

SEC Final Rule: Treasury Clearing, Margin Practices and Rule 15c3-3a



1/ Overview

On December 13, 2023, the U.S. Securities and Exchange Commission (“SEC” or “Commission”) adopted rules under the U.S. Securities Exchange Act of 1934 (the “Exchange Act”) to amend the standards applicable to covered clearing agencies for U.S. Treasury securities (“Treasury CCAs”).¹

The amendments require each Treasury CCA to have written policies and procedures reasonably designed to require that every direct participant of the Treasury CCA submit for clearance and settlement all eligible secondary market transactions (“ESMTs”) in U.S. Treasury securities to which it is a counterparty.²

The Commission made additional amendments to Treasury CCA standards with respect to risk management that are designed to protect investors, reduce risk, and increase operational efficiency.³

U.S. Treasury Securities CCA Membership Requirements

The final rule directs FICC to adopt written policies and procedures that require every direct participant (i.e., a FICC clearing member) to submit for clearance and settlement all ESMTs to which it is a counterparty. The Commission adopted the proposed definition of ESMTs but with some modifications.

As proposed, all repo and reverse repo transactions in which a direct participant is a party are included within the definition of ESMT and, therefore, must be submitted for clearance and settlement. However, repo and reverse repo transactions that involve a direct participant and either (i) certain affiliates of the direct participant, (ii) other clearinghouses, or (iii) a state or local government are excluded from the definition of ESMT and are not required to be submitted for clearance and settlement.

The final rule makes two changes to the proposed scope of cash Treasury transactions that qualify as ESMTs. First, cash Treasury transactions entered into by a direct participant and a hedge fund are not included in the definition of ESMT. Second, cash Treasury transactions entered into by a direct participant and certain leveraged accounts (described further below) are not included within the definition of ESMT. Accordingly, these two types of transactions will not be required to be submitted to FICC for clearance and settlement. However, the Commission indicated that it was taking an incremental approach and may reconsider whether to require the clearing of cash Treasury transactions in the future.

As proposed, any purchases and sales entered into by a direct participant and any counterparty if the direct participant (i) brings together multiple buyers and sellers using a trading facility (such as a limit order book) and (ii) is a counterparty to both the buyer and seller in two separate transactions (i.e., interdealer broker transactions) are included

¹ The Fixed Income Clearing Corporation (“FICC”) is currently the only Treasury CCA. Accordingly, we use FICC and Treasury CCA interchangeably in this summary.

² SEC, “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”, [File No. S7-23-22](#) (Dec. 13, 2023) (the “Adopting Release”).

³ *Id.* at 143.

within the definition of ESMT. Therefore, all cash Treasury transactions that meet these criteria are required to be submitted to FICC for clearance and settlement.

Additional Changes to CCA Standards

The Adopting Release requires CCAs to have policies and procedures in place to separate the calculation, collection and holding of margin for clearing members' own proprietary positions from any margin posted by its indirect participant (i.e., hedge fund clients).

However, the SEC rejected arguments in favor of taking steps in this rule to establish greater cross-margining for indirect participants. The SEC indicated that the current cross-margining agreement between FICC and the CME is part of FICC's current rulebook and that FICC would have to propose such a change for the SEC to review and approve. The Commission did, however, indicate that it historically has supported cross-margining in other contexts and encouraged FICC to adopt rules that would permit cross-margining by indirect participants.

The Commission finalized as proposed Rule 17ad-22(e)(18)(iv)(C), which requires a Treasury CCA to establish, implement, maintain and enforce written policies and procedures reasonably designed to ensure that it has appropriate means to facilitate access to clearance and settlement of all ESMTs. The Commission rejected requests to make changes to Treasury CCA access models that would prevent direct participants from refusing to clear trades merely because they were executed by unrelated parties. However, the Adopting Release acknowledged the importance of finding a workable solution to allow for the clearing of done away trades and encouraged FICC to propose changes to its rules that would better facilitate the clearance of done away trades.

