SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-106789; File Nos. S7-2026-07 and S7-2026-11]

Order Granting Exemptive Relief, Pursuant to Sections 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)

October 30, 2026.

I. INTRODUCTION

A. Background

On December 13, 2023, the Securities and Exchange Commission ("Commission" or "SEC") adopted amendments to Rule 17ad-22(a) and (e)(18)(iv)(A) and (B) under the Securities Exchange Act of 1934 ("Exchange Act").[1] Under these amendments, covered clearing agencies that provide central counterparty services for U.S. Treasury securities ("U.S. Treasury securities CCAs") must establish, implement, maintain, and enforce written policies and procedures reasonably designed to establish objective, risk-based, and publicly disclosed criteria for participation which require that any direct participant of a U.S. Treasury securities CCA submit for clearance and settlement all of the eligible secondary market transactions to which such direct participant is a counterparty, and identify and monitor the U.S. Treasury securities CCA's direct participants' submission of transactions for clearing as required under the amendments (together, the "Trade Submission Requirement").[2] The amendments defined what constitutes an "eligible secondary market transaction" to include, among other things, a secondary market transaction in

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[1] 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, Release No. 34-99149 (Dec. 13, 2023), 89 FR 2714, 2737 (Jan. 16, 2024) ("Adopting Release").

[2] 17 CFR 240.17ad-22(e)(18)(iv)(A) and (B).

U.S. Treasury securities of a type accepted for clearing by a registered covered clearing agency that is a repurchase or reverse repurchase agreement collateralized by U.S. Treasury securities ("repo transactions"), in which one of the counterparties is a direct participant of a covered clearing agency.[3]

The amendments also included an exclusion from the definition of an eligible secondary market transaction for any repo transactions entered into between a direct participant and an affiliated counterparty (the "Inter-Affiliate Exclusion"), provided that the affiliated counterparty submit for clearance and settlement all other repo transactions to which the affiliate is a party (the "outward facing condition").[4] The amendments define "affiliated counterparty" as any counterparty which meets the following criteria: (i) the counterparty is either a bank (as defined in 15 U.S.C. 78c(6)), broker (as defined in 15 U.S.C. 78c(4)), dealer (as defined in 15 U.S.C. 78c(5)), or futures commission merchant (as defined in 7 U.S.C. 1a(28)), or any entity regulated as a bank, broker, dealer, or futures commission merchant in its home jurisdiction; (ii) the counterparty holds, directly or indirectly, a majority ownership interest in the direct participant, or the direct participant, directly or indirectly, holds a majority ownership interest in the counterparty, or a third party, directly or indirectly, holds a majority ownership interest in both the direct participant and the counterparty; and (iii) the counterparty, direct participant, or third party referenced in paragraph (ii) of this definition as holding the majority ownership interest would be required to report its financial statements on a consolidated basis under U.S. Generally Accepted Accounting Principles or International Financial Reporting Standards, and such

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3 17 CFR 240.17ad-22(a).

4 *Id.*

consolidated financial statements include the financial results of the majority-owned party or of both majority-owned parties.[5]

B. IIB's and SIFMA's Requests for Exemptive Relief

The Commission has received requests for exemptive relief related to transactions by non-U.S. persons and related to the Inter-Affiliate Exclusion.

On February 27, 2026, the Institute of International Bankers ("IIB") submitted a letter to the Commission requesting exemptive relief from the Trade Submission Requirement for certain non-U.S. transactions, specifically, the transactions of foreign financial institutions who are direct participants of a U.S. Treasury securities CCA when transacting with non-U.S. clients.[6] IIB explained that exemptive relief was appropriate because of legal uncertainty in certain foreign jurisdictions regarding the enforceability of fundamental clearing requirements, potential registration requirements for clearing firms operating in those jurisdictions, and practical concerns about repo transactions occurring when no U.S. Treasury securities CCA is operating.[7] On March 6, 2026, the Commission published the notice and encouraged interested persons to comment on the request for exemptive relief pursuant to Section 36 of the Exchange Act.[8] The initial comment period for the IIB Notice closed on April 10, 2026, and the Commission then reopened the comment period, which then closed on May 29, 2026.[9]

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5 *Id.*

6 *See* Letter from Stephanie Webster, General Counsel, Institute of International Bankers, dated February 27, 2026, *available at* https://cdn.ymaws.com/www.iib.org/resource/resmgr/2026_comment_letters/2026.02.27_iib_comm.ltr..t.c.pdf?bcs-agent-scanner=74470127-f329-574a-92f4-5e29ae31bc4d ("IIB Letter").

