

MEMO# 34816

January 19, 2023

Office of Financial Research Proposes to Collect Data on Non-Centrally Cleared Bilateral Repo Transactions

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TO: Fixed-Income Advisory Committee

Money Market Funds Advisory Committee RE: Office of Financial Research Proposes to Collect Data on Non-Centrally Cleared Bilateral Repo Transactions

On January 5, the US Treasury Department's Office of Financial Research (OFR) proposed a rule to establish a data collection program covering non-centrally cleared bilateral transactions in the US repurchase agreement ("repo") market (the "Proposed Rule").^[1] The Proposed Rule would require daily reporting to OFR by certain brokers, dealers, and other financial companies with large exposures to the non-centrally cleared bilateral repo market.^[2] While some aggregate data are available from various regulatory filings, OFR notes that there is no transaction-level collection covering this segment of the repo market.^[3] If adopted, OFR expects to be able to observe over 90% of the total non-centrally cleared bilateral repo market by volume, through information from approximately 40 reporters.^[4]

According to OFR, the Proposed Rule is designed to fill a "critical gap in regulators' information on the repo market," in particular data on non-centrally cleared bilateral repo transactions.^[5] OFR describes several anticipated uses for the data, such as helping the FSOC and its member agencies to identify potential repo market vulnerabilities,^[6] enriching the calculation of the Secured Overnight Financing Rate (SOFR),^[7] and sponsoring and conducting additional research.^[8] OFR specifies that it does not intend to make the data available to the public, but may, after consulting with FSOC member agencies, share certain data, e.g., in aggregate or summary form, with financial industry participants and to the general public, provided that appropriate information safeguards are in place.^[9]

Comments are due on the Proposed Rule to OFR by Monday, March 10. At this time, ICI does not plan on submitting a comment letter. However, if you have questions or feedback regarding the Proposed Rule, please contact Nhan Nguyen at nhan.nguyen@ici.org.

Scope of Entities Subject to Reporting Requirement

The Proposed Rule would require the submission of transaction information by any financial company that is a party to a non-centrally cleared bilateral repo whose average daily outstanding commitments to borrow and extend guarantees in non-centrally cleared bilateral repo transactions with counterparties over all business days during the prior calendar quarter is at least \$10 billion. This threshold is inclusive of both overnight and intraday commitments.[\[10\]](#) Further, the Proposed Rule would require this reporting from two categories of financial companies:

Category 1: securities brokers, securities dealers, government securities brokers, or government securities dealers, all as defined by and registered pursuant to the Securities Exchange Act of 1934; and

Category 2: any other financial company that is not a securities broker, securities dealer, government securities broker, or government securities dealer, with over \$1 billion in assets or assets under management whose average daily outstanding commitments to borrow and extend guarantees in non-centrally cleared bilateral repo transactions, including commitments of all funds for which the company serves as an investment adviser, with any entity that is not in Category 1 over all business days during the prior calendar quarter is at least \$10 billion.

A financial company in Category 2 has assets under management exceeding \$1 billion if it meets any one of the following criteria:

(i) if an investment adviser registered pursuant to the Investment Advisers Act of 1940 provides continuous and regular supervisory or management services to securities portfolios valued at \$1 billion or more in assets under that law; or

(ii) if the firm is not an "investment adviser," but it files a required disclosure of its balance sheet with a primary financial regulatory agency, and has more than \$1 billion in assets under that disclosure; or

(iii) if the firm does not file a required disclosure of its balance sheet with a primary financial regulatory agency but it does file a required disclosure with any other federal financial regulator or state regulator, and has more than \$1 billion in assets under that disclosure; or

(iv) if the firm does not file a required disclosure of its balance sheet with any state regulator or primary financial regulatory agency but states its assets to outside investors or creditors in audited financial statements, and has more than \$1 billion in assets under that disclosure; or

(v) if the firm has not done any of the above but has disclosed assets in filings with the Internal Revenue Service and has more than \$1 billion in assets under that disclosure.