Amendments to Rule 15c3-3a

Finally, the Commission amended the broker-dealer customer protection rule to permit margin required and on deposit with Treasury CCAs to be included as a debit in the reserve formulas for accounts of customers and proprietary accounts of broker-dealers ("PAB"), subject to certain conditions.⁴

Effective and Compliance Dates

The amendments made in the Adopting Release will become effective 60 days after its publication in the Federal Register (the "Effective Date").

Each Treasury CCA must file with the SEC any proposed rule changes regarding (i) the separation of house and customer margin; (ii) access; and (iii) the broker-dealer customer protection rules no later than the Effective Date. These changes will go into effect by March 31, 2025.

No later than 150 days after the Adopting Release's publication in the Federal Register, each Treasury CCA must file with the SEC any proposed rule changes that must be made to facilitate the clearance and settlement of ESMTs. Compliance by direct participants of a Treasury CCA with the requirement to submit for clearance and settlement ESMTs is

⁴ *Id.* at 168.

not required until December 31, 2025 for cash Treasury transactions and June 30, 2026 for repo transactions.

Practical Considerations

For AIMA member firms, compliance with the new Treasury clearing mandate will pose significant operational challenges as firms will have to enter into or modify clearing arrangements either with their clearing member or via one of the other access options provided by FICC.

Although the SEC provided a lengthy, staged implementation timeline whereby central clearing is only required by December 31, 2025 for cash Treasury transactions or June 30, 2026 for repo and reverse repo transactions, it will also be very important for FICC to incorporate potential changes to its current rules to allow for greater cross-margining and clearance of done away trades prior to submitting its updated access and margin rules for SEC approval.

AIMA will engage with both FICC and the SEC to endeavour to secure changes that permit cross-margining and that prohibit FICC members from refusing to clear a trade merely because it was executed by an unaffiliated party.

2/ U.S. Treasury Securities CCA Membership Requirements

Requirement to Clear ESMTs

As proposed, amended Rule 17ad-22(e)(18)(iv) will require Treasury CCAs to establish, implement, maintain and enforce written policies and procedures that are reasonably designed to, as applicable, establish objective, risk-based and publicly disclosed criteria for participation. These amended policies and procedures will require FICC direct participants to submit for clearance and settlement all ESMTs to which they are a counterparty.

The term “direct participant” means entities that access FICC directly (i.e., FICC clearing members), and “indirect participant” is defined as those persons who rely on the services provided by direct participants to access FICC’s payment, clearing or settlement facilities (i.e., a clearing member’s customer). Persons who provide services in connection with clearance and settlement and do not submit trades for clearing to FICC would not be “direct participants” or “indirect participants” within the meaning of amended Rule 17ad-22(e)(18)(iv).

Definition of ESMTs

The Commission adopted the proposed definition of ESMT but with some modifications related to (i) repos by other clearing organizations, certain inter-affiliate repo transactions and state and local government repo transactions and (ii) cash transactions by hedge funds and leveraged accounts.

Repo Transactions

The proposed definition of ESMT included, among other things, all U.S. Treasury repo and reverse repo agreements entered into by a direct participant of a Treasury CCA. The

final rule adopts the definition of ESMT to include all repo and reverse repo agreements, with some exceptions.⁵

First, the final rule excludes from the definition of ESMT any repo or reverse repo agreement collateralized by the U.S. Treasury securities in which one counterparty is: (i) a derivatives clearing organization; (ii) a covered clearing agency providing central counterparty ("CCP") services; (iii) or is regulated as a CCP in its home jurisdiction. For a counterparty that is regulated as a CCP in its home jurisdiction, this portion of the exclusion encompasses entities that may serve as CCPs in their home jurisdiction and may transact in repos with direct participants of a Treasury CCA.

