February 26, 2026

The Hon. Mark T. Uyeda
Commissioner, Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Subject: Outstanding implementation challenges in the international cross-border markets related to the U.S. Treasury clearing mandate

Dear Commissioner Uyeda,

On behalf of the International Capital Market Association (ICMA)[1] and our members, we are writing to highlight several outstanding implementation challenges related to the U.S. Treasury clearing mandate, and to request further regulatory relief and guidance on the application of the rule to U.S. Treasury repo transactions, specifically from the perspective of international firms participating in this critical market.

U.S. Treasury securities are widely held by international investors, with over $8 trillion owned outside the U.S.[2], underscoring the global nature of market participation and the cross-border implications of the clearing obligation. ICMA has been actively monitoring the development and implementation of the mandate on behalf of the international fixed income community. Through extensive engagement with market participants, ICMA has conducted a series of bilateral interviews with banks over the summer of 2025, complemented by member webinars and a broader market survey in November 2025.

Building on insights gathered across the different initiatives, ICMA wishes to highlight the key outstanding issues, particularly from the point of view of the European and Asian repo community and to offer a perspective on refinements to support consistent and practical implementation of the mandate. We believe further clarification and targeted adjustments would contribute to a successful implementation and help to ensure that the rules operate as intended.

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[1] ICMA promotes well-functioning cross-border capital markets, which are essential to fund sustainable economic growth. It is a not-for-profit membership association with offices in Zurich, London, Paris, Brussels and Hong Kong, serving around 640 member firms in 71 jurisdictions globally. Its members include private and public sector issuers, banks and securities dealers, asset and fund managers, insurance companies, law firms, capital market infrastructure providers and central banks. ICMA provides industry-driven standards and recommendations, prioritising three core fixed income market areas: primary, secondary and repo and collateral, with cross-cutting themes of sustainable finance and FinTech and digitalisation. ICMA works with regulatory and governmental authorities, helping to ensure that financial regulation supports stable and efficient capital markets.

[2] https://www.congress.gov/crs-product/RS22331

1. Extraterritorial scope and foreign branches

Market participants have identified several interrelated concerns regarding the potential extraterritorial application of the clearing mandate:

(a) Transactions between non-US counterparties

There is concern and uncertainty as to whether the clearing mandate, particularly as reflected in prior FICC rule filings (June 2024), and referenced in the Institute of International Banking's ("IIB") comment letter to the SEC date 22nd July 24 ("IIB Letter")[3] as FICC's "Foreign Bank Membership Rule" could be applied extraterritorially to transactions between a foreign bank's non-U.S. branches and its external non-U.S. counterparties where there is no U.S. nexus. In particular, if a foreign bank's U.S. branch becomes a direct FICC member for U.S. Treasury clearing, the rule language could be read as bringing the entire legal entity and its branch network into scope, including its non-U.S. branches.

Under this interpretation, substantial numbers of transactions among non-US market participants could become subject to mandatory clearing solely due to a foreign financial institution group having a US branch that is a direct FICC member. Market participants question whether this extra-territorial scope of the mandate is an unintended consequence and has been fully thought through, as it extends the obligations to transactions that do not touch or concern US markets or otherwise have any U.S. nexus and raises a mix of potential legal jurisdictional and enforceability challenges also set out more fully in the IIB Letter.

Market participants will not naturally or intuitively expect or be aware that transactions between parties that are both outside the US could be subject to mandatory clearing in the US, and once becoming aware, may simply choose to invest in other government securities. Accordingly, we recommend that FICC amend the Foreign Bank Membership Rule and agree with the Commission on a less overbroad and extra-territorial application of U.S. Treasury security clearing requirements.

(b) Indirect clearing obligations for offshore counterparties

Separately, market participants highlight practical market access issues affecting offshore firms. Even when a firm itself is not subject to the mandate, it may nevertheless be forced into clearing when trading with a counterparty that is a FICC member (or a non-U.S. branch of a FICC member).

[3] See letter from Stephanie Webster to Vanessa A. Countryman, July 22, 2024, in SR_FICC-2024-009, available here.

In practice, this creates indirect clearing pressure on offshore firms. Many non-U.S. institutions, particularly those with relatively limited U.S. Treasury activities, may find direct FICC membership commercially unviable. As a result, they are expected to rely on sponsored or agency clearing arrangements for market access. Where available models are limited or restrictive, firms without a U.S. nexus face reduced flexibility and more costly access to the U.S. Treasury repo market, despite not being the intended targets of the mandate.

(c) Potential misalignment between CCPs

Firms are also concerned that, as additional CCPs seek authorization to clear U.S. Treasury transactions, differences in interpretation or implementation of the mandate could arise, creating further inconsistency and operational complexity for market participants active across multiple clearing venues.

Proposals: Market participants would welcome clear and consistent regulatory guidance on scope determination, including confirmation that transactions between non-U.S. branches of non-US firms and non-U.S. counterparties with no U.S. nexus are outside the intended scope of the mandate. We support the IIB's proposal that the Foreign Bank Membership Rule should not extend mandatory clearing obligations beyond a foreign bank's U.S. branch or agency, and that the entire legal entity should not be treated as in scope if only the U.S. branch has the relevant U.S. nexus and membership. Such clarification would help to address unintended extraterritorial application and unnecessary compliance burdens.

