 (Mar. 3, 2025).

<sup>5</sup> Important Notice, “[March 24, 2025: Implementation of Certain Treasury Clearing Rule Changes](#),” DTCC, Fixed Income Clearing Corporation (Feb. 26, 2025) (the “FICC Implementation Notice”); see also [Self-Regulatory Organizations: Fixed Income Clearing Corporation: Order Approving Proposed Rule Change, as Modified by Partial Amendment No. 1, to Modify the GSD Rules \(i\) Regarding the Separate Calculation, Collection and Holding of Margin for Proprietary Transactions and That for Indirect Participant Transactions, and \(ii\) to Address the Conditions of Note H to Rule 15c3-3a](#), Exchange Act Rel. 101695, 89 Fed. Reg. (Nov. 27, 2024) (the “Margin Separation and Segregation Approval”).

with Treasury CCAs as a debit in the reserve formulas for accounts of customers and proprietary accounts of broker-dealers subject to certain conditions. These conditions include requirements that (i) the Treasury CCA adopt rules designed to protect and segregate customer margin from any other account of the broker-dealer at the Treasury CCA, and (ii) the Treasury CCA and broker-dealer are in compliance with such rules (the “Segregated Account Conditions”).

Details on the Segregated Account Conditions and FICC’s implementation are provided under **Details on the Margin Separation Requirement and Segregated Account Conditions** below.

The SEC did not extend the compliance date or issue any exemption for related amendments to a rule under the Exchange Act that require a Treasury CCA to have participation criteria that ensure the Treasury CCA has appropriate means to facilitate access to clearance and settlement services of all eligible secondary market transactions in U.S. Treasury securities, including those of indirect participants (the “Access Requirement”).

FICC’s amendments to the FICC rulebook implementing the Access Requirement will take effect March 24, 2025.<sup>6</sup>

Details on this Access Requirement and FICC’s implementation are provided under **More Detail on the Treasury Clearing Trade Submission and CCA Access Requirements** below.

## Background on Treasury CCAs

Rule 17ad-22 under the Exchange Act sets out standards for registered clearing agencies. Rule 17ad-22 applies heightened requirements to a “registered clearing agency that provides the services of a central counterparty or central securities depository” (“covered clearing agency”).<sup>7</sup> Further distinct requirements apply under Rule 17ad-22 when the clearing agency provides central counterparty services for U.S. Treasury securities as a Treasury CCA.

FICC, through its Government Securities Division (“GSD”), provides central counterparty services for cash purchases and sales of U.S. Treasury securities as well as repurchase and reverse repurchase agreement (“repo”) transactions. As of the date of this publication, FICC is the only registered clearing agency that provides central counterparty services for U.S. Treasury securities.<sup>8</sup>

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<sup>6</sup> See FICC Implementation Notice, *supra* note 5.

<sup>7</sup> Rule 17ad-22(a) (definition of “covered clearing agency”). A central counterparty is “a clearing agency that interposes itself between the counterparties to securities transactions, acting functionally as the buyer to every seller and the seller to every buyer. Rule 17ad-22(a) (definition of “central counterparty”).

<sup>8</sup> On December 13, 2024, CME Securities, Inc., applied to register as a clearing agency to provide central counterparty services to market participants for their secondary cash market transactions in U.S. Treasury securities and transactions in repurchase and reverse repurchase agreements involving U.S. Treasury securities. See CME Securities Clearing, Inc.; [Notice of Filing of an Application for Registration as a Clearing Agency Under Section 17A of the Securities Exchange Act of 1934](#), Exchange Act Rel. 102200, 90 Fed. Reg 7713 (Jan. 22, 2025).

ICE Clear Credit, LLC, a covered clearing agency, has also announced plans to expand its offering of central counterparty services to U.S. Treasury securities cash market and repurchase agreement transactions. See Press Release, Investor Relations – Intercontinental Exchange, [ICE to Launch Treasury Clearing Service to Increase Transparency and Enhance Resilience in the U.S. Treasury Market](#) (Jun. 24, 2024).

## Details on the Treasury Clearing Trade Submission and CCA Access Requirements

Effective March 18, 2024, amendments to Rule 17ad-22(e)(18)(iv) under the Exchange Act require that any Treasury CCA establish, implement, maintain and enforce written policies and procedures reasonably designed to establish objective, risk-based and publicly disclosed criteria for participation, which:

1. Require that any direct participant of the Treasury CCA submit for clearance and settlement all of the eligible secondary market transactions (as described under **Appendix – Eligible Secondary Market Transactions**) to which such direct participant is a counterparty;
2. Identify and monitor its direct participants' submission of eligible secondary market transactions for clearing, including how the Treasury CCA would address a failure to submit transactions (as defined previously, the "Trade Submission Requirement"); and
3. Ensure that the Treasury CCA has appropriate means to facilitate access to clearance and settlement services of all eligible secondary market transactions in U.S. Treasury securities, including those of indirect participants (as defined previously, the "Access Requirement").

