US Treasury Central Clearing

Industry Considerations Report FAQs

January 2025

SIFMA partnered with Ernst & Young LLP (EY US) to publish the U.S. Treasury Central Clearing: Industry Considerations Report. The report is designed to capture and organize the various considerations and activities market participants should evaluate while assessing and completing preparations for the upcoming compliance dates.

This document addresses frequently asked questions related to the report.

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Participant & Product Scope

What entities and products are in scope for the new Treasury clearing rule, which cash trades (including those not transacted on IDB platforms) are subject to central clearing, do trades involving the buy-side and IDBs require central clearing, and if so, who are the relevant IDBs?

The new treasury clearing rule applies to various transactions involving Treasury securities, with specific requirements based on the type of counterparty and the nature of the trade. As outlined in Section 1.2 of the USTC report, mandatory clearing applies to the following:

1. Repo transactions involving Treasury securities where one counterparty is a clearing member.
2. Cash purchases or sales of Treasury securities between a clearing member and multiple buyers or sellers through a trading facility (e.g., a limit order book), where the clearing member acts as a counterparty to both the buyer and seller in separate transactions. This includes cash transactions involving interdealer brokers (IDBs).
3. Cash purchases or sales of Treasury securities between clearing members and other specific institutions, such as registered broker-dealers, government securities brokers, and government securities dealers.

Certain transactions are excluded from mandatory clearing, such as those involving central banks, sovereign entities, or international financial institutions, and transactions between affiliated counterparties where the affiliate submits to a clearinghouse for novation.

For the buy-side community and cash transactions involving IDBs, such transactions with IDBs that are clearing members are subject to the central clearing mandate. A list of relevant IDBs can be found in the FICC member directory, available at FICC Member Directory.

Will a list of Government Securities Broker-Dealers and Interdealer Brokers (IDBs) be published to clarify trades that either need to be cleared or are subject to exemptions?

Reference data characteristics to support identification of counterparty types remains an open industry consideration as highlighted in the Executive Summary (section 1.4 theme #8). "*Establishment of an industry practice (e.g., self-disclosing process, standard industry data source) may be required to help market participants obtain accurate identification of activity in scope for mandatory clearing, as well as potential for publication of a comprehensive list of government securities brokers and dealers.*"

Segregation of Margin Accounts by March 2025

If a broker-dealer clearing member doesn't collect margin from customers to satisfy FICC collateral requirements (but instead provides margin on the customer's behalf), will the BD be required to collect margin going forward (either under new regulations or new FICC rules)? And will the BD be required to segregate customer margin (whether transferred directly from the customer or provided by the BD on the customer's behalf)?

While the clearing member BD continues to be required to hold margin to secure its (and its customers')

positions, customer margin may continue to be provided by the BD on the customer's behalf.

As outlined in section 3 of the USTC report, if a clearing member broker-dealer has both house and customer transaction activity comingled under one account currently, they must establish separate house and customer accounts by March 2025. This includes separating affiliate activity from house activity.

Will FICC accounts for Prime Broker activity be necessary before March 2025?"

As outlined in section 2.3.1 of the USTC report, FICC's Prime Broker and Correspondent Clearing will be combined into an Agent Clearing Service. Also as outlined in section 3.2.3 of the report, to continue providing clearing access to customers, current Correspondent/Prime Broker clearing members will be required to apply to FICC to become an Agent Clearing Member by March 2025.

What are the implications of choosing between a Segregated Customer Account and a Non-Segregated Customer Account, and how does selecting a Non-Segregated Customer Account impact 15c3-3 compliance?

As outlined in section 3.2.2 of the USTC report, Non-Segregated (commingled) Accounts are not 15c3-3 enabled. In the Sponsored Model, Non-Segregated Customer Accounts (where the BD provides margin on the customer's behalf) are gross margined, while in the Agent Clearing Model, they are net margined. On the other hand, Segregated Customer Accounts are gross margined and are set up to meet the conditions necessary to take a 15c3-3 debit. Non-Segregated Customer Accounts used in the sponsored models are expected to operate similarly to the current Sponsored Omnibus Accounts, where, as per section 4.1 of the USTC report, non-segregated customer accounts will not be eligible to take a 15c3-3 debit for the margin issued or collected in the customer reserve formula.

Cash Clearing Changes

Is there an expectation that SEC Broker-Dealer firms offering sponsored clearing for cash will become direct FICC members?

FICC requires direct FICC membership as a prerequisite to offer sponsored clearing for cash or repo.

Regarding Section 9, finding 15: Was the "responsible party for funding" FICC's default fund discussed in the FICC proposed rules?

This consideration was raised as a "gap" as the FICC proposed rules do not indicate which party, in market practice, would be responsible for funding the Capped Contingency Liquidity Facility (CCLF) in a done-away model (e.g., sell-side and/or buy-side).