7 *Id*. at 3-4.

8 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. 104944 (Mar. 6, 2026), 91 FR 12030 (Mar. 11, 2026) ("IIB Notice").

9 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

On April 10, 2026, the Securities Industry and Financial Markets Association ("SIFMA") submitted a letter to the Commission requesting exemptive relief in two areas related to the Trade Submission Requirement.[10] First, SIFMA requested exemptive relief to expand the list of permitted affiliates with whom direct participants of a U.S. Treasury securities CCA could transact and rely upon the Inter-Affiliate Exclusion beyond the current set (*i.e.*, banks, broker-dealers, futures commission merchants, and their foreign equivalents) (the "SIFMA First Request"). Specifically, SIFMA requested that the Commission exercise its exemptive authority to allow a firm to treat all counterparties that meet clauses (ii) and (iii) of the definition in Rule 17ad-22(a) as affiliated counterparties, except for an affiliate that is an "investment company" as defined in Section 3 of the Investment Company Act of 1940 (regardless of whether such investment company is registered or required to be registered under that act).[11]

Second, SIFMA requested that the outward-facing condition not include repo transactions between non-U.S. affiliates and non-U.S. counterparties, to the extent that the direct participant does not exceed a specific activity level percentage threshold for those transactions (the "SIFMA Second Request").[12] SIFMA explained that such relief was appropriate because non-U.S. affiliates commonly enter into transactions with each other for treasury, liquidity, and collateral management purposes that would raise serious logistical and cost concerns under the adopted

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Exchange Act of 1934 and Request for Comment, Exchange Act Release No. 105261 (Apr. 17, 2026), 91 FR 21584 (Apr. 22, 2026).

10 *See* Letter from Robert Toomey, Head of Capital Markets, Managing Director/Associate General Counsel, Securities Industry and Financial Markets Association, dated April 10, 2026, *available at* https://www.sifma.org/wp-content/uploads/2026/04/SIFMA-Section-36-Exemptive-Relief-Request-for-Interaffiliate-Transactions.pdf ("SIFMA Letter").

11 *Id.* at 8.

12 *Id.* at 8-11.

rule.[13] On April 17, 2026, the Commission published the notice and encouraged interested persons to comment on the request for exemptive relief pursuant to Section 36 of the Exchange Act.[14] The comment period closed on May 29, 2026.

The Commission received certain comments on both Notices that suggested different approaches or modifications to the requested exempted relief.[15] In particular, certain commenters suggested that a unified or holistic approach to the issues presented in the IIB Notice and in the SIFMA Second Request may be workable, by incorporating elements from each Notice into one exemption, thus allowing for one exemption to generally address the issues raised in both Notices.[16] In response, on August 7, 2026, the Commission reopened the comment periods on both Notices, presenting a preliminary example of a unified approach and seeking additional feedback on certain targeted questions about the approach and alternative exemptive relief.[17] Both comment periods closed on August 31, 2026, and the Commission received additional comments on the issues raised in the Second Reopening Release.[18]

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13 *Id.* at 9.

14 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. 105262 (Apr. 17, 2026), 91 FR 21533 (Apr. 22, 2026) ("SIFMA Notice" and, together with the IIB Notice, "Notices").

15 *See, e.g.*, Letters from Stephanie Webster, General Counsel, Institute of International Bankers, dated April 10, 2026, May 29, 2026, August 4, 2026 (the latter two letters "IIB May 29 Letter" and "IIB Aug. 4 Letter" respectively); Letter from Robert Toomey, Head of Capital Markets, Managing Director/Associate General Counsel, SIFMA, dated July 1, 2026; Letters from Financial Services Forum, dated April 10, 2026 and May 29, 2026 (the former letter "FSF Apr. 10 Letter"). All comments are available at https://www.sec.gov/rules-regulations/public-comments/s7-2026-11 and https://www.sec.gov/rules-regulations/public-comments/s7-2026-07.

16 *See*, *e.g.*, IIB May 29 Letter, *supra* note 15 at 2; FSF Apr. 10 Letter, *supra* note 15 at 2-3.

17 Reopening of Comment Period; Notices 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 Requests for Comment, Exchange Act Release No. 106062 (Aug. 4, 2026), 91 FR 52354 (Aug. 13, 2026) ("Second Reopening Release").