The compliance dates for the Trade Submission Requirement with respect to Cash Market Transactions and Treasury Repo Transactions are now extended from December 31, 2025, to December 31, 2026, and from June 30, 2026, to June 30, 2027, respectively.

The compliance date for the Access Requirement remains March 31, 2025.

### ***FICC Implementation: FICC Trade Submission Rules and FICC Access Rules***

On June 12, 2024, FICC filed proposed amendments to the FICC rulebook to implement the Trade Submission Requirement (the "FICC Trade Submission Rules").<sup>9</sup> On September 24, 2024, FICC filed a partial amendment to make clarifications and corrections to the proposed FICC Trade Submission Rules.<sup>10</sup> On December 11, 2024, finding it appropriate to designate a longer period within which to take action on the proposed rule change, the SEC designated February 26, 2025 as the date by which the SEC should either approve or disapprove the FICC Trade Submission Rules. On February 26, 2025, following the extension of the compliance dates applicable to the Trade Submission Requirement, it appears that FICC withdrew the FICC Trade Submission Rules.

The compliance date for the Access Requirement remains March 31, 2025. On March 11, 2024, FICC filed proposed amendments to the FICC rulebook to implement the Access requirement (the "FICC Access Rules").<sup>11</sup> On March 19, FICC filed a partial amendment to make clarifications and corrections to the FICC Access Rules. On November 21,

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<sup>9</sup> [Self-Regulatory Organizations: Fixed Income Clearing Corporation; Notice of Filing of Proposed Rule Change To Modify the GSD Rules Relating to the Adoption of a Trade Submission Requirement](#), Exchange Act Rel. 100417, 89 Fed. Reg. 54602 (July 1, 2024) (withdrawn Feb. 26, 2025).

<sup>10</sup> [Self-Regulatory Organizations: Fixed Income Clearing Corporation; Notice of Filing of Partial Amendment No. 1 to Proposed Rule Change To Modify the GSD Rules Relating to the Adoption of a Trade Submission Requirement](#), Exchange Act Rel. 101340, 89 Fed. Reg. 84211 (Oct. 21, 2024) (withdrawn Feb. 26, 2025).

<sup>11</sup> [Self-Regulatory Organizations: Fixed Income Clearing Corporation; Notice of Filing of Proposed Rule Change, as Modified by Partial Amendment No. 1, To Modify the GSD Rules To Facilitate Access to Clearance and Settlement Services of All Eligible Secondary Market Transactions in U.S. Treasury Securities](#), Exchange Act Rel. 99817, 89 Fed. Reg. 21362 (Mar. 27, 2024).

2024, the SEC approved the FICC Access Rules.<sup>12</sup> In a February 26, 2025, notice, FICC announced that the FICC Access Rules will take effect March 24, 2025.<sup>13</sup>

## Details on the Margin Separation Requirement and Segregated Account Conditions

Rule 17ad-22(e)(6)(i) requires that any Treasury CCA establish, implement, maintain and enforce written policies and procedures reasonably designed for the Treasury CCA to cover its credit exposures to its participants by establishing a risk-based margin system which, at a minimum, must consider and produce “margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market.”

Effective March 18, 2024, amendments to Rule 17ad-22(e)(6)(i) require that, for a Treasury CCA, the risk-based margin system must be reasonably designed to separately and independently calculate, collect and hold (i) margin amounts from a direct participant for its proprietary positions in U.S. Treasury securities from (ii) margin calculated and collected from such direct participant in connection with U.S. Treasury securities transactions by an indirect participant that relies on the services provided by such direct participant to access the covered clearing agency’s payment, clearing, or settlement facilities through such direct participant (as defined previously, the “Margin Separation Requirement”).

The SEC has provided a temporary exemption to Treasury CCAs from the enforcement of any written policies or procedures regarding the Margin Separation Requirement for six months until September 30, 2025.

At the same time that the SEC adopted the Treasury CCA requirements under the Exchange Act discussed above, the SEC adopted related amendments to Rule 15c3-3 and Rule 15c3-3a under the Exchange Act. These amendments permit broker-dealers to include margin required and on deposit with a Treasury CCA as a debit in the reserve formulas for accounts of customers and proprietary accounts of broker-dealers subject to certain conditions (as defined previously, the “Segregated Account Conditions”).<sup>14</sup>

## Registered Fund Participation in FICC Sponsored Service

In the Treasury Clearing Rule Adopting Release, the SEC issued time-limited no-action relief related to a registered fund’s participation in FICC’s Sponsored Service (see **Appendix – Submission to FICC for Clearance and Settlement and Access Models**). The SEC took the position that, for a period of five years beginning on March 18, 2024, if a registered fund’s cash or securities are placed and maintained in the custody of FICC or the fund’s sponsoring member for purposes of meeting FICC’s margin deposit requirements that may be imposed for eligible secondary market transactions in connection with the fund’s participation in the FICC Sponsored Service, it would not

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<sup>12</sup> [Self-Regulatory Organizations: Fixed Income Clearing Corporation: Order Approving a Proposed Rule Change, as Modified by Partial Amendment No. 1, To Modify the GSD Rules To Facilitate Access to Clearance and Settlement of All Eligible Secondary Market Transactions in U.S. Treasury Securities](#), Exchange Act Rel. 101694, 89 Fed. Reg. 93784 (Nov. 27, 2024), .

