Letter from the Investment Company Institute

May 29, 2026

Ms. Vanessa Countryman
Secretary
US Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1000

Re: *Comment Letter in Response to Notice of Reopening of Comment Period to Notice of Request for Exemptive Relief from Certain Aspects of Rule 17ad-22(e)(18)(iv) of the Securities Exchange Act of 1934 (File No. S7-2026-07)*

Dear Ms. Countryman:

The Investment Company Institute[1] respectfully submits this letter in response to the Securities and Exchange Commission's notice of reopening of the comment period[2] to the request for comment[3] regarding the request submitted by the Institute of International Bankers (IIB) on February 27, 2026, seeking exemptive relief from certain aspects of the trade submission requirement under Rule 17ad-22(e)(18)(iv)(A) of the Securities Exchange Act of 1934 for

[1] The Investment Company Institute (ICI) is the leading association representing the asset management industry in service of individual investors. ICI's members include mutual funds, exchange-traded funds (ETFs), closed-end funds, and unit investment trusts (UITs) in the United States, and UCITS and similar funds offered to investors in other jurisdictions. Its members manage $43.4 trillion invested in funds registered under the U.S. Investment Company Act of 1940, serving more than 125 million investors. Members manage an additional $10.4 trillion in regulated fund assets managed outside the United States. ICI also represents its members in their capacity as investment advisers to collective investment trusts (CITs) and retail separately managed accounts (SMAs). ICI Associate Members include service providers to member firms and CIT trust companies. ICI has offices in Washington DC, Brussels, and London.

[2] *See* Reopening of Comment Period; 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, SEC Release No. 34-105261 (April 17, 2026), *available at* https://www.sec.gov/files/rules/exorders/2026/34-105261.pdf.

[3] *See* 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, SEC Release No. 34-104944 (March 6, 2026), *available at* https://www.federalregister.gov/documents/2026/03/11/2026-04781/notice-of-request-for-exemptive-relief-pursuant-to-section-36a-of-the-securities-exchange-act-of.

certain non-U.S. transactions in U.S. Treasury securities (Relief Request).[4] Capitalized terms used but not defined herein shall have the meanings given to such terms in the Relief Request.

ICI members, which include U.S.-registered investment companies (mutual funds, exchange-traded funds, money market funds, and other funds that are regulated under the Investment Company Act of 1940, as amended (1940 Act) (registered funds) and non-U.S. regulated funds[5] (together with registered funds, regulated funds or funds), along with their advisers, are among the most significant investors in U.S. Treasury markets, including the Treasury repo markets. The ability of funds to access the Treasury markets in an efficient and cost-effective manner that is consistent with applicable regulatory restrictions is critical to their ability to achieve their investment objectives, and their participation adds to the efficiency of these markets. Accordingly, ICI members have a material interest in the Commission's resolution of the concerns raised in the Relief Request and herein.

Executive Summary

ICI appreciates the opportunity to address some of the critical outstanding issues to be resolved before the compliance date for the requirement that direct participants of a U.S. Treasury securities covered clearing agency (CCA)[6] clear eligible secondary market transactions that are repurchase (repo) or reverse repo agreements collateralized by U.S. Treasury securities (Treasury Repo Clearing Mandate) on June 30, 2027 (Compliance Date). Unfortunately, the Relief Request as currently scoped is insufficient and not appropriately timed as a standalone remedy. Granting permanent entity-specific exemptive relief to Non-U.S. Participants and their Non-U.S. Clients while holding all other market participants to the existing compliance timeline would leave systemic implementation deficiencies unaddressed and risk entrenching a permanently bifurcated U.S. Treasury market. Rather, we believe a temporary exemption or delay should be granted while the Commission and industry continue to march forward towards implementing the Treasury Repo Clearing Mandate across all participants.