Second, the final rule excludes certain inter-affiliate repos and reverse repo transactions from the definition of ESMT. Specifically, repo and reverse repo agreements collateralized by U.S. Treasury securities and entered into between a direct participant and an affiliated counterparty⁶ are excluded from the definition of ESMT, provided that the affiliated counterparty submits for clearance and settlement all other repurchase or reverse repurchase agreements collateralized by U.S. Treasury securities to which the affiliated counterparty is a party.

This exception is conditioned on the availability of the exclusions for inter-affiliate transactions on an obligation for an affiliated counterparty to submit its repo transactions, other than those with its direct participant counterparty, for clearance and settlement. This condition is intended to help ensure that a direct participant cannot rely upon an inter-affiliate transaction to avoid the requirement to clear ESMTs.

Third, the final rule excludes repo and reverse repo transactions collateralized by U.S. Treasury securities between a direct participant and a state or local government. This exemption was provided because of both the potential conflicts with state and local government authorities related to their investments and because of the nature and size of U.S. Treasury market activity by such entities.

In response to industry comments, the Commission provides some relief in the Adopting Release specific to issues faced by registered funds and the clearance and settlement of ESMTs. First, the Commission recognizes the unique circumstances registered funds face in the context of entering into ESMTs using FICC's Sponsored Program, particularly issues regarding the posting of margin.

Accordingly, the Commission has provided that, for a period of five years beginning on the Effective Date, if a registered fund's cash and/or securities are placed and maintained in the custody of FICC for purposes of meeting FICC's margin deposit requirements that may be imposed for ESMTs in connection with the fund's participation in FICC's

⁵ The Commission declined to exclude several types of repo and reverse repo transactions from the scope of the ESMT definition, including certain triparty repos, repos by entities registered under the Investment Company Act of 1940 (the "1940 Act") ("registered funds"), repos by futures commission merchants ("FCMs") and repos involving "end users". *See id.* at 39-98.

⁶ Affiliated counterparty is defined as a counterparty that meets the following criteria: (i) the counterparty is either a bank, broker, dealer, FCM 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 (ii) 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.

Sponsored Program, it would not provide a basis for enforcement action under Section 17(f) of the 1940 Act so long as:

1. FICC withdraws the margin provided by a sponsored member registered fund only upon that registered fund's default;
2. the margin provided by a registered fund is not commingled with, and is kept separate from, FICC's assets;
3. FICC segregates on its books and records the margin provided by a registered fund (or series thereof, as applicable) and identifies a value of margin in its books and records as being attributable to the registered fund;
4. the entity that FICC uses to custody such margin is an eligible fund custodian under the 1940 Act and the applicable rules thereunder;
5. the margin provided by a registered fund is not subject to loss mutualization or allocation;
6. the margin provided by a registered fund is not used by FICC for any purpose other than in connection with that registered fund's default as a sponsored member;
7. registered funds receive quarterly statements of accounts concerning the margin provided in connection with eligible secondary market transactions showing, at a minimum, the name of the account, asset movements during the quarter and quarter-end positions; and
8. the account into which a registered fund's margin is deposited is governed by a contract by and among the registered fund, its sponsoring member, and FICC providing for an arrangement consistent with this Commission position.⁷

Second, the Commission provides that, for a period of five years from the Effective Date, that if a registered fund's cash and/or securities are placed and maintained with a sponsoring member that is a member of a national securities exchange, solely in connection with facilitating the posting of margin to FICC on behalf of a registered fund in connection with the registered fund's participation in the Sponsored Program, it would not provide the basis for an enforcement action against a registered fund under Section 17(f) of the 1940 Act so long as (i) the registered fund complies with Rule 17f-1(a), (b)(5) and (d)⁸ and (ii) the contract between the registered fund and the member of the national securities exchange provides for the following:

1. the margin provided by a registered fund is not commingled with, and is kept separate from, the sponsoring member's assets;
2. the sponsoring member segregates on its books and records the margin provided by a registered fund (or series thereof, as applicable), and identifies a value of margin in its books and records as being attributable to the registered fund;
3. the registered fund's provision of margin is consistent with the FICC registered fund margin framework; and

⁷ See Adopting Release, *supra* note 2, at 52-53.