<sup>13</sup> See FICC Implementation Notice, *supra* note 5.

<sup>14</sup> These conditions include, among other things, that the Treasury CCA’s rules require that: (1) margin must be calculated separately for each customer and the broker-dealer must deliver that amount of margin for each customer on a gross basis; (2) the margin must be held in an account of the broker-dealer at the Treasury CCA that is segregated from any other account of the broker-dealer at the Treasury CCA and that is, among other things, used exclusively to clear, settle, novate and margin U.S. Treasury securities transactions of the customers of the broker-dealer; and (3) the Treasury CCA has systems, controls, policies and procedures to return the assets to the broker-dealer that are no longer needed to meet current margin requirements resulting from positions in U.S. Treasury securities of the customers of the broker-dealer.

provide a basis for enforcement action under Section 17(f) of the 1940 Act so long as the provision of margin is consistent with certain conditions (the “Registered Fund FICC Sponsored Service No-Action Relief”). The Registered Fund FICC Sponsored Service No-Action Relief requires that the agreement between the registered fund and its sponsoring member include specific terms that do not exist in current sponsoring member agreements.

Details on the Registered Fund FICC Sponsored Service No-Action Relief conditions are provided in the **Appendix – Registered Fund FICC Sponsored Service No-Action Relief**.

### ***FICC Implementation: FICC Margin Separation and Segregation Rules***

Beginning March 31, 2025, if a Treasury CCA determines to offer certain access models or segregated margin accounts, the Treasury CCA would be obligated to enforce those rules regarding such models or accounts against the relevant participant, and the direct participant must comply with those rules.

On March 14, 2024, FICC filed proposed amendments to the FICC rulebook to implement the Margin Separation Requirement and the Segregated Account Conditions (the “FICC Margin Separation and Segregation Rules”).<sup>15</sup> On October 25, 2024, FICC filed a partial amendment to the proposed FICC Margin Separation and Segregation Rules.<sup>16</sup> On November 21, 2024, the SEC issued a notice of no objection to the FICC Margin Separation and Segregation Rules.<sup>17</sup> On November 22, 2024, the SEC staff stated that “FICC’s rules, as currently amended, would allow a registered fund’s margin to be posted at FICC consistent with the [Registered Fund FICC Sponsored Service No-Action Relief]. The staff’s view applies equally to tri-party and bilateral repurchase agreement transactions.”<sup>18</sup> In a February 26, 2025, notice, FICC announced that these changes will take effect March 24, 2025.<sup>19</sup>

Effective March 24, 2025, the FICC Margin Separation and Segregation Rules provide for the separate and independent calculation, collection and holding of (i) margin deposited by a Netting Member (as described under **Appendix – Direct vs. Indirect Participants**) to support the Netting Member’s proprietary transactions and (ii) margin deposited by a Netting Member to support the transactions of an indirect participant under either the Sponsored Service or the Agent Clearing Service (see **Appendix – Submission to FICC for Clearance and Settlement and Access Models**).

Under the FICC Margin Separation and Segregation Rules, in determining a Netting Member’s margin requirement under FICC’s amended GSD rulebook (the “GSD Rulebook”), FICC does not net the indirect participant transactions

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<sup>15</sup> [Self-Regulatory Organizations: Fixed Income Clearing Corporation: Notice of Filing of Proposed Rule Change To Modify the GSD Rules \(i\) Regarding the Separate Calculation, Collection and Holding of Margin for Proprietary Transactions and That for Indirect Participant Transactions, and \(ii\) To Address the Conditions of Note H to Rule 15c3–3a](#), Exchange Act Rel. 99844, 89 Fed. Reg. 21603 (Mar. 28, 2024).

<sup>16</sup> [Self-Regulatory Organizations: Fixed Income Clearing Corporation: Notice of Filing of Partial Amendment No. 1 to Proposed Rule Change To Modify the GSD Rules \(i\) Regarding the Separate Calculation, Collection and Holding of Margin for Proprietary Transactions and That for Indirect Participant Transactions, and \(ii\) To Address the Conditions of Note H to Rule 15c3–3a](#), Exchange Act Rel. 101454, 89 Fed. Reg. 87441 (Nov. 1, 2024).

<sup>17</sup> [Self-Regulatory Organizations: Fixed Income Clearing Corporation: Notice of No Objection to Advance Notice, as Modified by Partial Amendment No. 1, to Modify the GSD Rules \(i\) Regarding the Separate Calculation, Collection and Holding of Margin for Proprietary Transactions and That for Indirect Participant Transactions, and \(ii\) to Address the Conditions of Note H to Rule 15c3–3a](#), Exchange Act Rel. 101675, 89 Fed. Reg. 93735 (Nov. 27, 2024).