ICI recognizes the Commission's push to implement the Treasury Repo Clearing Mandate by the Compliance Date. However, as discussed further herein, many of the critical workstreams to implement the Treasury Repo Clearing Mandate are contingent upon each other in ways

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[4] *See* Letter from Stephanie Webster, General Counsel, Institute of International Bankers, to Vanessa Countryman, Secretary, Securities and Exchange Commission (Feb. 27, 2026), within SEC Release No. 34-104944 (March 6, 2026), *available at* https://www.sec.gov/files/rules/exorders/2026/34-104944.pdf.

[5] "Non-U.S. regulated funds" refer to funds that are organized or formed outside the U.S. and are substantively regulated to make them eligible for sale to retail investors, such as funds domiciled in the European Union and qualified under the UCITS Directive (E.U. Directive 2009/65/EC, as amended), Canadian investment funds subject to National Instrument 81-102, and investment funds subject to the Hong Kong Code on Unit Trusts and Mutual Funds.

[6] The CCAs, as of the date of this letter, are the Fixed Income Clearing Corporation, the CME Securities Clearing Inc., and ICE Clear Credit, LLC (for which repo rules are not yet finalized).

that create compounding delays across the entire implementation timeline. The resolution of certain international legal uncertainties is a necessary precondition to the finalization of documentation frameworks; documentation frameworks must be settled before onboarding processes can meaningfully commence; onboarding must be substantially complete before operational infrastructure can be built, tested, and integrated; and legal opinions cannot be finalized until each of the foregoing stages has progressed to a sufficient degree of certainty. A delay at any single stage does not merely defer that stage in isolation but cascades through every subsequent workstream, compressing the remaining implementation timeline in a manner that is neither commercially reasonable nor operationally feasible. The resulting sequencing constraints if any one part of the process is delayed may render compliance by the Compliance Date functionally challenging for a significant and growing portion of the market.

Given the interdependent nature of these workstreams and the degree to which their resolution depends on the actions of multiple parties, including CCAs, market participants, and foreign regulators, ICI is not in a position at this time to provide a reliable estimate of the timeline required to bring each workstream to completion. Notwithstanding this uncertainty, ICI and its members remain committed to working constructively with the Commission toward the successful implementation of the Treasury Repo Clearing Mandate as soon as reasonably practicable. To that end, our recommendation is that the Commission consider establishing a dedicated public-private working group, comprising representatives of the Commission, industry participants, the CCAs, and other relevant stakeholders, to develop a sequenced implementation roadmap, monitor progress against defined milestones, identify and address roadblocks as they arise, and provide extensions to the extent they are necessary.[7] We would be pleased to participate in such a working group. We appreciate the significant collaboration, clarity, and transparency the Commission has provided to date through engagement and guidance, and we respectfully request that the Commission continue in this vein by convening such a working group composed of the stakeholders indicated above.

In this letter, we wish to highlight certain critical implementation challenges with respect to the Treasury Repo Clearing Mandate that remain unresolved and that, by their nature, must be addressed sequentially:

(i) *Incomplete Legal Infrastructure*. The contractual and legal infrastructure required to support mandatory clearing of Treasury repo transactions remains materially incomplete. Documentation frameworks and CCA onboarding processes are insufficiently developed at this time.

(ii) *Incomplete Operational Architecture*. Operational infrastructure associated with Treasury repo clearing is significantly incomplete. The market has not yet settled on a single (or consistent group of) clearing models and, unlike with other cleared

[7] The ability to meet the Compliance Date may vary depending on the size of the market participant, with smaller entities potentially lacking the scale and resources necessary to implement the steps required for compliance with the Treasury Repo Clearing Mandate.

products, the wide variety of potential clearing models is impacting structural and operational build-outs.

(iii) *Legal Uncertainties Arising from International Impacts of the Treasury Repo Clearing Mandate*. Legal uncertainty currently renders compliance with the Treasury Repo Clearing Mandate by the Compliance Date commercially unreasonable for a portion of the market.

(iv) *Additional and Unidentified Impediments*. Additional impediments that have yet to be identified are likely to be encountered as market participants move closer to the Compliance Date. Working through the interdependencies described below may surface further obstacles that cannot currently be anticipated.

