

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

I. INTRODUCTION

On December 13, 2023, the Securities and Exchange Commission (“Commission” or “SEC”) adopted, among other things, the amendments to Rule 17ad-22(e)(6)(i) (the “Margin Separation Requirement”) under the Securities Exchange Act of 1934 (“Exchange Act”). The Margin Separation Requirement requires that a covered clearing agency providing central counterparty services for U.S. Treasury securities (“U.S. Treasury securities CCA”) establish, implement, maintain and enforce written policies and procedures reasonably designed to calculate, collect, and hold margin amounts from a direct participant for its proprietary positions in U.S. Treasury securities separately and independently from margin calculated and collected from that direct participant in connection with U.S. Treasury securities transactions by an indirect participant that relies on the services provided by the direct participant to access the U.S. Treasury securities CCA’s payment, clearing, or settlement facilities. The Adopting Release established March 31, 2025, as the date by which proposed rule changes regarding Rule 17ad-22(e)(6)(i) must be effective.¹

¹ Exchange Act Release No. 34-99149 (Dec. 13, 2023), 89 FR 2714, 2771 (Jan. 16, 2024) (“Adopting Release”). The Commission approved such proposed rule changes by the Fixed Income Clearing Corporation (“FICC”) in November 2024. *See* 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 Release No. 34-101694 (Nov. 21, 2024), 89 FR 93784 (Nov. 27, 2024) (SR-FICC-2024-005); Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving Proposed Rule Change to Amend the Clearing Agency Risk Management Framework, Exchange Act Release No. 34-101685 (Nov. 21, 2024), 83 FR 93689 (Nov. 27, 2024) (SR-FICC-2024-006); 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

II. DISCUSSION AND EXEMPTIVE RELIEF

Since the Margin Separation Requirement was adopted, Commission staff has been working with market participants, including the current U.S. Treasury securities CCA and applicants to become U.S. Treasury securities CCAs, to address certain operational questions relating to implementation of these rules. As part of these efforts, Commission staff has become aware, through telephonic meetings and letters, that certain market participants believe that certain relief regarding implementation of the Margin Separation Requirement would be appropriate.

In this regard, a group of trade associations representing different types of market participants submitted a letter requesting that the Commission, with respect to the March 31, 2025 deadline related to Rule 17ad-22(e)(6)(i), allow FICC to proceed with implementing the changes set forth in the proposed rule changes that the Commission has approved, but that the Commission should also permit FICC in its capacity as a self-regulatory organization to forbear from enforcing those requirements for any of its members until March 31, 2026.²

The Associations stated that such an approach would acknowledge that not all market participants currently clearing indirect participant activity at FICC are now ready to be able to make the necessary, legal, operational, and risk management changes in time for complying with FICC's new rules and procedures by March 31, 2025, but that some market participants are

Indirect Participant Transactions, and (ii) to Address the Conditions of Note H to Rule 15c3-3a, Exchange Act Release No. 34-101695 (Nov. 21, 2024), 89 FR 93763 (Nov. 27, 2024) (SR-FICC-2024-007).

² See Letter from the Securities Industry and Financial Markets Association ("SIFMA"), SIFMA's Asset Management Group, Managed Funds Association, Futures Industry Association ("FIA"), FIA Principal Traders Group, International Swaps and Derivatives Association, Alternative Investment Management Association, and The Institute of International Bankers (collectively, the "Associations"), dated Jan. 24, 2025, at 5 ("Associations' Letter"), available at, e.g., <https://www.sifma.org/wp-content/uploads/2025/01/SIFMA-Extension-Request-US-Treasury-Clearing-Mandate-FINAL-Clean.pdf>; see also Letter from the Investment Company Institute, dated Feb. 21, 2025, at 1 (incorporating the Associations' Letter and the recommendations therein by reference). See also *supra* note 1.

expected to be ready and able to start using FICC's new services and risk management capabilities on or sometime around March 31, 2025, and that population will continue to grow.³ The Associations stated that this approach would help both maintain progress on achieving orderly implementation of the Treasury clearing rules, while also preserving momentum for achieving critical related initiatives.⁴

After considering this request, the Commission is providing a temporary exemption to Rule 17ad-22(e)(6)(i), pursuant to Sections 17A(b)(1) and 36(a) of the Exchange Act, until September 30, 2025, to avoid market disruption and ensure that direct participants of the covered clearing agency currently clearing for indirect participants are ready to make the legal, operational, and risk management changes to meet that requirement. Under Section 17A(b)(1) of the Exchange Act, the Commission, by rule or order, upon its own motion or upon application, may conditionally or unconditionally exempt any clearing agency or security or any class of clearing agencies or securities from any provisions of this section or the rules or regulations thereunder, if the Commission finds that such exemption is consistent with the public interest, the protection of investors, and the purposes of this section, including the prompt and accurate clearance and settlement of securities transactions and the safeguarding of securities and funds.⁵ In addition, Section 36(a) of the Exchange Act authorizes the Commission, by rule, regulation or order, to exempt, either conditionally or unconditionally, any person, security or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the

³ See Associations' Letter, *supra* note 2, at 5.