<sup>18</sup> SEC, Division of Investment Management, [IM Staff Statement on FICC Registered Fund Margin Framework](#), (Nov. 22, 2024).

<sup>19</sup> See FICC Implementation Notice, *supra* note 5.



against a Netting Member's proprietary transactions.<sup>20</sup> A FICC Netting Member's margin requirement is determined with respect to each of its "Margin Portfolios" separately. The separate calculation of proprietary and customer margin is accomplished by provisions in the GSD Rulebook providing that a Margin Portfolio may only include Accounts of the same type (e.g., a Margin Portfolio containing Dealer Accounts may contain only Dealer Accounts).

In accordance with the Segregated Account Conditions, the FICC Margin Separation and Segregation Rules provide that a Netting Member (including a Netting Member that is not a broker-dealer) may designate indirect participant accounts into a "Segregated Indirect Participants Account," for which FICC will calculate and segregate margin with respect to the account in accordance with Note H to Rule 15c3-3a under the Exchange Act. The GSD Rulebook provides that FICC calculates a Netting Member's margin requirement with respect to a particular Segregated Indirect Participants Account by summing on a gross basis the separate net margin amounts calculated for each Segregated Indirect Participant whose transactions are recorded in the Account (i.e., for purposes of the calculating the margin requirement, FICC will net transactions within the Segregated Indirect Participants Account to the extent that the transactions belong to the same Segregated Indirect Participant).

As described below, the Segregated Customer Margin Requirement is deposited to a segregated margin account at an FDIC-insured commercial bank or at the Federal Reserve Bank of New York (a "Segregated Customer Margin Custody Account"). In contrast to other FICC "Accounts,"<sup>21</sup> the Segregated Customer Margin Custody Account is a securities account within the meaning of the NYUCC maintained by FICC, in its capacity as a securities intermediary, for an Agent Clearing Member or Sponsoring Member for the benefit of such Member's Segregated Indirect Participants. FICC is not permitted to use Segregated Customer Margin that supports a Segregated Indirect Participant's transaction to secure or settle any other person's transactions, including those of a fellow Segregated Indirect Participant.

## Calculation of FICC Netting Member Margin Deposits

The FICC Margin Separation and Segregation Rules provide that each Netting Member is required, as applicable, to deposit two forms of margin: (1) a Required Fund Deposit (deposited to FICC's "Clearing Fund") and (2) the Segregated Customer Margin Requirement (deposited to a Segregated Customer Margin Custody Account).

The Required Fund Deposit and the Segregated Customer Margin Requirement is comprised of several component deposits, representing a margin deposit with respect to a Margin Portfolio. Other than for an Inter-Dealer Broker Netting Member's brokered transactions (i.e., those executed by an Inter-Dealer Broker Netting Member on its own trading platform), each such margin deposit calculation is itself determined by the greater of \$1 million and an unadjusted portfolio amount and certain additional charges, including a "VaR Charge" (designed to mitigate risks associated with the value-at-risk calculated for the net unsettled positions) and a "Margin Liquidity Adjustment

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<sup>20</sup> See FICC GSD Rulebook, Rule 4.

<sup>21</sup> As used in the GSD Rulebook, a FICC "Account" is not a custodial account in which FICC holds assets but rather a construct for FICC to record and group transactions in connection with FICC's calculation of a Netting Member's margining, settlement and other obligations. A proprietary account is established to record the Netting Member's proprietary transactions, and separate accounts are established to record the indirect participant transactions (i.e., a Sponsoring Member Omnibus Account for purposes of recording the Netting Member's Sponsoring Member Trades and an Agent Clearing Member Omnibus Account for purposes of recording the Netting Member's Agent Clearing Transactions). See GSD Rulebook, Rule 2B. Since proprietary transactions and transactions submitted for indirect participants would not be recorded in the same type of account, these changes would result in margin for a Netting Member's proprietary transactions being calculated separately and independently from margin calculated for the transactions that the Netting Member submits on behalf of indirect participants.

Charge” or “MLA Charge” (designed to mitigate risk associated with the liquidity of the assets of the net unsettled positions).<sup>22</sup>

With respect to a Netting Member’s Required Fund Deposit, the VaR Charge also impacts the Netting Member’s “Excess Capital Premium,” which is designed to address the risk that a Netting Member with low capital relative to its VaR would not be able to perform its obligations. FICC may add such “Excess Capital Premium” to a Netting Member’s Required Fund Deposit if the Netting Member maintains an “Excess Capital Ratio” (i.e., its VaR Charge, excluding the VaR Charges calculated for the Netting Member’s Segregated Indirect Participants Accounts, divided by its Netting Member Capital<sup>23</sup>) greater than one. “Excess Capital Premium” means the product of: (a) the amount by which the Netting Member’s VaR Charge exceeds its Net Capital, multiplied by (b) the lesser of the Netting Member’s Excess Capital Ratio and 2.0.<sup>24</sup>

Excess Capital Premium is not included in the calculation of Segregated Customer Margin because Excess Capital Premium is calculated independently of the VaR Charge assessed for Segregated Indirect Participants Account. FICC acknowledged that including the VaR Charge that is calculated for and satisfied by a Segregated Indirect Participant could result in assessing an Excess Capital Premium for that Netting Member that is greater than the amount required to mitigate the risk that the Excess Capital Premium is designed to address.

