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Submitted via email

August 31, 2026

Vanessa Countryman
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Re: 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 (Release No. 34-106062; File No. S7-2026-07 and S7-2026-11)

Dear Ms. Countryman:

The Institute of International Bankers (the "**IIB**")[1] appreciates the opportunity to provide additional comment on the above-captioned notices of request for exemptive relief (the "**Notices**") and reopening of the comment period (the "**Reopening Release**") by the Securities and Exchange Commission (the "**Commission**"). The Notices and Reopening Release relate to requests that the Commission grant exemptions pursuant to Section 36 of the Securities Exchange Act of 1934 ("**Exchange Act**") from the application of Exchange Act Rule 17ad-22(e)(18)(iv)(A) and (B) (together, the "**Trade Submission Requirement**").

The IIB also recognizes and appreciates the Commission's efforts in the Reopening Release to reconcile the proposals advanced by the IIB and SIFMA and remains committed to engaging constructively toward a practical and effective resolution of the issues raised. To that end, the IIB will continue to work toward an industry consensus and will engage further with the Commission as appropriate.

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[1] The Institute of International Bankers represents the U.S. operations of internationally headquartered financial institutions from more than 35 countries around the world. The membership consists principally of international banks that operate branches, agencies, bank subsidiaries, and broker-dealer subsidiaries in the United States. The IIB works to ensure a level playing field for these institutions, which are an important source of credit for U.S. borrowers and comprise the majority of U.S. primary dealers. These institutions also enhance the depth and liquidity of U.S. financial markets and contribute significantly to the U.S. economy through direct employment of U.S. citizens, as well as through other operating and capital expenditures. For more information, visit iib.org.

The IIB has consistently maintained that any activity limit or volume-based condition on an exemption from the Trade Submission Requirement for certain Qualifying Non-U.S. Transactions (as defined in the Reopening Release) would not be necessary or appropriate because all of the transactions that would qualify for such an exemption would necessarily lack a meaningful nexus with the U.S., and submitting them for clearing would raise material operational, logistical and legal enforceability challenges, irrespective of the volume of activity involved.[2] This concern is particularly acute when the relevant volume reflects asset-liability management and internal corporate treasury transactions. Accordingly, imposing an activity limit or volume-based condition creates a realistic prospect that the non-U.S. investors and clearing agency participants facing these challenges will instead opt out of participation in the U.S. Treasury market and/or central clearing.

While the IIB's position continues to be that no activity limit nor volume-based condition is warranted, we recognize that the Commission may nevertheless deem it appropriate to impose one. Accordingly, on August 4, 2026, the IIB submitted a letter relating to the Notices (the "**August 4 Letter**"), which provided proposed regulatory text for an exemption from the Trade Submission Requirement for Qualifying Non-U.S. Transactions (as defined in the Reopening Release), subject to a cap for repurchase ("**repo**") and reverse repo transactions based on the greater of a percentage (the "**Percentage Cap**") of the firm's overall repo business (the "**Firm-Specific Approach**") and the application of the Percentage Cap to the overall Treasury repo market (the "**Market-Wide Ratio**").

The exemption set out by the August 4 Letter is designed to balance the objectives of the Trade Submission Requirement against the problems posed by extraterritorial application, including discouraging participation by non-U.S. investors in the Treasury securities market and by non-U.S. financial institutions in Treasury securities covered clearing agencies ("**CCAs**"). The exemption is also designed to preserve competitive balance within the Treasury securities market, recognizing differences among firms in terms of overall repo market volume and extent of cross-border business relative to U.S. domestic business.

Below we respond to the requests for comment posed by the Commission in the Reopening Release and address why the Commission should adopt the exemption set out by the August 4 Letter:[3]

1. *Whether either of the firm-specific approaches described above would address the issues raised in both the IIB and SIFMA Notices?*

   As laid out in the Reopening Release, each of the Firm-Specific Approaches is designed to limit the volume of Qualifying Non-U.S. Transactions that a firm does not submit to a Treasury securities CCA for clearance and settlement to a Percentage Cap as applied to the firm's overall repo volume. It should not matter whether this objective is achieved by limiting (a) the quotient of exempt Qualifying Non-U.S. Transactions divided by the firm's overall repo volume to the Percentage Cap versus (b) the volume of exempt

[2] *See* Letters from Stephanie Webster, General Counsel, IIB, dated April 10, 2026 and May 29, 2026.