18 *See* Letters from Stephanie Webster, General Counsel, Institute of International Bankers, dated August 31, 2026 and October 1, 2026 ("IIB Aug. 31 Letter" and "IIB Oct. 1 Letter," respectively); Letter from Robert Toomey, Head of Capital Markets, Managing Director/Associate General Counsel, SIFMA, dated

II. EXEMPTIVE RELIEF FOR QUALIFYING NON-U.S. TRANSACTIONS

A. Scope of Conditional Exemptive Relief

After considering the requests and the comments received on the IIB Notice, SIFMA's Second Request, and the Second Reopening Release, the Commission is issuing a conditional exemption, pursuant to Sections 36(a) and 17A(b)(1) of the Exchange Act, from the definition of an eligible secondary market transaction in Rule 17ad-22(a). Specifically, this exemption would exclude, from the definition of eligible secondary market transaction, a certain amount of a firm's[19] Qualifying Non-U.S. Transactions, as that term is defined below, provided that the two conditions set forth below are met.

First condition:

Either:

The quotient of the following is less than a specified percentage ("Percentage Cap"):

- The market value[20] of the firm's Qualifying Non-U.S. Transactions; divided by
- The sum of the market value of (i) all of the firm's cleared repo transactions, excluding such repo transactions entered into between a direct participant and an

September 18, 2026 ("SIFMA Sept. 18 Letter"); *see also* Letter from William C. Thum, Managing Director/Associate General Counsel, SIFMA AMG and Robert Toomey, Managing Director/Associate General Counsel, SIFMA, dated September 10, 2026 (requesting a separate exemption related to REIT Groups).

19 For purposes of the conditional exemptive relief for Qualifying Non-U.S. Transactions, "firm" means any direct participant of a U.S. Treasury securities CCA, together with its affiliates. A specified person is an "affiliate" of another person if: (i) either person consolidates the other on a financial statement prepared in accordance with U.S. Generally Accepted Accounting Principles, the International Financial Reporting Standards, or other similar standards, (ii) both persons are consolidated with a third person on a financial statement prepared in accordance with such principles or standards, or (iii) for a person that is not subject to such principles or standards, if consolidated as described in clause (i) or (ii) of this definition would have occurred if such principles or standards had applied.

20 For purposes of the conditional exemptive relief, "market value" means the principal amount of the opening leg (*i.e.*, the start leg) of a repo transaction.

affiliated counterparty[21] (as discussed further below), and (ii) the firm's Qualifying Non-U.S. Transactions (*i.e.*, the numerator transactions) (collectively, the "Firm-Specific Threshold");

Or:

The market value of the firm's Qualifying Non-U.S. Transactions are less than $5,000,000,000 ("Fixed Dollar Threshold").

For purposes of this conditional exemption, "Qualifying Non-U.S. Transactions" means uncleared eligible secondary market transactions that are repo transactions between:

1. A "Non-U.S. Client", meaning an entity that is not:
    a. A direct participant of a U.S. Treasury securities CCA,
    b. A U.S. person,[22]
    c. A U.S. branch of a non-U.S. person, or
    d. A non-U.S. person whose obligations under the transaction are guaranteed by a U.S. person; and
2. An entity that is any of the following:
    a. A "Non-U.S. Participant", meaning a direct participant of a U.S. Treasury securities CCA that is not:
        i. A U.S. person,
        ii. A U.S. branch of a non-U.S. person;
        iii. A non-U.S. person whose obligations under the transaction are guaranteed by a U.S. person; or

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21 *See* discussion in Part III, *infra*.

22 U.S. person is defined as in Exchange Act Rule 3a71-3, 17 CFR 240.3a71-3.

b. Any affiliated counterparty[23] of a direct participant of a U.S. Treasury securities CCA that is not:

   i. A U.S. person,

   ii. A U.S. branch of a non-U.S. person,

   iii. A non-U.S. person whose obligations under the transaction are guaranteed by a U.S. person, or

c. A foreign branch[24] of a direct participant of a U.S. Treasury securities CCA that is a U.S. person.

Both the Firm-Specific Threshold and Fixed Dollar Threshold would be calculated using a rolling daily average of the immediately prior three quarters as the "Assessment Period," with each quarter being weighted equally.[25]

The Percentage Cap would initially be 25% and would decrease over time, as follows:

Applicable Percentage Cap	**Time Period**
25%	June 30, 2027 through June 30, 2028
20%	July 1, 2028 through June 30, 2029
15%	July 1, 2029 through June 30, 2030
10%	After June 30, 2030

Second condition:

A direct participant of a U.S. Treasury securities CCA attests to any U.S. Treasury securities CCA of which it is a direct participant that such direct participant is monitoring and complying with the terms of the first condition set forth above. In the event a direct participant

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23 *See* discussion in Part III, *infra*.