### ***Required Fund Deposit***

The Netting Member’s Required Fund Deposit, deposited to FICC’s “Clearing Fund,” is the sum of the Netting Member’s Required Fund Deposit Portions with respect to each of the following Account types:<sup>25</sup>

- **Required Fund Deposit Portion with respect to Dealer Accounts (Proprietary).** The Required Fund Deposit for a Netting Member’s Margin Portfolio that contains Dealer Accounts is the greater of (i) the sum of the Unadjusted GSD Margin Portfolio Amount and all applicable additional charges; and (ii) a minimum charge of \$1 million.
- **Required Fund Deposit Portion with respect to Sponsoring Member Omnibus Accounts that are not designated as Segregated Indirect Participants Accounts.** The “Sponsoring Member Omnibus Account Required Fund Deposit” is the greater of (i) the sum of the Unadjusted GSD Margin Portfolio Amount and all applicable additional charges; and (ii) \$1 million.
  - For purposes of the “VaR Charge” and “Margin Liquidity Adjustment, a Sponsored Member’s trades are not netted against another Sponsored Member’s trades.
  - For all of the other additional charges, FICC calculates the components by reference to the Sponsoring Member Omnibus Account as a whole (i.e., without regard to which Sponsored Member entered into which Sponsored Member Trade).

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<sup>22</sup> See GSD Rulebook, Margin Component Schedule, Section 3.

<sup>23</sup> “Netting Member Capital” means Netting Member’s Net Capital, Net Assets, or Equity Capital, as applicable based on the Netting Member’s type of regulation. GSD Rulebook, Section 1.

<sup>24</sup> See GSD Rulebook, Margin Component Schedule, Section 5.

<sup>25</sup> GSD Rulebook, Rule 4, Section 2(a); GSD Rulebook, Margin Component Schedule, Section 2(c).

- **Required Fund Deposit Portion with respect to Agent Clearing Omnibus Accounts that are not designated as Segregated Indirect Participants Accounts.** The “Agent Clearing Member Omnibus Account Required Fund Deposit” is the greater of (i) the sum of the Unadjusted GSD Margin Portfolio Amount and all applicable additional charges; and (ii) \$1 million.

For each of the Netting Member’s Required Fund Deposit Portions:<sup>26</sup>

- A minimum of 40% of the Required Fund Deposit Portion must be cash or Eligible Clearing Fund Treasury securities.
- The lesser of \$5 million or 10% of the Required Fund Deposit Portion, with a minimum of \$1 million, must be made and maintained in cash.

### ***Segregated Customer Margin Requirement***

A Netting Member can request that FICC establish more than one Indirect Participants Account of the same type, and may designate any of its Indirect Participants Accounts as a Segregated Indirect Participants Account.<sup>27</sup> The Netting Member’s Segregated Customer Margin Requirement is the sum of the Segregated Customer Margin Requirements for each of the Netting Member’s Segregated Indirect Participants Accounts (i.e., each of the Netting Member’s Sponsoring Member Omnibus Accounts designated as Segregated Indirect Participants Accounts and Agent Clearing Member Omnibus Accounts designated as Segregated Indirect Participants Accounts):<sup>28</sup>

- **Segregated Customer Margin Requirement with respect to each Segregated Indirect Participants Account.** For each Segregated Indirect Participants Account, the Segregated Customer Margin Requirement with respect to that account is the sum of the amounts calculated for each Segregated Indirect Participant whose transactions are recorded in such Segregated Indirect Participants Account. For purposes of calculating the Segregated Customer Margin Requirement for a Segregated Indirect Participants Account, FICC will net transactions in that Account only to the extent the transactions belong to the same Segregated Indirect Participant.<sup>29</sup> For each Segregated Indirect Participant, such amount is the greater of (i) the sum of the Unadjusted GSD Margin Portfolio Amount and all applicable additional charges; and (ii) \$1 million.

For each Netting Member’s Segregated Indirect Participants Account:<sup>30</sup>

- A minimum of 40% of the Segregated Customer Margin Requirement must be cash or Eligible Clearing Fund Treasury securities.
- The lesser of \$5 million or 10% of the Segregated Customer Margin Requirement must be made and maintained in cash.

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<sup>26</sup> GSD Rulebook, Rule 4, Section 3(b).

<sup>27</sup> See GSD Rulebook, Rule 2B, Sections 2 and 3.

<sup>28</sup> GSD Rulebook, Rule 4, Section 2(a).

<sup>29</sup> GSD Rulebook, Rule 2B, Section 3.

