

# U.S. Treasury Repo Clearing: The Countdown is ON!

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The U.S. Treasury Clearing Rule is top of mind as both the cash and repo clearing implementation deadlines are quickly approaching.<sup>1</sup> At the ISDA New York Treasury Clearing Forum held on June 11, market participants gathered to discuss new covered clearing agencies coming online, updates to the industry standard documentation and legal opinions, and current no-action relief requests for certain affiliate and extraterritorial trading activity pending regulatory approval. While the industry is more engaged than ever, there are still significant questions outstanding around scoping, done-away documentation and operational infrastructure that must be resolved to ensure smooth implementation.

Long story short: The time to act is now, and we hope this memo provides guidance on your compliance journey.

## Overview of Clearing Rule – Let’s Start With the Basics

The Clearing Rule amends the Securities Exchange Act of 1934 to require all “eligible secondary market transactions” in U.S. treasury securities (“USTs”) be centrally cleared. This includes repurchase and reverse repurchase transactions (“repo transactions”) in USTs, where one counterparty is a direct participant of a central clearing agency (“CCA”), and certain cash transactions.<sup>2</sup> The Clearing Rule also provides an exemption for repo transactions between direct participants and counterparties that are central banks, sovereign entities, international financial institutions, natural persons, state and local governments, covered clearing agencies, derivatives clearing organizations or entities that are regulated as a central counterparty in their home jurisdiction.<sup>3</sup>

As of Feb. 25, 2025, the SEC extended cash and repo transaction compliance deadlines by one year<sup>4</sup>:

### Current Clearing Rule Compliance Deadlines:

Cash Transactions: **Dec. 31, 2026**

Repo Transactions: **June 30, 2027**

## New CCAs – FICC Isn’t the Only Game in Town

When the Clearing Rule was approved, FICC (a DTCC subsidiary) was the only CCA for repo transactions, raising concentration risk and pricing concerns. Over the past seven months, two major competitors have entered the market: CME received SEC approval for CME Securities Clearing Inc. (“**CMESC**”) in December 2025, and ICE received approval for ICE Clear Credit LLC (“**ICE Clear Credit**”) in January 2026, with its service now fully operational.<sup>5</sup>

## The CMESC Offering

CMESC provides access through Members (direct participants) and Users (indirect participants),<sup>6</sup> with two User types: Independent Users, who post margin directly to CMESC, and Supported Users, whose margin is intermediated through their authorizing Member.<sup>7</sup> Unlike FICC, Users settle directly with CMESC.<sup>8</sup> A potential advantage for the CMESC users is integration with CME’s existing derivatives clearing infrastructure, enabling cross-margining of treasury positions against futures, options and swaps.<sup>9</sup>

**The ICE Clear Credit Offering**

ICE Clear Credit provides access through Treasury Participants (direct participants) and Non-Participant Parties (indirect participants).<sup>10</sup> Treasury Participants clearing for Non-Participant Parties are fully liable as principal.<sup>11</sup> A key feature is ICE’s four margining account options for indirect participants — Client-Funded Gross IM, CP-Funded Gross IM, Hybrid Gross IM and Net Client IM — meant to provide flexibility for margin and capital management.<sup>12</sup>

**How do the CCAs Compare?**

<b>Category</b>	<b>FICC</b>	<b>CMESC</b>	<b>ICE Clear Credit</b>
<b>Parent</b>	DTCC	CME Group	Intercontinental Exchange
<b>Access models for Indirect Participants</b>	1. Sponsored Member Program 2. Agent Clearing Service	1. Independent User 2. Supported User	1. Non-Participant Party (four margining account options)
<b>Availability of “Done-away” transactions</b>	Yes, “done away” is now available	Yes, “done-away” is available	Yes, “done-away” is available
<b>Cross-margining</b>	Cross-margining with CME available for futures/cash for Members and indirect participants. <sup>13</sup>	Portfolio margining across futures, options, swaps, cash, repo with CME/CMESE.  Cross-margining with FICC (see box to the left).	Broad margining account optionality
<b>Settlement</b>	Member intermediates	User settles directly with CMESE	Varies and depends on margining account type

As SEC Commissioner Hester Peirce and representatives from CME and FICC reiterated at the ISDA Treasury Clearing Forum, due to the size and diversity of U.S. treasury market participants, it’s essential that there be robust options for compliance available, and we expect services will continue to evolve and develop as the compliance deadline approaches.