⁸ See [17 CFR § 270.17f-1](#) - Custody of securities with members of national securities exchanges.

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4. the sponsoring member does not hold registered fund assets that exceed the amount that is required to be deposited as margin to FICC with respect to the registered fund's outstanding eligible secondary market transactions.

Purchases and Sales of U.S. Treasury Securities

The proposed rule defined ESMT to include, along with repo and reverse repo transactions, the following:

1. any purchases and sales entered into by a direct participant and any counterparty if the direct participant (a) brings together multiple buyers and sellers using a trading facility (such as a limit order book) and (b) is a counterparty to both the buyer and seller in two separate transactions ("IDB transactions"); and
2. any purchases and sales of U.S. Treasury securities between a direct participant and a counterparty that is either:
 - a. a registered broker-dealer, government securities dealer, or government securities broker;
 - b. a hedge fund, that is any private fund (other than a securitized asset fund):
 - i. with respect to which one or more investment advisers (or related persons of investment advisers) may be paid a performance fee or allocation calculated by taking into account unrealized gains (other than a fee or allocation the calculation of which may take into account unrealized gains solely for the purpose of reducing such fee or allocation to reflect net unrealized losses);
 - ii. that may borrow an amount in excess of one-half of its net asset value (including any committed capital) or may have gross notional exposure in excess of twice its net asset value (including any committed capital); or
 - iii. that may sell securities or other assets short or enter into similar transactions (other than for the purpose of hedging currency exposure or managing duration) ("hedge fund transactions"), or
 - c. an account at a registered broker-dealer, government securities dealer, or government securities broker where such account may borrow an amount in excess of one-half of the value of the account or may have gross notional exposure of the transactions in the account that is more than twice the value of the account ("leveraged account transactions").

The final rule mostly adopts the scope of cash Treasury transactions that qualify as ESMTs but with some modifications. First, as proposed, IDB transactions are included within the definition of ESMTs in order to eliminate the potential contagion risk posed by hybrid clearing. Second, the adopted definition of ESMT includes those cash Treasury purchase and sale transactions in which the counterparty of the direct participant is a registered broker-dealer, government securities broker or government securities dealer.

In response to commenters' concerns, the definition of ESMT does not include hedge fund transactions or leveraged account transactions. The Adopting Release explains that the Commission will continue to evaluate whether any further action is appropriate with

respect to the transactions in the cash market, allowing for a more incremental approach to the clearing of cash Treasury transactions.

The Commission emphasizes that the requirement to clear ESMTs that are repos encompasses repos between a direct participant and a hedge fund or leveraged account. This requirement aims to ensure that “many of the risks posed by hedge funds, including the repo portion of a basis trade, would be addressed,” and this inclusion is important because “it addresses the risks posed by hedge fund and leveraged account repo activity in the U.S. Treasury market, which is often highly leveraged and subject to low or zero haircut.”⁹

The Adopting Release clarifies that the definition of ESMT does not include cash Treasury transactions between direct participants of a Treasury CCA and registered funds. If, however, a registered fund transacts on an IDB, then that transaction would be an ESMT because it otherwise meets the definition of such a transaction (i.e., an IDB transaction) and not because it is a registered fund.

Other Exclusions from the Definition of ESMT

As proposed, final Rule 17ad-22(a) excludes transactions between direct participants and certain counterparties from the definition of ESMT. These exclusions apply to any purchase or sale transactions in U.S. Treasury securities between a direct participant and a central bank,¹⁰ a sovereign entity¹¹ or an international financial institution.¹² The final rule also excludes from the definition of ESMT transactions in U.S. Treasury securities between a direct participant and a natural person.