[3] Capitalized terms not defined herein have the meanings set out by the Reopening Release, the Notices, and the August 4 Letter.

Qualifying Non-U.S. Transactions to the product of the Percentage Cap and the firm's overall repo volume; what is more important is that the Commission defines the variables in the relevant equation appropriately.

In this regard, we emphasize two points. First, Qualifying Non-U.S. Transactions that a firm elects to submit to a Treasury securities CCA for clearance and settlement should *not* count towards the Percentage Cap. Even absent the Trade Submission Requirement, financial institutions have significant incentives to submit repo transactions for central clearing, which mitigates risk, reduces balance sheet exposure, and helps manage firm capital. For this reason, we expect firms will voluntarily clear many Qualifying Non-U.S. Transactions. The Percentage Cap should only operate as a limit on non-cleared transactions, not a limit on extraterritorial transactions overall.

Second, when defining the scope of a firm's overall repo volume (either as the denominator for a quotient limited by the Percentage Cap or as the multiplicand to be multiplied by the Percentage Cap), the Commission should include both cleared *and* non-cleared transactions and, as among non-cleared transactions, include *all* types of Qualifying Non-U.S. Transactions, whether entered into by a non-U.S. direct participant, an affiliated counterparty of a direct participant, or a foreign branch of a U.S. direct participant. One version of SIFMA's request had excluded Qualifying Non-U.S. Transactions entered into by non-U.S. direct participants and foreign branches of U.S. direct participants from the denominator of their Firm-Specific Approach. As laid out in IIB's May 29, 2026 letter to the Commission, this exclusion would inappropriately disadvantage firms that do not have an inter-affiliate booking structure for their Treasury repo businesses.

2. *Whether it would be appropriate to provide any exemptive relief based only on a firm-specific approach, with no alternative market-wide ratio, as discussed below?*

The Commission should cap the volume of non-cleared Qualifying Non-U.S. Transactions based on the greater of the Firm-Specific Approach and the Market-Wide Ratio. The Firm-Specific Approach is likely to be followed by firms that have a larger overall Treasury repo business, and for which the portion of that business conducted outside the United States is relatively smaller than their U.S. domestic business. In contrast, for firms whose overall Treasury repo business is relatively smaller, or for which their non-U.S. business is a relatively larger portion of the firm's overall business, the Market-Wide Ratio is a more workable approach. In particular, for many internationally headquartered firms, the primary reason they participate in the Treasury securities market is to provide access for their local, non-U.S. client base. Those firms could not effectively service those clients if they had to limit the volume of business with those clients in accordance with the Firm-Specific Approach. Subjecting those firms to the Firm-Specific Approach would accordingly create incentives to exit participation at Treasury securities CCAs (so they would not be subject to the Trade Submission Requirement). It would also create incentive for non-U.S. clients to cease investing in Treasuries, due to the time zone, operational, and legal impediments to centrally clearing their repo transactions with the affected firms or the complications and costs associated if those clients needed to move their business to larger firms relying on the Firm-Specific

Approach (which, in any event, would lead to undesirable market concentration). Also, especially for smaller firms, the Market-Wide Ratio would be easier to administer because a firm would need only to compare its notional volume of non-cleared Qualifying Non-U.S. Transactions against a static notional amount (subject to periodic recalibration, as discussed below).

3. *Whether in the first approach described above the denominator for any exemptive relief should be modified in any other way, such as including transactions that are exempt and/or excluding interaffiliate transactions (and if so, why)?*

   The denominator should include both cleared *and* non-cleared transactions and, as among non-cleared transactions, include *all* types of Qualifying Non-U.S. Transactions, whether entered into by a non-U.S. direct participant, an affiliated counterparty of a direct participant, or a foreign branch of a U.S. direct participant. *See* Response 1 for more details.