2. Inter-affiliate exemption

Under the current framework, internal repo transactions between a direct participant and its affiliates are exempt from mandatory clearing only if the affiliate clears all of its external U.S. Treasury repo transactions. Market participants note that this condition significantly limits the practical usefulness of the exemption, as it effectively brings the affiliate's external trades into scope, many of which would otherwise be out of scope and does not meaningfully reduce inter-affiliate compliance burdens, nor does it effectively address any avoidance or evasion issues. On the basis that the inter-affiliate exemption is voluntary, on a cost neutral basis, many firms whose external number of trades is greater than its internal, inter-affiliate trading numbers will rationally determine not to rely on this exemption and therefore not be required to clear external trades with any of its group entities that are not direct FICC members (and instead be required to clear its inter-affiliate trades), which for such firms ironically is the same result that would occur if the inter-affiliate exemption never existed.

Market participants recognise the SEC's concern that a broader inter-affiliate exemption could be used to undermine the mandate. However, our member firms consider this risk to be overstated in practice. Inter-affiliate repos are typically for internal liquidity and balance sheet management rather than client-facing activities, and booking decisions are driven by a range of factors, including commercial, regulatory, and operational considerations, beyond just clearing requirements. In addition, large banking groups are already subject to consolidated risk management, regulatory reporting, and supervisory oversight, which provide regulators with visibility over these exposures. Central clearing of inter-affiliate transactions is not essential from a market integrity perspective, nor is it the "loophole" facilitating evasion that some suggest and therefore could instead be made voluntary.

Proposals: Market participants encourage the SEC to consider a more flexible, risk-based approach to inter-affiliate repos, subject to appropriate safeguards. To the extent the SEC has remaining concerns about potential evasion, the SEC could adopt the approach suggested by SIFMA in its comment letter to the SEC dated October 2, 2024 ("SIFMA Letter")[4] that excludes from the scope of the exemption's condition to clear all external transactions: (i) inter-affiliate transactions (including with a direct FICC member) for bona fide treasury, liquidity or collateral management purposes and (ii) where a non-US affiliate trades with an affiliated direct FICC member, the aggregate amount of uncleared trades between non-US affiliates and non US third parties does not exceed a particular percentage of the aggregate amount of all of a firm's direct participation transactions.[5] We also support SIFMA's proposal to address concerns and uncertainty about the exemption being available to only certain types of US regulated entities and their "foreign equivalents" by instead following the approach under SEC Rule 405[6] (a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control the direct FICC member) as this will provide a more easy to apply bright line rule for market participants and eliminate interpretation uncertainties.

3. Mixed-CUSIP baskets and non-U.S. triparty repos

While the SEC's recent FAQ provides helpful guidance on mixed-CUSIP triparty repo transactions, market participants outside of the U.S., particularly in Europe, believe further clarification is required. The FAQ reflects a U.S. triparty general collateral (GC) model where U.S. Treasury collateral can be identified at the CUSIP level at the point of

[4] See letter from Robert Toomey to Vanessa A. Countryman, October 2, 2024 in SR-FICC-2024-009, available here.

[5] *Id*.

[6] *Id*.

execution. By contrast, European triparty repos operate differently, relying on dynamic collateral schedules where eligibility lists may change over time. While post-trade allocation typically occurs within predefined collateral baskets (in some cases identified by ISIN), collateral is often selected and substituted after execution. Therefore, it may not be possible to identify at execution whether U.S. Treasuries will form part of the collateral during the life of the trade, creating uncertainty on scope determination.

More fundamentally, market participants note that it remains unclear how the mandate applies to triparty repo activities involving U.S. Treasuries as collateral when these transactions are undertaken in the ICSDs and outside of the U.S. As FICC does not currently offer clearing services for European triparty repo platforms, even where both counterparties are FICC members, these transactions cannot be cleared in practice, raising concerns about the feasibility and intended scope of applying the mandate to non-U.S. triparty repo activities.

Proposals: Market participants request that the SEC consider providing clearer and more explicit relief for non-U.S. triparty repo transactions. In particular, firms would welcome confirmation that triparty repos settled on non-U.S. triparty infrastructures, where FICC clearing is not available, are outside the intended scope of the mandate.

4. FICC licensing and membership constraints

Market participants also highlight concerns that FICC is not licensed or formally recognized in all jurisdictions, and that direct membership is not available to many foreign firms. Under FICC's membership criteria, a foreign entity may apply only if its home country regulator has entered into a memorandum of understanding with the SEC for information sharing and the entity maintains a U.S. presence[7]. Firms based in jurisdictions that do not meet these conditions may therefore face legal or regulatory barriers to direct FICC membership.

As previously highlighted, where direct membership is not feasible, firms are required to rely on restrictive sponsored or agency clearing arrangements in order to access clearing. This can significantly increase costs and constrain market access, particularly for firms without a U.S. nexus. This creates uncertainty not only around firms' ability to comply, but also around the practical enforceability of mandatory clearing requirements for offshore transactions.

Proposals: We would like to raise awareness of these potential issues and encourage the SEC to consider whether additional proportionality measures are appropriate for

[7] Either directly or through a suitable agent. https://www.dtcc.com/ustclearing/direct-participant#dp_acc

non-FICC members without a U.S. nexus that are unable to obtain direct membership for legal or regulatory reasons.

We appreciate the SEC's continued engagement with market participants and would welcome further dialogue to ensure the clearing mandate is implemented in a manner that achieves its policy objectives while maintaining global market efficiency and access.

Yours sincerely,

Bryan Pascoe
Chief Executive