24 Foreign branch would be defined as in Exchange Act Rule 3a71-3, 17 CFR 240.3a71-3.

25 The Commission previously solicited comment on whether the Assessment Period should be more heavily weighted on more recent quarters. *See* Second Reopening Release, *supra* note 17, at 52356. Commenters replied that unequal weighting of quarters in the Assessment Period could be unnecessarily complex and lead to unexpected fluctuations. *See* IIB Aug. 31 Letter, *supra* note 18, at 4; SIFMA Sept. 18 Letter, *supra* note 18, at 4.

does not satisfy the first condition, it immediately notifies any U.S. Treasury securities CCA of which it is a direct participant and informs each such CCA of its plan for returning to compliance with the conditional exemptive relief, or that it will no longer avail itself of the conditional exemptive relief. Each such U.S. Treasury securities CCA will then be able to determine any appropriate action on its part, consistent with the CCA's rules.

The Firm-Specific Threshold is based on suggestions from IIB[26] and on SIFMA's Second Request, which contains a percentage cap,[27] a numerator consisting of transactions that were exempted from the Trade Submission Requirement,[28] and a denominator consisting of a measure of the firm's total repo transaction activity added to the transactions in the numerator.[29] The Commission has modified the scope of the Firm-Specific Threshold to encompass the relief requested in the IIB Notice and in response to suggestions from commenters,[30] including those that commented on a preliminary version of this Firm-Specific Threshold in the Second Reopening Release.[31]

The Commission made several changes from the preliminary version of this Firm-Specific Threshold presented in the Second Reopening Release. In response to commenters, the denominator now excludes "such repo transactions entered into between a direct participant and an affiliated counterparty," as commenters stated that such transactions were not market

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26 *See*, *e.g.,* IIB May 29 Letter, *supra* note 15, at 3.

27 *See* SIFMA Letter, *supra* note 10, at 2-3, 8; SIFMA Notice, *supra* note 14, at 21535.

28 *See* SIFMA Letter, *supra* note 10, at 2-3, 8; SIFMA Notice, *supra* note 14, at 21535.

29 *See* SIFMA Letter, *supra* note 10, at 2-3, 8; SIFMA Notice, *supra* note 14, at 21535.

30 *See*, *e.g.*, SIFMA Sept. 18 Letter, *supra* note 18, at 2-3; IIB May 29 Letter, *supra* note 15, at 2; FSF Apr. 10 Letter, *supra* note 15, at 2-3.

31 *See* Second Reopening Release, *supra* note 17.

transactions and should not be included as a measure of the firm's market activity.[32] Recognizing that certain corporate entities may have multiple direct participants, the Commission has also clarified that "firm," as it relates to the first condition, applies to any direct participant of a U.S. Treasury securities CCA, together with its affiliates, which would include other direct participants.[33]

The Commission has also revised the denominator to consist of the firm's cleared repo transactions.[34] This revision allows the firm's denominator to include cleared repo transactions that are not eligible secondary market transactions, because they are excluded from that definition because of the counterparty.[35] This change therefore incentivizes a firm to clear certain repo transactions, even when not required.[36]

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32 SIFMA Sept. 18 Letter, *supra* note 18, at 3, *see also* IIB May 29 Letter, *supra* note 15, at 3; IIB Aug. 4 Letter, *supra* note 15, at 2 (proposing a definition of "Firm-Specific Threshold" that excludes "transactions entered into between a direct participant and an affiliated counterparty").

33 *See generally supra* note 19. *See also* IIB May 29 Letter, *supra* note 15, at 3 (the denominator should include such transactions "entered into by such firm together with its affiliates"), IIB Aug. 4 Letter, *supra* note 15, at 2-3 (proposed definitions of "firm" and "affiliate"); *see also* SIFMA Letter, *supra* note 10, at 10 (the denominator "should not be measured on a Direct Participant-by-Direct Participant basis, but rather across the entire organization").

34 *See* Second Reopening Release, *supra* note 17, at 52355 (the denominator consisted of "cleared eligible secondary market transactions that are repo transactions.").

35 *See* 17 CFR 240.17ad-22 (excluding certain transactions from the definition of eligible secondary market transaction if the counterparty is a state or local government, a central bank, a sovereign entity, a natural person, etc.).