4. *Whether in the second approach described above, the Percentage Cap should be multiplied by a different measurement of the firm's transactions, such as the daily average notional size of such firm's U.S. Treasury securities repo activity, cleared or uncleared, excluding transactions entered into between a direct participant of a U.S. Treasury securities CCA and an affiliated counterparty?*

   The multiplicand should include both cleared *and* non-cleared transactions and, as among non-cleared transactions, include *all* types of Qualifying Non-U.S. Transactions, whether entered into by a non-U.S. direct participant, an affiliated counterparty of a direct participant, a foreign branch of a U.S. direct participant or other exempt counterparties, such as central banks. *See* Response 1 for more details.

   Also, in the August 4 Letter, we recommended use of a daily average notional size measure because it would provide a more representative measure of a firm's non-cleared business, relative to a single point-in-time snapshot. We also recommended excluding interaffiliate transactions because the Percentage Cap would apply on a firmwide basis, such that including interaffiliate transactions within the corporate group would lead to double-counting.

5. *Whether a firm-specific approach in any exemptive relief should be calculated as a weighted rolling daily average over the Assessment Period. If so, how should the weighted rolling daily average be calculated? For example, should the weighted rolling daily average be calculated by applying a 20% weight to the first quarter, a 30% weight to the second quarter, and a 50% weight to the third (and most recent) quarter?*

   We recommend weighting each quarter within an Assessment Period equally so that any unexpected fluctuations in activity that are limited to one more recent quarter do not have an outsized impact on the Percentage Cap applicable to a firm. If certain quarters are weighted more heavily than others, such isolated fluctuations in activity and changes in Percentage Caps may require firms to implement changes in their Trade Submission

Requirement monitoring and compliance activities to address changes in transaction activity that are not expected to continue through future Assessment Periods.

6. *For purposes of a firm-specific approach for any exemptive relief, should the definition of an affiliated counterparty use the approach suggested by the SIFMA First Request? In other words, should affiliated counterparty in the firm-specific approach mean all affiliates that meet clauses (ii) and (iii) of the affiliated counterparty definition in Rule 17ad-22,*[19] *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 the Investment Company Act of 1940)?*

   We support SIFMA's proposal to expand the scope of affiliated counterparties eligible for the interaffiliate exception from the Trade Submission Requirement.

7. *Whether a Percentage Cap that starts at 20% for two years, then 15% for two years, and then 10% is a workable approach for any exemptive relief, to allow time for market participants to comply with a firm-specific approach. If not workable, what would be workable in terms of time periods or percentages?*

   We support this phased approach to the Percentage Cap, which would help firms to focus first on domestic implementation of the Trade Submission Requirement and allow them to make necessary adjustments to their business to comply with a cap on non-cleared business they conduct outside the United States. However, so that the initial phase in period does not materially disrupt existing market activity, we think the initial cap should be set at 25% rather than 20%.

8. *Whether a Market-Wide Ratio is necessary as an alternative to a firm-specific approach and whether it would be used and by what type of firm.*

   See Response 2.

9. *How to determine the Market-Wide Ratio, including what specific data sources should be used to determine market-wide U.S. Treasury repo activity, and whether dividing such an amount by the number of firms having one or more subsidiaries that participate as direct participants at U.S. Treasury securities CCAs is an appropriate method for determining the Market-Wide Ratio.*

   We recommend that the Commission have flexibility to determine which data sources it considers to be accurate and reliable for this purpose, as data collection practices for the repo markets might evolve over time. For the time being, we observe that, when the Commission conducted its economic analysis for adoption of the Trade Submission Requirement, it looked to data published by the Federal Reserve Bank of New York and Office of Financial Research.

   Dividing market-wide Treasury repo activity by the number of firms having one or more subsidiaries that participate as direct participants at Treasury securities CCAs is an appropriate method for determining the Market-Wide Ratio because it establishes a fair, *pro rata* allocation of the Percentage Cap market-wide among the firms subject to the

Trade Submission Requirement, without weighting the allocation based on a firm's size or business mix like the Firm-Specific Approach would entail.