Policies and Procedures Regarding U.S. Treasury Securities CCA's Monitoring of its Direct Participants' Transactions

The final rule requires FICC to establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable, identify and monitor its direct participants' required submission of transactions for clearing, including, at a minimum, addressing a direct participant's failure to submit transactions. The Commission notes that without such policies and procedures, it would be difficult for FICC to assess if its direct participants are complying with the amendments that require the submission of ESMTs for clearance and settlement. The Adopting Release further outlines several examples¹³ of how a Treasury CCA could assess its direct participants' compliance with these amended policies and procedures.

The Adopting Release addresses several methods that were identified by commenters by which the Commission could or should incentivize additional central clearing without adopting a requirement to clear ESMTs, one of which is cross-margining of indirect

⁹ Adopting Release, *supra* note 2, at 120.

¹⁰ A reserve bank or monetary authority of a central government and the Bank of International Settlements.

¹¹ A central government or an agency, department or ministry or a central government.

¹² See Adopting Release, *supra* note 2, at 124-25 for a list of the specific entities that meet the definition of 'international financial institution'. Other entities that provide financing for national or regional development in which the U.S. government is a shareholder or contributing member would also meet the definition of international financial institution.

¹³ FICC could require direct participants to submit to it information regarding their U.S. Treasury securities transactions or require attestations from senior officials of FICC's direct participants as to their submission of ESMT and compliance with their obligations to submit such transactions.

participants' transactions in U.S. Treasury securities with those in U.S. Treasury futures, which is discussed further below.

3/ Additional Changes to CCA Standards

Netting and Margin Practices for House and Customer Accounts

As proposed, the Adopting Release requires Treasury CCAs to have policies and procedures in place to separate the calculation, collection and holding of margin for clearing members' own proprietary positions from any margin calculated and collected from its customers. While this will prohibit FICC from netting customer and direct participant positions, the Commission indicated that it does not require a Treasury CCA direct participant to collect a specific amount of margin or to determine margin in a particular manner. This means that the calculation and collection of margin between a direct participant and its customers will be left to the Treasury CCA's rules and, where applicable, to bilateral negotiations. As a result, netting among all of a direct participants' customers is possible but left to bilateral negotiations within the scope of the Treasury CCA's rules.

The Commission indicates that direct participants may combine all customer margin into one omnibus account and rejected the request by one commenter that the rule should require a legally segregated, operationally commingled ("LSOC") model. Instead, the Commission justified the ability of a Treasury CCA direct participant to use commingled funds to cover a single customer's default because they would be eligible for protection under the Securities Investor Protection Act. However, on an optional basis, Treasury CCAs would be allowed to offer an LSOC model voluntarily.

The Commission rejected commenters' requests that it make changes to CCA rules that would allow for greater cross-margining by indirect participants. The Commission stated that the current cross-margining agreement between FICC and the CME is part of FICC's current rulebook and that FICC would have to propose such a change to permit enhanced cross-margining for indirect participants. This proposed amendment would then be subject to public comment and SEC review and approval. The Commission indicated that it has historically supported and approved cross-margining in other contexts and encouraged FICC to consider the benefits of cross-margining, which include increased efficiency and risk management as well as prompt and accurate clearance and settlement.

Facilitating Access to U.S. Treasury Securities CCAs

The Commission finalized, as proposed, Rule 17ad-22(e)(18)(iv)(C), which requires that a Treasury CCA establish, implement, maintain and enforce written policies and procedures reasonably designed to ensure that it has appropriate means to facilitate access to clearance and settlement of all ESMTs. The Treasury CCA's board of directors must review these policies annually.