36 Certain commenters requested that the denominator be comprised of cleared eligible secondary market transactions that are repo transactions. *See*, *e.g.*, SIFMA Notice, *supra* note 14, at 21535. Others requested that the denominator include both *cleared* and *uncleared* repo transactions. *See*, *e.g.*, IIB Aug. 31 Letter, *supra* note 18, at 3 ("when defining the scope of a firm's overall repo volume . . . the Commission should include both cleared *and* non-cleared transactions") (emphasis in the original). The Commission does not believe it would be appropriate for the denominator to include uncleared repo transactions, as it believes the exemption from the clearing requirement should be based on a percentage of the firm's cleared activity. *See* SIFMA Sept. 18 Letter, *supra* note 18, at 4 ("We do not believe that uncleared transactions should be included in this measurement."). However, the Commission believes a firm that clears repo transactions even when not required to do so (because the transactions are not eligible secondary market transactions) should be able to get credit for it in the denominator. *Contra* SIFMA Sept. 18 Letter, *supra* note 18, at 3 ("exempt transactions should not be included in the denominator of the calculation.").

The Firm-Specific Threshold is subject to a Percentage Cap that falls over time, from 25% initially and for the first year, to 20% for the second year, 15% for the third year, and ending at 10% after June 30, 2030. Several commenters suggested various approaches for percentage caps.[37] The Commission believes this phased approach with a final Percentage Cap of 10% most appropriately balances the need for the exemption to be narrow while also recognizing that market participants, particularly foreign entities, may need time to change or adapt business practices, onboard clients, obtain legal opinions, or update systems in order to comply.[38]

The Commission has also added the Fixed Dollar Threshold to the conditional exemptive relief. The idea of exemptive relief that was not derived from a firm's cleared repo transactions was first suggested by commenters to level the playing field between market participants with a large U.S. domestic Treasury repo business and market participants with smaller volume Treasury repo businesses that are more heavily focused outside the U.S.[39] As first suggested, such a threshold would have been calculated by dividing market-wide transaction activity in Treasury repo by a measure of direct participants at a U.S. Treasury securities CCA.[40] The Commission solicited comments about whether such a threshold was necessary and how it should be calculated in the Second Reopening Release.[41] In response, one commenter reemphasized the importance of such a threshold but, acknowledging potential difficulties with

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37 *See*, *e.g.*, IIB Oct. 1 Letter, *supra* note 18, at 6 (suggesting a 25% threshold for two years, gradually going down to 10%); SIFMA Sept. 18 Letter, *supra* note 18, at 5 (not objecting to a 20% threshold for one year, gradually moving to 10%);

38 *See generally* Letter from Callum Nieto and Patrick Deharveng, UBS AG, dated Apr. 10, 2026, at 4 (discussing operational challenges); Letter from Curtis Tao, General Counsel, HSBC Bank USA, dated May 28, 2026, at 7-8 (raising the operational difficulties of complying with a 10% cap).

39 IIB May 29 Letter, *supra* note 15, at 3 (referring to such a threshold as the "market-wide ratio.").

40 *Id. See also* IIB Aug 4 Letter, *supra* note 15, at 3 (referring to it as a "market-based threshold").

41 Second Reopening Release, *supra* note 17, at 52356.

its calculation as initially suggested, proposed a fixed dollar amount threshold of $10 billion to account for future growth in U.S. Treasury repo activity.[42] Another commenter was not opposed to a fixed dollar amount threshold but cautioned the Commission to avoid setting the threshold so high that it would create a bifurcated market.[43] The Commission is setting the threshold at $5 billion, based on its current understanding of the U.S. Treasury market, to accommodate the need for such a threshold while reducing the risk of a bifurcated market. The Commission will monitor the Fixed Dollar Threshold going forward to consider whether it remains appropriately tailored to the U.S. Treasury market.

The Commission has also added a second condition to the exemptive relief to ensure that the U.S. Treasury securities CCAs that are tasked with enforcing the Trade Submission Requirement are provided information to allow them to better understand whether their direct participants are relying on this exemption and to ensure that those direct participants affirm that they are monitoring and complying with the conditional relief herein.

B. Discussion of the Conditional Exemptive Relief for Qualifying Non-U.S. Transactions

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 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.[44] In addition, under Section 17A(b)(1) of the Exchange Act, the Commission, by rule or order, upon

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42 IIB Oct. 1 Letter, *supra* note 18, at 5.

43 SIFMA Sept. 18 Letter, *supra* note 18, at 5-6.

44 15 U.S.C. 78mm.

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.[45]

For the reasons discussed below, the Commission is using its authority under Section 36 and Section 17A of the Exchange Act to provide a conditional exemption from the definition of an eligible secondary market transaction under Rule 17ad-22(a), meaning that a U.S. Treasury securities CCA will be exempt from enforcing the Trade Submission Requirement with respect to Qualifying Non-U.S. Transactions if the conditions stated above are met. The Commission finds such conditional exemption to be necessary or appropriate in the public interest and consistent with the protection of investors, as required under Section 36, and with the purposes of Section 17A of the Exchange Act, including the prompt and accurate clearance and settlement of securities transactions and the safeguarding of securities and funds, as required under Section 17A.