<sup>30</sup> GSD Rulebook, Rule 4, Section 3(c).

- A minimum of \$1 million per Segregated Indirect Participant whose Transactions are recorded in the Segregated Indirect Participants Account must be made and maintained in cash.

## **Conclusion**

Upon the extended compliance dates of December 31, 2026, and June 30, 2027, registered funds and others will be able to engage in certain Cash Market Transactions and Treasury Repo Transactions with direct participants only if they have entered into sponsoring member agreements or other applicable clearing member documentation. Negotiations of these documents, which are non-standardized, can take upwards of a year.

## Appendix

### *Eligible Secondary Market Transactions*

Unless otherwise excluded, the term eligible secondary market transaction means a secondary market transaction in U.S. Treasury securities of a type accepted for clearing by a registered covered clearing agency that is:

1. a repurchase or reverse repurchase agreement collateralized by U.S. Treasury securities where one counterparty is a direct participant of the Treasury CCA; and
2. a purchase or sale in U.S. Treasury securities between a direct participant and
  - a. any counterparty, if the direct participant of the covered clearing agency brings together multiple buyers and sellers using a trading facility (such as a limit order book) and is a counterparty to both the buyer and seller in two separate transactions, or
  - b. a registered broker-dealer, government securities broker or government securities dealer.<sup>31</sup>

Eligible Treasury repos include both bilateral and triparty Treasury repos. In a triparty repo, a third party clearing bank (the “triparty agent”) provides certain services, including custody, collateral management and settlement services.<sup>32</sup> In declining to exclude triparty Treasury repos from the definition of eligible secondary market transaction, the SEC noted that the triparty agent does not guarantee either counterparty’s performance through novation or assume counterparty risk and therefore does not serve as a central counterparty.<sup>33</sup>

Any transaction (either a Cash Market Transaction or Treasury Repo Transaction) is excluded from the definition of eligible secondary market transaction if one of the counterparties is a central bank, sovereign entity, international financial institution or a natural person. A Treasury Repo Transaction is excluded from the definition of eligible secondary market transaction if one of the counterparties is a state or local government. Additionally, a Treasury Repo Transaction between a direct participant and an affiliated counterparty (as defined in Rule 17ad-22(a)) is excluded provided that the affiliated counterparty submits for central clearing all other repurchase or reverse repurchase agreements collateralized by U.S. Treasury securities to which the affiliate is a party.

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<sup>31</sup> 17 CFR 240.17ad-22(a) (definition of “eligible secondary market transaction”). A Treasury repo is the simultaneous sale and forward repurchase of a Treasury security and resembles a collateralized cash lending transaction. In the “start” or “on” leg, one party (the “seller”) sells a U.S. Treasury security to its counterparty (the “buyer”). In the “end” or “off” leg, the seller purchases back from the buyer the previously sold security. A repurchase agreement from the seller’s perspective is a reverse repurchase agreement from the buyer’s perspective. The Treasury Clearing Rule applies equally regardless of whether the direct participant is the seller or the buyer in the start leg.

<sup>32</sup> The triparty agent also provides a “clearing” function, which in this context means the function of verifying matching trade details, which occurs after trade execution but before settlement. The clearing process begins with both parties recording their trades in their internal system. This involves reconciling trade details, confirming trade terms and managing any discrepancies between the parties. Settlement is the final exchange of cash and securities, wherein one party delivers cash to the clearing bank and the other party delivers securities, and the clearing bank then facilitates the transfer to the respective parties. Federal Reserve Bank of New York, [White Paper on Clearing and Settlement in the Secondary Market for U.S. Treasury Securities](#), at 8 (July 11, 2019).

<sup>33</sup> Treasury Clearing Rule Adopting Release, *supra* note 1, at 2725.

Transactions outside the definition of eligible secondary market transaction are securities lending transactions<sup>34</sup> and general collateral repos that do not involve a U.S. Treasury CUSIP from the outset.<sup>35</sup> Additionally, the definition of eligible secondary market transaction does not include final settlement under physical-delivery futures contracts on Treasury securities.<sup>36</sup>

### ***Direct vs. Indirect Participants***

For purposes of the Treasury Clearing Rule, the term direct participant means an entity that directly accesses a Treasury CCA for payment, clearing or settlement services, and the term indirect participant means an entity that relies on direct participants to access the Treasury CCA.<sup>37</sup>

- *Direct participants* of FICC under the Treasury Clearing Rule currently include only entities with a direct membership to the Government Securities Division of FICC (the “GSD”) as Netting Members. Netting Members of the GSD consist mostly of sell-side entities such as banks, broker-dealers and government securities broker-dealers.<sup>38</sup> Membership requirements include criteria related to regulatory status, minimum capital requirements and risk management processes, among other standards.
- *Indirect participants* of FICC under the Treasury Clearing Rule include only persons that access FICC’s services through a direct participant via FICC’s indirect access models (discussed below). The term includes both persons who access FICC as “Sponsored Members” or as “Executing Firm Customers” (each as defined below). Entities that fall in the indirect participant category generally include market participants such as investment funds, asset managers and smaller banks or broker-dealers. Investment companies registered under the Investment Company Act of 1940, and registered money market funds in particular, have historically been active as cash lenders in the Treasury repo market opposite banks and broker-dealers who are FICC members. Generally, a Treasury repo between a FICC Netting Member and a buy-side entity must be submitted for clearance and settlement to FICC.