⁴ See *id.*

⁵ 15 U.S.C. 78q-1(b)(1).

Exchange Act or any rule or regulation thereunder, to the extent that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors.⁶

The Commission is using its authority under Section 17A and Section 36 of the Exchange Act to provide a temporary exemption to U.S. Treasury securities CCAs from enforcement of any written policies or procedures regarding Rule 17ad-22(e)(6)(i) for six months, until September 30, 2025.⁷ This temporary exemption would also apply to a U.S. Treasury securities CCA's obligations under Section 19(g)(1)(C) of the Exchange Act, solely regarding the enforcement of any rules regarding Rule 17ad-22(e)(6)(i).⁸ Pursuant to this temporary exemption, a U.S. Treasury securities CCA is not required to enforce its policies and procedures regarding the Margin Separation Requirement for six months. However, this temporary exemption does not affect the requirement for a U.S. Treasury securities CCA to establish, implement, and maintain such policies and procedures for its direct participants to comply with, for those participants who are prepared to do so.

The Commission finds such exemption to be in the public interest and consistent with the protection of investors and the purpose of Sections 17A and 36 of the Exchange Act, including the prompt and accurate clearance and settlement of securities transactions and the safeguarding of securities and funds because it will allow U.S. Treasury securities CCAs to implement the separation of house and customer margin. Separation of house and customer margin should reduce the risks presented to a U.S. Treasury securities CCA, ensuring that it has sufficient

⁶ 15 U.S.C. 78mm.

⁷ The Commission is also issuing a final rule extending the compliance dates applicable to the requirements of Rule 17ad-22(e)(18)(iv)(A) and (B). *See* 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 Release No. 34-102487 (Feb. 25, 2025).

⁸ Section 19(g)(1)(C) of the Exchange Act requires, among other things, that a registered clearing agency, which includes a U.S. Treasury securities CCA, enforce compliance with its own rules by its participants. 15 U.S.C. 78s(g)(1)(C).

margin to cover its exposures to its participants, which should, in turn, reduce the potential risk to the U.S. Treasury securities CCA from such transactions, while still providing additional time for any direct participants who require more time to facilitate that separation.⁹

Finally, the Commission is not issuing any temporary exemptions for Rule 17ad-22(e)(18)(iv)(C) (regarding access) and Rule 15c3-3 (regarding the broker-dealer customer protection rule). Although these rules also have a March 31, 2025, compliance date, no market participant is obligated to use a particular access model or to segregate its margin. If a direct participant of a U.S. Treasury securities CCA determines to offer certain access models or segregated margin accounts, the 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.¹⁰

III. CONCLUSION

Accordingly, *IT IS ORDERED*, pursuant to Sections 17A and 36 of the Exchange Act, that the Commission grants the temporary exemptive relief, as set forth in this Order, to U.S. Treasury securities CCAs from enforcing their written policies and procedures related to Rule

⁹ See Adopting Release, *supra* note 1, 89 FR at 2753.

¹⁰ For example, the rule amendments in the Adopting Release permit broker-dealers to include a debit in the customer reserve formula equal to the amount of margin required and on deposit at a U.S. Treasury securities CCA, subject to the conditions in Note H to Rule 15c3-3a. Each of the conditions in Note H must be met for a broker-dealer to include the debit in the formula. These conditions include the requirement that the U.S. Treasury securities CCA adopts rules designed to protect and segregate the margin, and the U.S. Treasury securities CCA and broker-dealer are in compliance with those rules. See 17 CFR 240.15c3-3a, Note H and Adopting Release, *supra* note 1, 89 FR at 2760-68.

17ad-22(e)(6)(i), and also from the provisions of Section 19(g)(1)(C) of the Exchange Act solely regarding the enforcement of any rules regarding Rule 17ad-22(e)(6)(i), for a period of six months, until September 30, 2025.

By the Commission.

Date: February 25, 2025.

Vanessa A. Countryman,
Secretary.