Incomplete Legal Infrastructure

ICI has previously communicated to the Commission (ICI Letter) that there exists a broader set of unresolved legal, operational, and structural impediments that affect all market participants, including U.S.-domiciled registered funds and their advisers, such that the current compliance timeline may not provide adequate time for any market participant, whether U.S. or non-U.S., to transition into full compliance with the Treasury Repo Clearing Mandate by the Compliance Date.[8] The concerns identified in the ICI Letter (to the extent not yet resolved) are incorporated herein by reference, and we highlight some of those concerns below.

The documentation frameworks necessary to effectuate clearing, particularly on a done-away basis, have not been finalized. While standardized clearing agreements for the done-with model have been published, standardized agreements for the done-away model are not, and industry documentation around execution agreements (to the extent necessary) have not yet begun.

Once the standardized clearing agreement for done-away is published, industry legal opinions associated with the document will need to be published (for the done-with clearing agreement, this took many months) before sell-side participants are able to use the agreement, industry participants will need to develop internal risk standards associated with the agreement, and thereafter the actual negotiation and execution of clearing agreements across the market will require significant additional time and resources (while other aspects of the market are still developing). Furthermore, the done-away agreements are expected to contain complex issues that will need to be heavily negotiated, including to ensure compliance with applicable regulatory requirements, such as the requirements of the 1940 Act for registered funds.

The industry-wide negotiations can be expected to take time between each clearing broker and buy-side participant, and it is likely that smaller participants will be more challenged in putting these in place before the Compliance Date. Once agreements are fully negotiated, additional

[8] *See* Letter from Eric Pan, President & CEO, and Paul Cellupica, General Counsel, ICI, to Mark T. Uyeda, Acting Chairman, Securities and Exchange Commission (Feb. 21, 2025), *available at* https://www.ici.org/system/files/2025-02/25-cl-extension-treasury-compliance-dates.pdf.

time will be required in the ordinary course to onboard the thousands of market participants onto the agreements.

Aside from the basic documentation, the standardized template documentation frameworks for collateral-in-lieu arrangements and the Fixed Income Clearing Corporation's (FICC) Agent Clearing Service have only recently been published, and market participants have not yet had sufficient time to analyze, negotiate, and execute the agreements necessary to operationalize these frameworks. Furthermore, no documentation exists for the recently approved cross-margining between CME Securities Clearing Inc. (CME) and FICC.

The process of obtaining the legal opinions necessary to support clearing referenced above remains at an early stage. Enforceability opinions with respect to netting, collateral arrangements, and close-out rights must be obtained across the full range of relevant jurisdictions, and netting opinions for most jurisdictions remain unfinalized. The timeline for completion of such opinions is inherently uncertain, as it depends on the engagement of local counsel in each applicable jurisdiction and the resolution of novel legal questions that have not previously been addressed in the context of U.S. Treasury clearing. Moreover, this process is directly contingent upon the resolution of the international legal uncertainties described below, as developments in foreign regulatory frameworks will necessarily require market participants to reassess and adjust their legal analysis and opinion processes accordingly, further compounding the uncertainty of the timeline for completion.

To the extent industry participants are not able to access done away in a timely manner, they can be expected to continue building done-with connectivity in advance of the Compliance Date or to begin to turn to products other than Treasury repo to ensure continuity of financing. It may not be realistic that the entirety of the Treasury repo market will be set up to trade in this manner by the Compliance Date. Each participant currently trading Treasury repo on a bilateral basis that is not able to trade Treasury repo after the Compliance Date represents a loss of liquidity in the market, impacting the success of the Treasury Repo Clearing Mandate and, ultimately, the funding of the U.S. government.