10. *If there is no such specific data source that could be used to determine the Market-Wide Ratio as described, what alternative approach could be used to determine a Market-Wide Ratio?*

    See Response 9.

11. *If the Market-Wide Ratio should be determined using the same Percentage Cap as the firm-wide approach described in Part II.B above.*

    To promote competitive parity, the same Percentage Cap should apply to both the Firm-Specific Approach and the Market-Wide Ratio. Using a different Percentage Cap for one or the other could lead to distortions. In particular, permitting reliance on the Firm-Specific Approach already gives larger firms a relative advantage over smaller firms by permitting larger firms to engage in more non-cleared transactions relative to their *pro rata* share of the overall market. Assigning a higher Percentage Cap to the Firm-Specific Approach would exacerbate this disparity. Given that larger firms will pose greater overall risk to Treasury securities CCAs, it would not be consistent with the objectives of the Trade Submission Requirement to create incentives for non-cleared volume to concentrate at larger firms.

12. *How often to calibrate such a Market-Wide Ratio.*

    We think that annual recalibration would appropriately balance the goal of keeping up with changes to the size of the Treasury market against the costs to market participants and the Commission of making adjustments.

13. *Whether the Commission should establish a fixed dollar amount using some other method, and if so, how should it be calculated.*

    We recommend the Commission establish a fixed dollar amount using the Market-Wide Ratio as reflected in the August 4 Letter.

14. *Given that many firms may not be SEC registrants, whether firms should be required to report exceedances to a U.S. Treasury securities CCA and/or CCAs, in the event that a firm is a member of more than one U.S. Treasury securities CCA?*

    We understand that Treasury securities CCAs may wish to collect information regarding eligibility for the Qualifying Non-U.S. Transaction exemption, including compliance with the Percentage Cap, as part of supervising for compliance with their rules implementing the Trade Submission Requirement. In contrast, we think that the Commission is in a better position, relative to Treasury securities CCAs, to address any requests for a waiver of the Percentage Cap. The Commission has better visibility into the market as a whole, can better weigh the benefits and risks of the waiver to the overall market, and can address multiple Treasury securities CCAs at the same time so that firms do not need to seek a waiver from each CCA in which they participate. The August 4 Letter provides more details about our recommendations for this waiver process.

15. *In the event a firm exceeds the cap, what should the consequence be? Should a firm be able to exceed the cap so long as the exceedance stays below a certain amount (e.g., 20%) or does not extend beyond a certain number of Assessment Periods? Should there be a cure period, and if so, what should be the length of that cure period? Should a firm be prohibited from relying on any exemption for some length of time after exceedances of a certain volume or duration?*

    As laid out in the August 4 Letter, we recommend that a firm be permitted to exceed the Percentage Cap by up to 20% for a single Assessment Period without triggering an adverse consequence. This safe harbor would create a buffer to accommodate transitory, often unexpected spikes in activity, followed by a cure period in the following Assessment Period, similar to the approach taken by the Commission when it implemented major security-based swap participant registration thresholds.[4] Also similar to those thresholds, we recommend that a firm that exceeds the Percentage Cap by more than 20% in a single Assessment Period or that exceeds the Percentage Cap by any amount over two consecutive Assessment Periods be prohibited from relying on the exemption for the following four consecutive Assessment Periods. This consequence would provide firms a sufficient incentive to manage their activity to fall below the Percentage Cap, and no other penalties would be necessary to ensure firms manage their activity in a manner compliant with the Trade Submission Requirement. Therefore, we do not think exceeding the Percentage Cap should cause a firm to violate the Trade Submission Requirement.

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We appreciate the Commission's consideration of this submission and remain available to discuss any questions or provide additional information as needed. Please do not hesitate to contact Stephanie Webster (swebster@iib.org) with any questions you may have.

Respectfully submitted,

Stephanie Webster

Stephanie Webster
General Counsel
Institute of International Bankers

cc: Commissioner Mark T. Uyeda

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[4] *See* 17 C.F.R. 240.3a67-8.