### ***Submission to FICC for Clearance and Settlement and Access Models***

#### **Clearance and Settlement**

Clearance and settlement at FICC consists of trade comparison, trade novation and trade netting. FICC’s trade comparison step consists of reporting, validating and, in some cases, matching of the long and short sides of a securities trade, including a repo transaction, to ensure that the details of such trade are in agreement between the parties. FICC novates and guarantees each transaction accepted for central clearing, meaning it would become a counterparty to each such transaction, as the buyer to each seller and the seller to each buyer. For sponsored repo transactions (discussed below), generally only the end leg of the repo will be novated. Finally, FICC nets trades, meaning that FICC will aggregate and match offsetting obligations resulting from its novated positions.

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<sup>34</sup> *Id.* at 2740.

<sup>35</sup> *Id.* at 2726.

<sup>36</sup> *Id.* at 2740.

<sup>37</sup> *Id.* at 2717. A person that merely provides services in connection with clearance and settlement and does not submit trades for clearing to a Treasury CCA would not be considered a direct participant or indirect participant.

<sup>38</sup> *Id.* at 2785; see also Depository Trust & Clearing Corporation, [FICC GSD Member Directory](#) (Feb. 24, 2025).

## Sponsored Service Access Model

FICC's Sponsored Service allows eligible entities to participate in FICC's services through a sponsoring member.<sup>39</sup> Under the Sponsored Service, a direct participant sponsors an indirect participant for FICC membership and submits transactions to FICC for clearance and settlement on behalf of the indirect participant.<sup>40</sup> For any submitted transactions, the indirect participant is a member of FICC's GSD and the legal counterparty to FICC. The direct participants are "Sponsoring Members," and the indirect participants are "Sponsored Members."

The Sponsored Service includes the Sponsored DVP service, which allows Sponsored Members to access FICC's DVP Repo Service, and the Sponsored GC Service, which allows Sponsored Members to access FICC's GCF Repo Service. The DVP Repo Service accommodates overnight and term repo transactions to be settled on a delivery-vs-payment basis. The DVP Repo Service accepts for submission transactions under both the done-away and done-with models. In the done-with model, the trade is executed and cleared by the same participant. In the done-away model, the trade is executed and cleared by different participants, creating additional operational and legal complexities. The GCF Repo Service accommodates general collateral repo transactions to be settled on the triparty agent's platform.

## Agent Clearing Service Access Model

The Agent Clearing Service offered by FICC allows agent banks and broker-dealers to clear and settle transactions on behalf of their clients.<sup>41</sup> In the Agent Clearing Service, an Agent Clearing Member acts as processing agent and credit intermediary for the indirect participant (such indirect participant, an "Executing Firm Customer"). FICC is not in contractual privity with the Executing Firm Customer. The Agent Clearing Service resembles agent clearing models in the cleared derivatives markets where participants execute trades with third parties and then give them up to futures commission merchants for clearing. The Agent Clearing Service is not currently available for general collateral repo transactions.

## Registered Fund FICC Sponsored Service No-Action Relief

Section 17(f) of the 1940 Act and the rules thereunder govern the custody and safekeeping of a registered fund's assets, including collateral pledged to support obligations under derivatives transactions and repo agreements. Section 17(f) generally requires that a registered fund place and maintain its assets in the custody of certain banks, a company which is a member of a national securities exchange or its own custody. Under Section 17(f), a registered fund is prohibited from posting margin to FICC.<sup>42</sup>

To support a clearing requirement for eligible secondary market transaction, the SEC took the position that, for a period of five years beginning on March 18, 2024, if a registered fund's cash and/or securities are placed and maintained in the custody of FICC for purposes of meeting FICC's margin deposit requirements that may be imposed

<sup>39</sup> Depository Trust & Clearing Corporation, [Sponsored Service](#).

<sup>40</sup> *Id.*

<sup>41</sup> See U.S. Department of the Treasury, [Developments in Central Clearing in the U.S. Treasury Market](#) (Feb. 2025).