Why would the funding party differ from the clearing member's role today?

While for other cleared products the clearing members contribute to the default fund, done-away clearing is not commonly being performed today on behalf of customers. This issue will need to be addressed as part of any updated recommended market practices.

Repo Considerations

When will there be clarity on mixed CUSIPs and clearing of triparty repo using omnibus accounts?

Per section 9 of the USTC report, this requires further discussion between clearinghouses and the SEC. Additional clarification may be required from the SEC.

Are there any implications or changes to GCF Repo under the new rules?

The new GSD Rules would not have any implications on, or implement changes to, GCF Repo service. We are separately considering changes to the deadlines applicable to this service.

Done With and Done Away Models

Can you elaborate how “done with” and “done away” models impact buy-side and sell-side firms?

As outlined in section 6.1 of the USTC report, if done-with remains the prevailing model, it could lead to margin inefficiencies for customers. For instance, customers (e.g., asset managers, hedge funds) cannot net positions cleared through different Sponsoring Members, which could result in higher margin obligations and the need to post collateral across a larger number of clearing relationships. Under the Sponsored done-with model, customers will also need to establish relationships with multiple Sponsoring Members to maintain their ability to continue executing and clearing with those firms. This imposes a considerable amount of work on both sell-side and buy-side participants to establish contractual agreements and complete onboarding processes with the Sponsoring Member and FICC. These key challenges, including others, have supported market participant interest in developing a voluntary “done-away” model firms could elect to use to execute transactions with one party and clear them through another.

When using the "done away" model, is additional documentation (e.g., a give-up agreement similar to ETD futures) required by the broker?

Done-away documentation remains a priority area for SIFMA and its members. External counsel (Cleary Gotlieb) has been retained to support this initiative that is expected to continue into Q1 2025.

As outlined in section 6.2 of the USTC report, potential documentation in a done-away model include may include:

- Agreements between executing firm and indirect participant, if applicable (e.g., similar to cleared derivatives execution agreements utilized in cleared OTC derivatives markets)
- Agreements between indirect participant and Clearing Firm (i.e., Sponsoring/Agent Clearing Member)

Accounting / Cost

Are there any netting accounting rule changes?

SIFMA is working to obtain netting opinions and also to resolve accounting issues related to a done-away market model.

What are the pricing implications for a customer to clear a trade under the new regime compared to clearing on Fedwire?

Competition will continue to determine the cost of clearing a trade and such costs may vary by firm and be dependent on a number of factors, such as commercial arrangements with clearing members, cost of funding,

technology spend (e.g. transaction processing cost), including others. Since this will be market-driven and firm specific, it is suggested to discuss pricing impact directly with your counterparties.

Foreign Considerations

Have there been updates on the foreign bank membership rule?

Per FICC proposed rule changes in SR-FICC-2024-005, FICC would amend the qualifications of each Netting Member category listed in Section 3(a) to include a foreign equivalent of the currently eligible legal entity types – proposed updated eligibility for each category of Netting Member shall be as follows:

Bank Netting Member – A Person shall be eligible to apply to become a Bank Netting Member if it is a bank or trust company chartered as such under the laws of the United States, or a State thereof, or is a bank or trust company established or chartered under the laws of a non-U.S. jurisdiction and either participates in the Corporation through its U.S. branch or agency or meets the qualifications applicable to a Foreign Person in this Section 3. A bank or trust company that is admitted to membership in the Netting System pursuant to these Rules, and whose membership in the Netting System has not been terminated, shall be a Bank Netting Member.

For further information, please contact FICC directly.

Are there criteria or approaches to address repo activity for non-US entities (e.g., inter-affiliate exemptions)?

As outlined in section 3.3.3 of USTC report, before determining clearing solution for the affiliate activity, direct participants may also consider whether an alternative remediation is possible and appropriate, such as:

- Move the affiliate's client activity into the main U.S. Treasury clearing entity
- Modify the affiliate activity (both the client facing trades, and the trades between the main U.S. Treasury clearing entity and the affiliate) to a type that is not mandatory for clearing (e.g., Securities Lending)
- If an alternative remediation path is selected only as an interim solution, direct participants need to ensure the affiliate activity can later be cleared by the cash purchases/sells or repo compliance dates via either 1) setting up affiliate entity as a direct participant at FICC, 2) Sponsored Services, or 3) Agent Clearing Services.

What are the potential impacts of simultaneously addressing central clearing and the new Dealer Rule on firms' resources and timelines?

The SEC's Dealer Rule has been vacated as of November 21st, 2024, per a federal judge's ruling in Texas finding that the agency overstepped its legal authority in issuing the regulations, according to court records.