Under the Proposed Rule, the brokers, dealers, and financial companies meeting the reporting thresholds (each, a "Covered Reporter") would be required to start submitting data beginning on the first business day of the third full calendar quarter after the calendar quarter in which the firm meets the relevant materiality threshold.[\[11\]](#) Additionally, a Covered Reporter whose volume falls below the \$10 billion threshold for at least four consecutive calendar quarters would have its reporting obligations cease.[\[12\]](#)

Scope of Data Subject to Reporting Requirement

Covered Reporters would be required to report data on all "non-centrally cleared bilateral repurchase agreement transactions," which OFR defines as a transaction in which one party agrees to sell securities to a second party in exchange for the receipt of cash, and the simultaneous agreement of the former party to later reacquire the same securities (or any subsequently substituted securities) from that same second party in exchange for the payment of cash; or an agreement of a party to acquire securities from a second party in exchange for the payment of cash, and the simultaneous agreement of the former party to later transfer back the same securities (or any subsequently substituted securities) to the latter party in exchange for the receipt of cash.[\[13\]](#) Transactions settled internationally or denominated in currencies other than in US dollars would be included in the scope of reportable transactions. However, transactions cleared with a central counterparty or transactions that involve a tri-party custodian would not be subject to reporting.

The transaction data to be reported includes information that OFR believes "largely reflects the data generated by Covered Reporters in the ordinary course of business."[\[14\]](#) This information includes, among other details, a relevant counterparty's legal entity identifier ("LEI"); unique transaction identifier ("UTI"); collateral information;[\[15\]](#) date and tenor information;[\[16\]](#) trade direction, trade size, and rate;[\[17\]](#) risk management information;[\[18\]](#) and trade venue.[\[19\]](#)

Submission Process and Implementation

OFR is currently reviewing options for the submission process and implementation of the Proposed Rule and, if adopted, may require submission through OFR or a collection agent. The Proposed Rule would require submissions no later than 11:00 am on the business day following the transaction and the process would allow for the secure, automated transmission of files.

Compliance Date

If the Proposed Rule is adopted as proposed, the final rule would go into effect 60 days after its publication in the Federal Register. Covered Reporters would have 90 days after the final rule's effective date to comply with the reporting requirements.

Nhan Nguyen
Assistant General Counsel, Securities Regulation

Notes

[\[1\]](#) Collection of Non-Centrally Cleared Bilateral Transactions in the U.S. Repurchase Agreement Market, 88 Fed. Reg. 1154 (Jan. 9, 2023) (the "Proposing Release").

[\[2\]](#) OFR estimates that the non-centrally cleared bilateral repo market represents 60% of total repo lending by primary dealers and 37% of total repo borrowing.

[\[3\]](#) For the US non-centrally cleared tri-party repo market, the Bank of New York Mellon serves as the tri-party custodian and transaction-level data is collected under the supervisory authority of the Federal Reserve Board of Governors. For the centrally cleared tri-party repo market and bilateral repo market, the Fixed Income Clearing Corporation serves as the central counterparty. For all centrally cleared segments, data is collected

through OFR's existing cleared repo collection, which has given financial regulators greater visibility into this segment of repo activity.

[4] Proposing Release at 1160.

[5] The US repo market can be divided into four segments based on whether the transactions are cleared by a central counterparty and whether a tri-party custodian is used to settle transactions. The four segments of the repo market span different combinations of centrally cleared and non-centrally cleared, tri-party and bilateral. For three of these segments, data are currently collected by regulators. For the fourth segment—non-centrally cleared bilateral repo market—there is no central counterparty or tri-party custodian. All trades within this segment are agreed to bilaterally and are settled on a delivery-vs-payment basis and, unlike other segments of the repo market, less information is known to financial regulators about non-centrally cleared bilateral repo transactions.

[6] OFR states that it may share the data with the FSOC and FSOC member agencies in part to help support their regulatory responsibilities.

[7] OFR notes that SOFR is a benchmark wholesale funding rate recommended by the Alternative Reference Rates Committee and is computed based on cleared repo transactions on Treasury collateral.

[8] OFR states that it may share the data with the US Commerce Department's Bureau of Economic Analysis.

[9] OFR specifically states that any such sharing may occur so long as intellectual property rights are not violated, business confidential information is properly protected, and the sharing of such information poses no significant threats to the US financial system.

[10] For example, for a given day, a covered reporter may have two outstanding commitments to borrow beginning on the same day with an overnight maturity:

- First, the reporter has outstanding commitments to borrow \$100 million from customer A in exchange for \$100 million of securities.
- Second, the reporter has commitments to lend customer B \$100 million in exchange for \$100 million of securities.