<sup>42</sup> Rule 17f-4 permits a registered fund to place and maintain its asset at a securities depository under certain conditions. Although The Depository Trust Company (which, like FICC, is a subsidiary of The Depository Trust & Clearing Corporation) is a securities depository, FICC has stated that does not provide securities depository services. In the Treasury Clearing Rule Adopting Release, the SEC stated that it "is not opining on whether FICC's Government Securities Division could currently be considered a 'securities depository' for purposes of Rule 17f-4." Treasury Clearing Rule Adopting Release, *supra* note 1, at 2730.

for eligible secondary market transactions in connection with the fund's participation in the Sponsored Service, it would not provide a basis for enforcement action under Section 17(f) of the 1940 Act so long as:

- FICC withdraws the margin provided by a sponsored member registered fund only upon that registered fund's default.
- The margin provided by a registered fund is not commingled with, and is kept separate from, FICC's assets.
- FICC segregates on its books and records the margin provided by a registered fund (or series thereof, as applicable), and identifies a value of margin in its books and records as being attributable to the registered fund.
- The entity that FICC uses to custody such margin is an eligible fund custodian under the 1940 Act and the applicable rules thereunder.
- The margin provided by a registered fund is not subject to loss mutualization or allocation.
- The margin provided by a registered fund is not used by FICC for any purpose other than in connection with that registered fund's default as a sponsored member.
- Registered funds receive quarterly statements of accounts concerning the margin provided in connection with eligible secondary market transactions showing, at a minimum, the name of the account, asset movements during the quarter and quarter-end positions.
- The account into which a registered fund's margin is deposited is governed by a contract by and among the registered fund, its sponsoring member and FICC providing for an arrangement consistent with this SEC position.

Additionally, the SEC took the position that, for a period of five years beginning on March 18, 2024, if a registered fund's cash and/or securities are placed and maintained with a sponsoring member that is a member of a national securities exchange, solely in connection with facilitating the posting of margin to FICC on behalf of a registered fund in connection with the fund's participation in the Sponsored Service, it would not provide the basis for an enforcement action against a registered fund under Section 17(f) of the 1940 Act so long as the fund complies with Rule 17f-1(a), (b)(5) and (d), and the contract between the fund and the member of the national securities exchange provides for the following:

- The margin provided by a registered fund is not commingled with, and is kept separate from, the sponsoring member's assets.
- The sponsoring member segregates on its books and records the margin provided by a registered fund (or series thereof, as applicable), and identifies a value of margin in its books and records as being attributable to the registered fund.
- The registered fund's provision of margin is consistent with the FICC registered fund margin framework.
- The sponsoring member does not hold registered fund assets that exceed the amount that is required to be deposited as margin to FICC with respect to the registered fund's outstanding eligible secondary market transactions.



### Treasury Clearing Rule – Key Events Timeline

Date	Event
December 13, 2023	SEC adopts amendments to: <ul style="list-style-type: none"> <li>• Rule 17ad-22(e)(18)(iv) (adopting the Trade Submission Requirement and Access Requirement)</li> <li>• Rule 17ad-22(e)(6)(i) (adopting Margin Separation Requirement)</li> <li>• Rules 15c3-3 and Rule 15c3-3a (adopting Segregated Account Conditions)</li> </ul>
March 11, 2024	FICC proposes FICC Access Rules to implement the Access Requirement.
March 14, 2024	FICC proposes FICC Margin Separation and Segregation Rules to implement Margin Separation Requirement and Segregated Account Conditions.
March 18, 2024	Trade Submission Requirement and Access Requirement go effective (subject to later compliance dates). Registered Fund FICC Sponsored Service Relief goes effective.
March 19, 2024	FICC files partial amendment to FICC Access Rules.
June 12, 2024	FICC proposes FICC Trade Submission Rules to implement Trade Submission Requirement.
September 24, 2024	FICC files partial amendment to proposed FICC Trade Submission Rules.
October 25, 2024	FICC files partial amendment to proposed FICC Margin Separation and Segregation Rules.
November 21, 2024	SEC approves FICC Access Rules and issues notice of no objection to the FICC Margin Separation and Segregation Rules.
November 22, 2024	SEC Staff issues statement that FICC Margin Separation and Segregation Rules satisfy conditions of Registered Fund FICC Sponsored Service Relief.
December 11, 2024	The SEC designates February 26, 2025, as the date by which the SEC must either approve or disapprove the FICC Trade Submission Rules.
February 25, 2025	SEC extends compliance dates for Trade Submission Requirement. SEC issues temporary exemption from Margin Separation Requirement enforcement.
February 26, 2025	FICC withdraws FICC Trade Submission Rules. FICC announces that the FICC Access Rules and FICC Margin Separation and Segregation Rules to go effective March 24, 2025.
<b>March 24, 2025</b>	<b>FICC Access Rules go effective.</b> <b>FICC Margin Separation and Segregation Rules go effective.</b>
<b>March 31, 2025</b>	<b>Compliance date for Access Requirement.</b> <b>Compliance date for Segregated Account Conditions.</b>
December 31, 2026	<b>New compliance date for Trade Submission Requirement for Cash Market Transactions.</b>
June 30, 2027	<b>New compliance date for Trade Submission Requirement for Treasury Repo Transactions.</b>
September 30, 2025	<b>Temporary relief from Margin Separation Requirement enforcement ends.</b>
<b>March 18, 2029</b>	<b>Registered Fund FICC Sponsored Service Relief ends.</b>

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