First, the conditional exemption would allow financial institutions to better accommodate repo transactions within an affiliated group involving non-U.S. affiliates for purposes of treasury, liquidity, and collateral management. As the Commission stated in the Adopting Release, inter-affiliate transactions represent an important tool to transfer liquidity and risk within an affiliated group.[46] These transactions may serve different purposes, including, but not limited to, providing

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45 15 U.S.C. 78q-1(b)(1).

46 Adopting Release, *supra* note 1, at 2737.

U.S. Treasury securities for delivery when an affiliate has taken a long or short position in U.S. Treasury securities as a hedge against other exposures, allowing the movement of U.S. Treasury securities to allow them to be posted as margin on an affiliate's transaction, ensuring that U.S. Treasury securities can serve as a liquidity buffer for an affiliated bank, or to meet liquidity composition targets.[47] To get the U.S. Treasury securities to the appropriate entity within an affiliated group, the affiliate often enters into repos or reverse repos with a direct participant of a U.S. Treasury securities CCA.[48]

Market participants have explained that, as adopted, the terms of the Inter-Affiliate Exclusion effectively negate its utility, because in order to use the exclusion, an affiliate must centrally clear all outward-facing repos pursuant to the outward-facing condition.[49] As a result, market participants have claimed that two non-U.S. affiliates of a direct participant would be required to clear a repo transaction between themselves if either affiliate enters into an uncleared repo transaction with a direct participant, raising costs and burdens for an activity commonly used between non-U.S. affiliates for treasury, liquidity, and collateral management activities.[50] The Commission agrees with these market participants that this restriction on transactions between non-U.S. affiliates could have destabilizing effects, such as limiting the ability for a

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47 *Id.*

48 *Id.* SIFMA also stated that using repos for treasury, liquidity, and collateral management purposes may be crucial in the event of an insolvency or resolution, with particular importance for entities subject to resolution planning who have a particular need to demonstrate that they can use uncleared repo transactions in such a scenario. *See* SIFMA Letter, *supra* note 10, at 5.

49 SIFMA Letter, *supra* note 10, at 2.

50 *Id*. at 9. Market participants also explained that forcing the non-U.S. affiliates to become direct or indirect participants of a U.S. Treasury securities CCA to use the Inter-Affiliate Exclusion was hardly optimal given that repo transactions between non-U.S. affiliates were likely to be very small. *Id.*

non-U.S. affiliate to obtain funding through a repo transaction with another non-U.S. affiliate when U.S. Treasury securities CCAs are closed.[51]

Because of this exemption, non-U.S. affiliates of a direct participant will be able to use inter-affiliate transactions for treasury, liquidity, and collateral management with each other, subject to the specified conditions. This exemptive relief should help ensure that non-U.S. affiliates are not forced to clear internal treasury, liquidity, or collateral transactions with the direct participant (which, if required, would eliminate the practical value of the Inter-Affiliate Exclusion) or reduce their participation in U.S. Treasury repo activity with non-U.S. counterparties. The Commission believes that the scope of this exemption, including the Percentage Cap and the Fixed Dollar Threshold, ensures that it applies in limited circumstances, meaning that the benefits of increased central clearing identified in the Adopting Release will still be present.[52] Therefore, the exemption is consistent with promoting the prompt and accurate clearance and settlement of securities transactions, the public interest, and the protection of investors.

Second, the conditional exemption should allow foreign financial institutions that are direct participants of U.S. Treasury securities CCAs and U.S. financial institutions that have foreign branches or affiliates to accommodate transactions with Non-U.S. Clients. Without such an exemption, such transactions may face legal uncertainty regarding certain aspects of central clearing, such as the enforceability of netting contracts in relevant jurisdictions (including close-out netting in a default scenario), and operational challenges due to, for example, time zones and transactions occurring when no U.S. Treasury securities CCA is open.[53] Further, the Commission

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51 *Id*. at 10.

52 *See* Adopting Release, *supra* note 1, at 2798-2800.