## **SIFMA/ISDA Standardized Documentation – What Do I need to Sign?**

Prior to the release of standardized documentation, direct and indirect participants negotiated bespoke agreements. Given the scope and tight time frame for implementation, SIFMA (jointly with ISDA) published industry-standard forms that generally fall into two categories: (1) Standalone Master Agreement and (2) Annex to existing MRA or GMRA.<sup>14</sup> The documents follow an ISDA-style structure with a Master Agreement and accompanying Schedule for elections. Earlier this year, SIFMA released updated “done-with” documentation that incorporates triparty arrangements, including the BNYM/FICC “Collateral-in-lieu” service, and at the ISDA Treasury Forum, SIFMA’s legal counsel announced they expect to release the “done-away” documentation by the end of June 2026. ISDA is also engaged with foreign counsel to expand the scope of its existing legal opinions for netting and collateral enforceability to cover repo clearing. These are all positive developments, as negotiations gain momentum.

## **Key Negotiation Terms – Let’s Discuss Further**

The standardized documents provide broad optionality via pre-printed elections and the ability to customize language in each Schedule. Key negotiated provisions include: treatment of rejected transactions (unwind, terminate or convert to bilateral); whether to integrate or silo cross-collateralization across cleared and bilateral repos; events of default and cure periods; mini close-out mechanics; cost allocation if a CCA ceases to act; breakage provisions for early-terminated term trades; and indemnification and limitation of liability terms.

In practice, the standardized forms are quite complex, and we field questions from clients daily on the implication of pre-printed elections. Additionally, there is the potential to negotiate customized language, so negotiating these documents will likely be as time-consuming as it is for the bespoke forms. All of this reinforces the key takeaway from this memo: *The time to act is now.*

## **No-Action Relief – What’s on The Horizon?**

On June 18, 2026, the SEC granted conditional relief expanding the existing inter-affiliate exemption to encompass affiliates of direct participants that are not broker-dealers, banks or futures commission merchants, effectively allowing private funds to clear transactions with an affiliated direct participant.<sup>15</sup> Separately, on Feb. 27, 2026, IIB requested exemptive relief for certain non-U.S. transactions by foreign financial institutions who are direct participants.<sup>16</sup> The comment period for this request closed on May 29, 2026.

At the ISDA New York Treasury Clearing Forum, SEC Commissioner Peirce emphasized that responding to pending “no-action relief” requests is a top priority for the SEC. Additionally, several panelists from both sell-side and large buy-side institutions mentioned that uncertainty around scoping has slowed down documentation and operational preparedness. We will be actively monitoring these developments.

## **To wrap things up...**

If you have any questions about the Clearing Rule or any other aspect of U.S. regulation of the derivatives and repo markets, please reach out to any member of Haynes Boone’s Derivatives Practice group listed below or contact your Haynes Boone attorney.

<sup>1</sup> SEC, 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 (Release No. 34-99149 (December 13, 2023), 89 Fed. Reg. 2714 (Jan. 16, 2024) (“**Clearing Rule**”).

<sup>2</sup> Cash transactions include (i) purchase and sale of USTs for direct participants by an interdealer broker; and (ii) purchase and sale of USTs between a direct participant and a counterparty that is a registered broker-dealer, or government securities dealer or broker. Note, the SEC excluded purchase and sale of USTs between direct participants and hedge funds or levered accounts from the final definition. See Clearing Rule at 2748.

<sup>3</sup> *Id.*

<sup>4</sup> Press Release, U.S. Sec. & Exch. Comm’n, SEC Extends Compliance Dates and Provides Temporary Exemption for Rule Related to Clearing of U.S. Treasury Securities (Feb. 25, 2025), <https://www.sec.gov/newsroom/press-releases/2025-43-sec-extends-compliance-dates-provides-temporary-exemption-rule-related-clearing-us-treasury>.