The Commission disagreed with multiple commenters' arguments that the ability of FICC direct participants to refuse to clear a trade simply because it was executed by an unrelated party constitutes unfair discrimination. The Commission noted that FICC rules permit the clearing of done-away trades but indicated that direct participants (i.e., clearing members) should be allowed to determine what risks they take on in a

transaction. However, the Commission did acknowledge the importance of developing a workable done away model and admitted that it would be critical for the success of the new regulatory regime. The Commission “encourages FICC and other market participants to consider how to offer and price the currently available models to ensure that indirect participants can access central clearing.”¹⁴

The Commission also rejected requests that it make changes to FICC’s current access models but indicated that it would consider any FICC-initiated proposals, such as to provide additional clearing of repo start legs, consistent with its obligations under Section 19(b) of the Exchange Act.¹⁵

The Adopting Release further states that FICC should conduct and document an initial review of its access models and related policies and procedures and seek to provide access in as flexible a means as possible, consistent with its responsibility to provide sound risk management.¹⁶

4/ Amendments to Rule 15c3-3a – the Customer Reserve Formula

Credit Items

Cash delivered by a customer to the broker-dealer and posted by the broker-dealer to a Treasury CCA will be a free credit balance or other credit balance in a customer’s securities account. This cash will need to be included in Item 1 of the Rule 15c3-3a formula. Additionally, when a broker-dealer uses customer margin securities to borrow funds or execute a securities loan transaction, the broker-dealer must put a credit in the formula. Credit items are designed to require the broker-dealer to maintain a reserve sufficient to be able to retrieve collateralized or loaned securities. The Commission also amended Note B to Item 2 of Rule 15c3-3a. This amendment instructs broker-dealers to include the market value of U.S. Treasury securities on deposit at a Treasury CCA as a credit.

New Debit Items and Note to New Debit Item

The Commission created new Item 15 that identifies margin required and on deposit with a Treasury CCA as a debit for the purposes of the Rule 15c3-3a formula. The debit is confined to margin required for the purchase and/or sale of U.S. Treasury securities and U.S. Treasury repo or reverse repo transactions. The debit item is limited to customer position margin required and on deposit at a Treasury CCA that results from U.S. Treasury positions located in a customer account. Outside of these new debits, no other forms of customer margin can be considered debit items in relation to the Rule 15c3-3a formula. The margin required for a broker-dealer’s proprietary Treasury positions on deposit at a Treasury CCA also cannot be considered a debit.

Therefore, customer cash and securities cannot be used by the broker-dealer to finance its proprietary business activities. The debit is limited to customer position margin required and on deposit at the Treasury CCA. Accordingly, a broker-dealer cannot

¹⁴ Adopting Release, *supra* note 2, at 158.

¹⁵ *Id* at 164-65.

¹⁶ *Id* at 167.

exceed its debit amount beyond the margin requirement of its customers' cleared Treasury positions. This was intentionally designed by the Commission to avoid the artificial inflation of the amount of the debit item by depositing cash and other securities not needed for margin requirements at a Treasury CCA.

As proposed, the final rule adopts Note H in Item 15 of Rule 15c3-3a but with a few modifications. Note H sets forth conditions that would need to be met to include the amount of customer position margin required and on deposit at the Treasury CCA as a debit. The four conditions include limits on permissible collateral, use of customer position margin, compliance with the rules of a Treasury CCA and Commission approval of a Treasury CCA's rules.

The section on permitted collateral has been modified to include "qualified customer securities" used to reach the customer's margin requirement. "Qualified customer securities" are defined as securities of a customer of the broker-dealer (other than U.S. Treasury securities) that are held in custody by the broker-dealer for the customer and that, under the rules of the Treasury CCA, are eligible to be used to margin U.S. Treasury securities positions. Permitted collateral is limited to cash or U.S. Treasury securities. The Commission rejected requests to include other collateral accepted by FICC, such as debts of U.S. agencies, government sponsored entities and mortgage-backed securities.