53 *See* IIB Letter, *supra* note 6, at 2-5; IIB Notice, *supra* note 8, at 12031.

understands that, as a practical matter, many non-U.S. counterparties do not engage in U.S. Treasury repo activity at a level that makes onboarding to a U.S. Treasury securities CCA economically or operationally feasible.[54] This conditional exemptive relief allows for direct participants of U.S. Treasury securities CCAs to continue to transact with such non-U.S. counterparties without having to incur overly burdensome costs for a relatively limited amount of transactions, while ensuring, through the narrow terms of the exemption, that the amount of transactions being centrally cleared and risk managed continues to increase. Thus, the exemption is consistent with reducing the contagion risk to a U.S. Treasury securities CCA,[55] which in turn, is consistent with promoting the prompt and accurate clearance and settlement of U.S. Treasury securities and the safeguarding of securities and funds.

Third, issuing one conditional exemption to address concerns related to both non-U.S. transactions and the Inter-Affiliate Exclusion should facilitate administration of the relief sought with respect to such transactions (meaning, it should be more efficient for market participants to manage compliance with one holistic exemption, as opposed to two very similar exemptions that have to be calculated separately).[56] Market participants could manage and build reporting systems based on one set of conditions, as opposed to two, thereby decreasing burden and

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54 *See* Letter from Katherine Darras, General Counsel, International Swaps and Derivatives Association, Inc., dated May 29, 2026, at 5 ("ISDA May 29 Letter"); SIFMA Letter, *supra* note 10, at 6-7; SIFMA Notice, *supra* note 14, at 21535.

55 *See* Adopting Release, *supra* note 1, at 2717 (stating that "the requirement to clear eligible secondary market transactions is designed to reduce the amount of 'contagion risk' to a U.S. Treasury securities CCA arising from what has been described as 'hybrid clearing'" in which "a direct participant's transactions that are not submitted for central clearing pose an indirect risk to the covered clearing agency, as any default on a bilaterally settled transaction could impact the direct participant's financial resources and ability to meet its obligations to the covered clearing agency").

56 *See*, *e.g.*, SIFMA Sept. 18 Letter, *supra* note 18, at 2-3; IIB May 29 Letter, *supra* note 15, at 2; FSF Apr. 10 Letter, *supra* note 15, at 2-3.

potential operational costs of set-up and ongoing compliance. Such an approach is therefore consistent with promoting the public interest.

Fourth, the condition regarding attestation to any U.S. Treasury securities CCA of which a firm is a direct participant should help ensure that such CCAs can better understand whether their direct participants are relying upon this exemption and, as necessary, seek additional information from direct participants that would allow such CCAs to consider how direct participants are complying with such CCAs' rules pursuant to the Trade Submission Requirement.[57] Facilitating the ability of a U.S. Treasury securities CCA to understand its direct participants' activity, and therefore also facilitating the ability to enforce the Trade Submission Requirement, is consistent with promoting the public interest.

Finally, phasing in reductions to the Percentage Cap over a period of three years should ensure that market participants have sufficient time to arrange compliance with the conditions of the exemptive relief by initially allowing a greater percentage of Qualifying Non-U.S. Transactions to qualify under the exemption while gradually reducing that percentage.[58] The Commission recognizes that market participants may need to change or adapt certain business practices to ensure compliance with the exemption, and phasing in reductions to the Percentage Cap should allow market participants time to take any necessary steps to comply with the Trade Submission Requirement and the conditional exemption issued herein, such as onboarding clients, obtaining legal opinions, or updating systems accordingly. Therefore, reducing the Percentage Cap over time allows market participants time to adapt or change business practices

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57 *See, e.g.*, CMESC Rule 305(a)(vi) (CMESC Member Agreement includes agreement for the Member to permit inspection of its books and records at all times by representatives of the Corporation and to furnish the Corporation with all information in respect of the applicant's business and transactions as the Corporation or its officers may require); FICC GSD Rule 3, section 10 (providing similar books and records authority).

58 *See*, *e.g.*, IIB Aug. 31 Letter, *supra* note 18, at 5; SIFMA Sept. 18 Letter, *supra* note 18, at 4-5.

over several years, as opposed to all at once, which should allow for smoother implementation for the U.S. Treasury market, which is therefore in the public interest and consistent with the protection of investors.

III. EXEMPTIVE RELIEF FOR AFFILIATED COUNTERPARTIES

A. Scope of Exemptive Relief

As discussed above, the SIFMA First Request asked the Commission to provide exemptive relief to treat all counterparties that meet clauses (ii) and (iii) of the definition in Rule 17ad-22(a) as affiliated counterparties, except for an affiliate that is an investment company.