Incomplete Operational Architecture

Beyond documentation, operational infrastructure associated with Treasury repo clearing remains significantly incomplete. The market has not yet settled on a single (or consistent group of) clearing models, and, unlike with other cleared products, the wide variety of potential clearing models is impacting structural and operational build-outs. Recent developments, including CME–FICC cross margining, represent important progress, but realizing their benefits requires additional operational and systems work. In some cases, firms also will need to address booking model differences—such as futures and repo executed in different legal entities—to support efficient clearing and margin treatment. To the extent that the collateral-in-lieu model gains favor in the industry, there is material operational work associated with implementation (along with splitting pipelines between entities/trades using this model and those that do not). All of the above must be built, tested, and integrated by each individual market participant at a time when, as noted above, the models themselves are in flight. That is

to say, the market is attempting to build operational infrastructure before it has fully determined what to build and these efforts are occurring in parallel.

Legal Uncertainties Arising from International Impacts of the Treasury Clearing Repo Mandate

The issues raised by the Relief Request are real and significant, yet the Relief Request only touches on some of the many issues that involve non-U.S. participants in the cleared Treasury repo market. Right now, many international clients cannot be onboarded for a variety of reasons, including licensing, legal opinions, local impediments or otherwise. There are additional operational challenges as well – for example, it is not yet clear that international custodians can meet the time windows needed for settling cleared repo. Of note, many of these issues arise whether an international buy-side entity is facing a non-U.S. clearing broker or a U.S. clearing broker and do not depend on whether the entity meets the definitional requirements suggested in the Relief Request. In addition, many international participants are not yet even aware of the Treasury Repo Clearing Mandate.[9]

We highlight below some examples of issues that exist in the international space even in the European Union, a highly developed market with a significant number of market participants that trade in Treasury repo:

- The E.U. Money Market Fund Regulation's (MMFR)[10] delegated regulation (Delegated Regulation)[11] imposes additional requirements on repo transactions where a UCITS money market fund is acting as buyer, including enhanced haircut obligations, from which transactions are exempt only where (*inter alia*) the counterparty is an E.U. central counterparty "authorised" pursuant to relevant E.U. legislation.[12] Because, to date, CCAs are all U.S. entities, they cannot be so "authorised" (they are merely "recognised"), and therefore non-U.S. money market funds clearing through the CCAs are subject to haircut requirements that exceed prevailing market conventions. For example, a mandated haircut of approximately 2.83% on the assets received by a UCITS money market fund as part of a repo transaction (Collateral) where the fund is acting as buyer for cleared transactions, as compared to the 2% market convention for

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[9] A late 2025 industry survey showed 73% of European survey respondents and 100% of Asian survey respondents were only somewhat, or not at all, familiar with the clearing mandate. *See* U.S. Treasury Central Clearing (Pulse Survey) Key Findings, the ValueExchange (Nov. 10, 2025), *available at* https://www.sifma.org/wp-content/uploads/2025/11/VX-2025-10-US-Treasury-Central-Clearing-Key-Findings.pdf.

[10] Regulation (EU) 2017/1131 of the European Parliament and of the Council of 14 June 2017 on money market funds, as amended, *available at* https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02017R1131-20241224.

[11] Commission Delegated Regulation (EU) 2018/990 of 10 April 2018, as amended, *available at* https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02018R0990-20210912.

[12] See Article 2(6)(d) of the Delegated Regulation.

equivalent tri-party arrangements, renders cleared transactions more costly than their uncleared equivalents.

- Furthermore, Article 15 of the MMFR, which sets out which repo agreements where a UCITS money market fund is acting as buyer are eligible to be entered into by a UCITS money market fund (and includes provisions governing how Collateral must be treated), has given rise to divergent interpretations among non-U.S. money market fund managers with respect to the permissibility of pledging such Collateral in the context of sponsored clearing arrangements, particularly in light of potential liens that may attach to such Collateral in such structures.
- UCITS and other E.U. entities will be required to report cleared repo trades in accordance with the Securities Financing Transactions Regulation. However, clearing brokers have not yet built capabilities for their clients to delegate reporting to the clearing brokers (as is common with cleared swaps). This technological build out is often lower in a prioritized list of items required for the Treasury Repo Clearing Mandate as compared to broader operational requirements associated with the Compliance Date (as mentioned above).
- It is unclear how UCITS requirements associated with counterparty concentration will be impacted by the move to central clearing.[13]