<sup>5</sup> Press Release, CME Group, CME Group Announces Regulatory Approval of New Securities Clearing House (Dec. 2, 2025), [https://www.cmegroup.com/media-room/press-releases/2025/12/02/cme\\_group\\_announcesregulatoryapprovalofnewsecuritiesclearinghouse.html](https://www.cmegroup.com/media-room/press-releases/2025/12/02/cme_group_announcesregulatoryapprovalofnewsecuritiesclearinghouse.html); and Press Release, Intercontinental Exchange, Inc., ICE Clear Credit’s Treasury Clearing Service Receives SEC Approval and is Now Operationally Live (Feb. 3, 2026), <https://ir.theice.com/press/news-details/2026/ICE-Clear-Credits-Treasury-Clearing-Service-Receives-SEC-Approval-and-is-Now-Operationally-Live/default.aspx>.

<sup>6</sup> CMESC, Notice of Filing of an Application for Registration as a Clearing Agency Under Section 17A of the Securities Exchange Act of 1934, 90 Fed. Reg. 7713 (Jan. 22, 2025), Exhibit J, at 3. The filing materials, including CMESC’s proposed rulebook and procedures, are available at <https://www.sec.gov/rules-regulations/other-commission-orders-notices-information/cme-form-ca-1> (“**CMESC Application for Registration**”). See also SEC Rule 17ad-22 for the terms “direct participant” and “indirect participants.”

<sup>7</sup> CMESC Application for Registration, Exhibit E-3, Rules 101, 301(b).

<sup>8</sup> *Id.* Rules 301(b), 1504(b).

<sup>9</sup> CME Group, CME Securities Clearing—Day 1 Offering, at 3, available at <https://www.cmegroup.com/trading/interest-rates/files/us-treasury-and-repo-clearing-services-overview.pdf>.

<sup>10</sup> ICE Clear Credit, Form CA-1 Application for Registration as a Clearing Agency Under Section 17A of the Securities Exchange Act of 1934 (Release No. 34-103727; File No. 600-45) (filed Aug. 1, 2025; published Aug. 18, 2025), Exhibit J at 1-2. The filing materials, including ICE Clear Credit’s proposed rulebook and procedures, are available at <https://www.sec.gov/rules-regulations/commission-orders-notices/icc-form-ca-1> (“**ICE Clear Credit Application for Registration**”).

<sup>11</sup> ICE Clear Credit Application for Registration, Annex E-2 (“**ICE Treasury Rules**”), Rule 316(a). The only exception to this would be where Non-Participant Parties in Client-Funded Gross IM Accounts or Hybrid Gross IM Accounts may settle cleared transactions directly with ICE Clear Credit. See ICE Treasury Rules, Rules 407, 409.

<sup>12</sup> ICE Clear Credit Application for Registration, Exhibit J, at 3-4; ICE Treasury Rules, Rules 407, 408, 409, 410.

<sup>13</sup> As of April 30, 2026, the CFTC approved the expansion of the existing FICC and CME cross-margining arrangement to indirect participants. As the CMESC service grows, we expect to see increased utilization of the cross-margining arrangement between FICC and CME.

<sup>14</sup> The standardized forms are available at <https://www.sifma.org/resources/market-practices-model-documentation/treasury-clearing-documentation>.

<sup>15</sup> Order Granting Conditional Exemptive Relief, Pursuant to Section 17A and 36(a) of the Securities Exchange Act of 1934, from the Definition of an “Eligible Secondary Market Transaction” in Rule 17ad-22(a) (Release No. 34-105736, June 18, 2026, available at <https://www.sec.gov/files/rules/other/2026/34-105736.pdf>).

<sup>16</sup> Notice of Request for Exemptive Relief, Pursuant to Section 36(a) of the Securities Exchange Act of 1934, from Certain Aspects of Rule 17ad-22(e)(18)(iv) of the Securities Exchange Act of 1934 and Request for Comment, Exchange Act Release No. 34-104944, 91 FR 12030, 12030 (Mar. 11, 2026).