In this example, the reporter's total gross outstanding commitments for these two trades is \$200 million and total outstanding commitments to borrow cash is \$100 million. Proposing Release at 1162.

[11] Proposing Release at 1163. For example, if such financial companies were to surpass the threshold beginning with the quarter ending on March 31 of a given year, those companies would become subject to the reporting requirements on the first business day of the calendar quarter that begins after two intervening calendar quarters (i.e., October 1).

[12] For example, if a financial company ceases to meet the \$10 billion threshold beginning with the quarter ending June 30 of a given year and remains below the \$10 billion threshold in each of the following three quarters (in this example, March 31 of the following year), its reporting obligations would cease as of April 1.

[13] The definition includes, but is not limited to, transactions that are executed under a Master Repurchase Agreement or Global Master Repurchase Agreement. Additionally,

transactions conducted under a Securities Lending Agreement or a Master Securities Lending Agreement are not considered repurchase agreements, nor are repurchase agreements arising from either participation in a commercial mortgage loan or the initial securitization of a residential mortgage loan.

[\[14\]](#) Proposing Release at 1165. For a detailed list of data elements to be reported, see Proposing Release at 1170.

[\[15\]](#) Covered Reporters would be required to submit certain information regarding the collateral underlying a repurchase agreement, such as the security's identity, quantity, and value (with the values reported in the currency of issuance of the underlying security). OFR states that obtaining information on the underlying securities would allow it to assess the extent to which specific securities are tied to the repo market. OFR further states that additional details on valuation and quantities delivered would provide it with information on margining practices.

[\[16\]](#) Covered Reporters would be required to submit information on the start and end dates of transactions; the date and time that each transaction was agreed to; and whether a trade has optionality. The start date would be defined as the date on which a settlement obligation related to the exchange of cash and securities for a transaction first exists. The end date would refer to the date on which the cash lenders to the transaction are obliged to return the cash and securities. For trades with optionality, the end date would represent the date at which the trade would terminate if no option were exercised and would be left blank for open trades which have no pre-specified end date. The trade timestamp would be the date and time on which a transaction was agreed to, which OFR states would be critical for differentiating same-day-start trades from forward-settling trades and understanding how a transaction is priced, as well as for determining whether intra-day liquidity is scarce in the market. For trades with optionality, OFR is also seeking to collect information on the minimum maturity of the trade, or first date in which either party has the option to terminate a trade, such as the call date for a callable trade or the next day for a daily open trade.

[\[17\]](#) Covered Reporters would be required to indicate whether they are cash borrowers or cash lenders and if the trade is guaranteed by the Covered Reporter. Additionally, the Covered Reporter would submit information relating to the amounts of cash lent and borrowed by the cash lender and cash borrower, respectively. Information would also be required on the amount of cash exchanged by the cash borrowers and cash lenders at the initiation and close of the trade. Where trades do not have a defined close date, the Proposed Rule would require that the amount that would be due at the first opportunity that either counterparty has the option to end the trade be reported as the close leg amount. In addition, the current cash amount field tracks the current amount of cash in the trade after any adjustments to principal and the accrual of interest, which allows researchers to assess the balance outstanding on open trades for which the start leg may no longer be relevant. The Proposed Rule would also require information on the agreed-upon rate for the trade, which is the interest rate at which the cash provider agrees to lend to the securities provider. Additional information would be required for floating rate trades, such as the underlying benchmark interest rate used for the trade, the spread used above the benchmark rate, and the reset frequency on the benchmark.

[\[18\]](#) Covered Reporters would be required to submit information on their netting practices, including indicating whether the Covered Reporter, when acting as either cash lender or cash borrower, offsets (nets) repo exposures with the same counterparty across asset

classes and instrument types not restricted to the non-centrally cleared bilateral repo market. When netting occurs within the non-centrally cleared bilateral repo market, Covered Reporters would indicate the repo terms on which netting occurs. Such repo terms may include repo maturity, collateral security, counterparty, and optionality. Regarding these netting practices, the field would indicate whether netting occurs across asset classes and instruments outside of the non-centrally cleared bilateral repo market, or at a transaction level within this market and when so, on what repo terms.

[\[19\]](#) Covered Reporters would be required to disclose the name of the electronic trading platform for trades placed through such platforms. OFR states that reporting the name of the electronic trading platform would allow it to capture information on material service providers in the repo market and to assess the extent to which electronic platforms have been adopted.

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