These examples demonstrate that the impediments to clearing are not merely theoretical and that such impediments may have concrete, quantifiable consequences for market functionality. Resolution of such impediments is contingent upon market movements and regulatory action by foreign authorities that cannot be compelled by the Commission (although the Commission can continue to engage with these authorities). The resolution of these barriers depends on independent action by foreign regulators operating pursuant to their own timelines and priorities. The Commission should not allow foreign regulators to avoid taking action; collaboration with a working group of market participants and others to help the Commission identify and advocate with respect to the most critical barriers is essential in preventing undue market fragmentation.

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[13] By way of example, with respect to reverse repo agreements entered into by a UCITS money market fund, Article 17(5) of the MMFR originally imposed a 15% single-counterparty concentration limit (*i.e.*, the aggregate amount of cash that could be provided to the same counterparty could not exceed 15% of the fund's assets). However, mandatory clearing through a single CCA would have required a UCITS money market fund to concentrate upwards of 70% of its total portfolio exposure in a single counterparty, a result fundamentally incompatible with the diversification requirements to which such funds were subject. This 15% aggregate limit has since been removed where the reverse repo agreement is cleared through an "authorised" E.U. or "recognised" non-E.U. central counterparty (although a 15% limit at the individual reverse repo agreement level still applies to such agreements), but was achieved only incidentally as part of a broader E.U. initiative to promote clearing rather than in direct response to the Treasury Repo Clearing Mandate. *See* Article 3(3)(b) of Regulation (EU) 2024/2987 of the European Parliament and of the Council of 27 November 2024, *available at* https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202402987, amending Article 17(5) of the MMFR, as clarified by the Corrigendum 2025/90456 of 26 May 2025, *available at*: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202590456.

Additional and Unidentified Impediments

The landscape of foreign regulatory requirements is dynamic and has not yet been fully considered in light of the Treasury Repo Clearing Mandate. Unlike prior clearing initiatives, such as those implemented after the global financial crisis, the Treasury Repo Clearing Mandate does not have non-U.S. equivalents. Therefore, there has not been the same level of globally aligned preparation for its implementation as with such prior clearing initiatives. Regulators and participants in the U.S. Treasury global market have not been wrestling with the legal questions, documentation concerns, and contradicting local requirements and processes in a comparable way to their U.S. counterparts. While Non-U.S. Participants and their Non-U.S. Clients may be able to comply in the longer term, it is simply far too early to know what unique challenges they may encounter. As the global implementation process begins in earnest, new impediments inevitably surface requiring market participants to reassess and adjust their compliance approaches in response to evolving foreign regulatory frameworks, giving rise to further impediments that cannot currently be anticipated.

Similarly, as market participants work through the interdependencies and sequencing constraints, additional obstacles to implementation are expected. Certain critical barriers must be identified and addressed before full compliance with the Treasury Repo Clearing Mandate is expected for Non-U.S. Participants and their Non-U.S. Clients. Again, we note that the request here is to take an interactive approach to resolution of these points: ICI is not asking the Commission to wait for foreign regulators to follow their own timeline, but rather to continue to engage with market participants and foreign regulators on an active basis to keep the process moving steadily towards resolution.

Potential Adverse Incentives May Arise if the Relief Request is Granted in its Current Form

We believe the barriers to compliance identified in the Relief Request are not unique to Non-U.S. Participants and their Non-U.S. Clients for the reasons stated above; we also urge the Commission to consider potential adverse incentives that may arise for U.S. institutions to route U.S. Treasury transactions through non-U.S. affiliates to make use of an exemption as proposed in the Relief Request, creating competitive advantages. Granting the Relief Request in its current form may give rise to unintended disparities: a non-U.S.-domiciled fund with a principal place of business in the U.S. or a U.S.-domiciled fund transacting with a non-U.S. counterparty would face mandatory clearing requirements while an equivalent fund with a principal place of business and domicile outside the U.S. would not, reducing the fund's access to its full range of counterparties and impairing its competitive position relative to non-U.S. market participants. Certain funds may, as a conservative measure, have designated themselves as U.S. persons for other regulatory purposes notwithstanding that it is not clear whether their principal place of business is in the U.S., thereby subjecting themselves to the Treasury Repo Clearing Mandate and the attendant competitive disadvantages described above, even where the basis for such classification remains uncertain. As discussed above, it may be the case that in some instances, barriers to clearing faced by both entities stem from the legal and regulatory requirements of the jurisdictions in which such entities are organized