Rule 17ad-22(a) defines an affiliated counterparty as any counterparty which meets the following criteria: (i) The counterparty is either a bank (as defined in 15 U.S.C. 78c(6)), broker (as defined in 15 U.S.C. 78c(4)), dealer (as defined in 15 U.S.C. 78c(5)), or futures commission merchant (as defined in 7 U.S.C. 1a(28)), or any entity regulated as a bank, broker, dealer, or futures commission merchant in its home jurisdiction; (ii) The counterparty holds, directly or indirectly, a majority ownership interest in the direct participant, or the direct participant, directly or indirectly, holds a majority ownership interest in the counterparty, or a third party, directly or indirectly, holds a majority ownership interest in both the direct participant and the counterparty; and (iii) The counterparty, direct participant, or third party referenced in paragraph (ii) of this definition as holding the majority ownership interest would be required to report its financial statements on a consolidated basis under U.S. Generally Accepted Accounting Principles or International Financial Reporting Standards, and such consolidated financial statements include the financial results of the majority-owned party or of both majority-owned parties.[59]

[59] 17 CFR 240.17ad-22(a).

After considering the SIFMA First Request and the comments received upon the request, the Commission is providing an exemption, pursuant to Sections 36(a) and 17A(b)(1) of the Exchange Act, from the definition of an eligible secondary market transaction in Rule 17ad-22(a). Specifically, this exemption would exclude, from the definition of eligible secondary market transaction, repo transactions between a direct participant of a U.S. Treasury securities CCA and any entity that meets the criteria in parts (ii) and (iii) of the definition of an affiliated counterparty in Rule 17ad-22(a), provided that the entity is not an "investment company" as defined in Section 3 of the Investment Company Act of 1940 (regardless of whether such investment company is registered or required to be registered under the Investment Company Act of 1940).[60]

B. Discussion of Exemptive Relief for Affiliated Counterparties

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 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. In addition, 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

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60 The exemptive relief discussed here does not supersede or otherwise affect prior exemptive relief issued by the Commission regarding the Inter-Affiliate Exclusion in response to a request from the Managed Funds Association. *See* Order Granting Conditional Exemptive Relief, Pursuant to Sections 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), Exchange Act. Rel. No. 105736 (Jun. 18, 2026), 91 FR 37446 (Jun. 23, 2026) ("Private Fund Relief").

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.

For the reasons discussed below, the Commission finds this exemption necessary or appropriate in the public interest and consistent with the protection of investors, as required under Section 36, and with the purposes of Section 17A of the Exchange Act, including the prompt and accurate clearance and settlement of securities transactions and the safeguarding of securities and funds, as required under Section 17A.

Commenters have explained that many affiliates of direct participants rely on repo transactions with that direct participant for purposes of liquidity, treasury, and collateral management. Many such affiliates are not banks, broker-dealers, or futures commission merchants, and are thus ineligible for the Inter-Affiliate Exclusion as adopted. Thus, absent this exemptive relief, these transactions between a non-bank/broker-dealer/futures commission merchant affiliate and the direct participant would be required to be cleared, even if the affiliate does not conduct any external customer-facing activity or subject the direct participant to any external risk.[61] According to commenters, such a requirement would impose serious costs and delays, consume balance sheet and clearing capacity, and increase risks to non-U.S. affiliates (and their customers) with liquidity and collateral needs during the hours in which no U.S. Treasury CCA is operating.[62]

Therefore, by allowing direct participants to utilize the Inter-Affiliate Exclusion for transactions with a broader array of affiliates, the exemption should better accommodate

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61 SIFMA Letter, *supra* note 10, at 7.

62 *Id.* at 6-7, ISDA May 29 Letter, *supra* note 54, at 2; IIB Aug. 31 Letter, *supra* note 18, at 5.

transactions within an affiliated group involving non-U.S. affiliates or foreign branches for purposes of treasury, liquidity, and collateral management. This will lower costs and reduce delays by not requiring the unnecessary clearing of inter-affiliate transactions when an affiliate that is not a bank, broker-dealer, or futures commission merchant enters into an inter-affiliate transaction with a direct participant. At the same time, the exemption does not apply to inter-affiliate transactions between a direct participant and an affiliate that is an "investment company" under the Investment Company Act of 1940, because such an affiliate may pose additional risk to the direct participant due to it taking market positions on the value of securities.[63]

IV. CONCLUSION

Accordingly, *IT IS ORDERED*, pursuant to Sections 17A and 36 of the Exchange Act, that the Commission grants a conditional exemption for the transactions described in Part II of this Order, from the definition of an eligible secondary market transaction in Rule 17ad-22(a), and an exemption as described in Part III of this Order from the definition of an eligible secondary market transaction in Rule 17ad-22(a).

By the Commission.

Dated October 30, 2026.

Sherry R. Haywood,

Assistant Secretary.

[63] SIFMA Letter, *supra* note 10, at 7-8.