To meet the second condition on customer position margin, broker-dealers must: (i) use customer assets exclusively to meet the customer position margin requirement; (ii) use a particular customer's assets exclusively to meet the amount of the customer position margin requirement resulting from that customer's cleared U.S. Treasury securities positions; and (iii) have delivered the customer's assets to the Treasury CCA. In response to comments, the Commission is modifying Note H under the final rule to permit broker-dealers to elect to deliver their own proprietary U.S. Treasury securities to meet a margin requirement of a customer resulting from that customer's U.S. Treasury securities positions cleared, settled and novated at the Treasury CCA.

The final rule, however, places strict limits on this requirement. The broker-dealer must only use proprietary U.S. Treasury securities for this purpose and not any other type of securities collateral that may be acceptable to the Treasury CCA. A broker-dealer may not post qualified customer securities if they belong to the broker-dealer. Additionally, the broker-dealer's ability to post proprietary U.S. Treasury securities is limited to situations where the broker-dealer did not owe the customer or hold in custody for the customer sufficient cash, U.S. Treasury securities or qualified customer securities to meet a margin requirement resulting from that customer's U.S. Treasury securities positions cleared, settled and novated at the Treasury CCA at the time the margin requirement arose.

Lastly, the broker-dealer must call for the customer to deliver a sufficient amount of cash, U.S. Treasury securities and/or qualified customer securities to meet the margin requirement on the day the margin requirement arose and must receive a sufficient amount of cash, U.S. Treasury securities and/or qualified customer securities to meet the margin requirement by the close of the next business day after the margin requirement occurred.

Regarding the third condition, the broker-dealer must be in compliance with all of the rules established by a Treasury CCA regarding the protection of customer position margin. In this regard, the Adopting Release identifies five rule sets that must be

implemented by a Treasury CCA. First, the Treasury CCA must calculate margin separately for each customer of a broker-dealer, and the broker-dealer must deliver that amount of margin for each customer on a gross basis. The second set relates to the requirement that any customer position margin, if invested, must be limited to investments in U.S. Treasury securities with a maturity of one year or less.

The third set relates to rules regarding the segregation of customer margin into an account used to clear, settle and margin customers' securities transactions. The fourth set relates to the requirement that customer position margin must be held at a safe financial institution, such as a bank that is insured by the Federal Deposit Insurance Corporation. The fifth rule set requires that controls, policies and procedures be in place for the broker-dealer to return the customer position margin to the customer if it is no longer required to meet a current margin requirement. The proposed rule would have required excess margin to be repaid by the close of the next business day; however, this was changed in the final rule to permit the Treasury CCA to establish the deadline.

The fourth condition is that the Commission would need to approve the rules required by Note H and publish a notice that broker-dealers may include a debit in the customer reserve formula for qualifying customer position margin.

PAB Reserve Computation

Broker-dealers are required to perform a separate reserve computation for PABs and maintain a separate PAB reserve account. The PAB reserve computation must be performed in accordance with the Rule 15c3-3a computation for the broker-dealer's non-PAB customers, except as provided in the Notes to the PAB Computation. The new debit in Item 15 would apply to the PAB reserve computation. The Commission amended Note 9, which permits a debit in the PAB reserve computation for clearing deposits required to be maintained at CCAs, to clarify that the conditions set forth in new Note H with respect to including a debit in the non-PAB customer reserve computation would apply to the PAB reserve computation as well.

5/ Compliance Dates

Each CCA must file with the SEC any proposed rule changes regarding (i) the separation of house and customer, (ii) access, and (iii) the broker-dealer customer protection rules no later than the Effective Date. These changes will go into effect by March 31, 2025.

No later than 150 days after the Adopting Release's publication in the Federal Register, each CCA must file with the SEC any proposed rule changes required by the CCA Membership Requirements. Compliance by direct participants of a CCA with the requirement to clear ESMTs is not required until December 31, 2025 for cash Treasury transactions and June 30, 2026 for repo transactions.

6/ Questions?

If you have any questions on the Adopting Release, please reach out to Joe Engelhard (jengelhard@aima.org), Daniel Austin (daustin@aima.org), or Nick Pernas (npernas@aima.org).