or regulated rather than organizational structure, resulting in divergent outcomes for similarly situated participants, which would not be the best outcome for the market.

Any exemption should be structured to avoid deepening the chasm between liquidity pools in a manner that undermines the Treasury Repo Clearing Mandate's core objectives (Core Objectives).[14] It is perhaps inevitable that there is some degree of segmentation in the U.S. Treasury market due to the structural features of the Treasury Repo Clearing Mandate and its implementation through the CCAs rather than directly on market participants. However, any such existing dynamic reflects a relatively organic market evolution and the potential that clearing will achieve economic, risk reduction, and efficiency incentives that may benefit both parties. A permanent regulatory exemption for only some market participants, if not carefully structured, risks converting that organic segmentation into a fixed structural divide. U.S. Treasury clearing will not provide its purported benefits with a permanently bifurcated market, and the Commission should accordingly construct any relief with respect to the Relief Request in a temporary manner that is responsive to both to existing and evolving impediments as discussed herein.

Request for Ongoing Engagement through Working Group

We ask that the Commission continue to engage in sustained dialogue with industry participants, the CCAs, and foreign regulators to ensure that the outstanding impediments to compliance are fully resolved before the Treasury Repo Clearing Mandate takes effect.

To this end, we request that the Commission establish a public-private working group and/or other methods of structured engagement with buy-side and sell-side industry groups given the complexity of the cross-jurisdictional issues and the materiality of decisions regarding the scope of any relief. We would be pleased to participate in such a working group. Such ongoing engagement also should incorporate a review process during any extension period to assess progress against implementation benchmarks and to determine whether further extension or modification of the compliance timeline is warranted. We believe that sustained and structured dialogue between the Commission, the CCAs, foreign regulators, and the industry is essential to ensuring that the Treasury Repo Clearing Mandate achieves the Core Objectives without causing unintended harm to the U.S. Treasury market. We acknowledge that this process requires time, so while we do not have a specific recommendation for a delay of the

[14]The Treasury Repo Clearing Mandate was adopted with the stated objectives of (i) protecting investors, (ii) reducing risk, (iii) increasing operational efficiency in the U.S. Treasury securities market, and (iv) reducing contagion risk to covered clearing agencies, bringing the benefits of central clearing (including multilateral netting, centralized default management, and enhanced regulatory visibility) to a greater proportion of eligible secondary market transactions in U.S. Treasury securities, and thereby lowering overall systemic risk in the market. *See* 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.99149 (Dec. 13, 2023), 89 FR 2714, 2737 (Jan. 16, 2024), *available at* https://www.sec.gov/files/rules/final/2023/34-99149.pdf.

Compliance Date with respect to each of the component parts, the Commission may wish or need to implement such a delay in order to create a more sound scaffolding.

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We appreciate the Commission's continued robust engagement with these important issues and welcome the opportunity to discuss our views further. If you have any questions or require additional information, please do not hesitate to contact Tara R. Buckley, Deputy General Counsel, Financial Regulation (tara.buckley@ici.org) or Kimberly Thomasson, Assistant General Counsel, Financial Regulation (kthomasson@ici.org).

Sincerely,

/s/ Tara R. Buckley

Tara R. Buckley
Deputy General Counsel, Financial Regulation

cc: The Honorable Paul S. Atkins, Chairman
The Honorable Hester M. Peirce, Commissioner
The Honorable Mark T. Uyeda, Commissioner