

FINANCIAL INFORMATION FORUM

August 22, 2024

By email

Office of Financial Research
U.S. Department of the Treasury
717 14th Street, NW
Washington, DC 20220

Attn: Michael Passante, Chief Counsel
Sriram Rajan, Associate Director of Financial Markets
Laura Miller Craig, Senior Advisor
Corey Garriott, Director of Research

Re: U.S. Department of the Treasury, Office of Financial Research, Ongoing Data Collection of Non-Centrally Cleared Bilateral Transactions in the U.S. Repurchase Agreement Market, 12 CFR Part 1610

Dear Mr. Passante, Mr. Rajan, Ms. Miller and Mr. Garriott,

Financial Information Forum (“FIF”) is submitting this letter on behalf of the members of FIF in response to the rule (the “NCCBR reporting rule”) recently adopted by the Office of Financial Research of the U.S. Department of the Treasury (the “OFR”) to require firms that meet specified activity thresholds (“covered reporters”) to report to the OFR specified data relating to non-centrally cleared bilateral repurchase agreement transactions (“repos”).¹ FIF is submitting this letter as a supplement to the letters that FIF submitted to the OFR on June 20 and July 17, 2024.²

This letter presents additional questions identified by FIF members.

¹ 12 CFR §1610.11 (Non-centrally Cleared Bilateral Repurchase Agreement Data).

² Letter from FIF to the OFR dated June 20, 2024, available at <https://fif.com/index.php/working-groups/category/271-comment-letters?download=2953:fif-letter-to-the-treasury-department-s-office-of-financial-research-relating-to-the-implementation-of-reporting-of-non-centrally-cleared-bilateral-repos&view=category> (“June 20 FIF Letter”). Letter from FIF to the OFR dated July 17, 2024, available at <https://fif.com/index.php/working-groups/category/271-comment-letters?download=2967:fif-supplemental-letter-to-the-treasury-department-s-office-of-financial-research-relating-to-the-implementation-of-reporting-of-non-centrally-cleared-bilateral-repos&view=category>.

1. Implementation dates

In the prior FIF letters, FIF members expressed concerns about the implementation dates for reporting. These concerns have been heightened based on FIF members continuing to identify additional issues and questions relating to this new reporting requirement, including issues and questions set forth in this letter. These questions relate to the process for a firm to determine whether it is a covered reporter and the data to be reported by a covered reporter. FIF members also are concerned that the OFR has not responded to the issues and questions set forth in the prior FIF letters, and that the OFR has not responded to individual firms that have requested reporting guidance. The OFR's delay in responding is understandable given the complexity of some of the issues and questions raised by FIF members, but firms are impeded in moving forward on implementation when fundamental questions relating to reporting remain outstanding. Accordingly, FIF members continue to believe that an extension of the current implementation dates is necessary and appropriate. FIF members recommend that any implementation date should be a specified period from the date that the OFR provides written guidance in response to requests for guidance from industry members.

2. Reporting the rate for forward-start floating rate repos

FIF members request guidance on how a covered reporter should report the Rate field for a forward-start repo that has a floating rate where the covered reporter is reporting prior to the forward-start date. FIF members assume that a covered reporter, when initially reporting this repo, should report the Rate field based on the agreed spread and the benchmark rate as of the date that the repo is agreed even though this rate might never apply (for example, the floating rate could be reset as of the start date of the repo).

3. Tri-party repos

The definition of "non-centrally cleared bilateral repurchase agreement" excludes agreements that involve a tri-party custodian.³ However, the rule does not further define "tri-party custodian" so that it appears that a repo trade using any third-party legal entity as a custodian (affiliated or un-affiliated with one or both counterparties to the trade - an example would be Euroclear) qualifies as an agreement that involves a tri-party custodian and, as a result, is not covered as a reportable (or countable) repo trade under the rule. This reading is in line with operational expectations, as collateral information for a trade with a third-party custodian may not be (sufficiently timely) available to a repo counterparty with a daily reporting obligation under the rule.

4. Outstanding commitments

Calculating the outstanding commitment for a single repo

The NCCBR reporting rule provides that the reporting requirement applies to,

³ 12 CFR §1610.11(a).

A securities broker, securities dealer, government securities broker, or government securities dealer whose average daily outstanding commitments to borrow cash and extend guarantees in non-centrally cleared bilateral repurchase agreement transactions with counterparties over all business days during the prior calendar quarter is at least \$10 billion⁴

FIF members request clarification on how the outstanding commitment should be calculated for a repo for a particular day. Should a firm calculate the outstanding commitment based on the cash obligation of the borrower as of the current date? Alternatively, should a firm calculate the outstanding commitment based on the expected cash obligation of the borrower as of the minimum maturity date? If the latter, how should a firm calculate this amount for a floating rate repo?

Calculating the average outstanding commitments for a calendar quarter

FIF members request confirmation that a firm should apply the following steps to determine whether it exceeds the Category 1 reporting threshold for a particular calendar quarter:

- Determine the outstanding commitments for each business day (see discussion of business day below) during the quarter
- Sum these daily amounts
- Divide this sum by the number of business days in the quarter.

5. Definition of business day

The NCCBR reporting rule defines “Business day” as “... the period beginning at 6 p.m. Eastern Time on any day that the Fedwire Funds Service is open to 6 p.m. Eastern Time on the next day that the Fedwire Funds Service is open.”⁵ The rule further provides that “Covered reporters shall submit the required data for each business day by 11 a.m. Eastern Time on the following business day.”⁶

The Federal Reserve Board’s website provides the following information about the operating hours for the Fedwire Funds Service:

Online transfers: 9:00 p.m. on the preceding calendar day to 6:30 p.m. Eastern Time (ET)

- Opening of Fedwire Funds Service 9:00 p.m. ET on the preceding calendar day
- Cut-off (Foreign Payment Orders) 5:00 p.m. ET
- Cut-off (Other than Settlement Payment Orders) 6:00 p.m. ET
- Cut-off (Settlement Payment Orders) 6:30 p.m. ET

Offline transfers: 9:00 a.m. to 6:00 p.m. ET

⁴ 12 CFR §1610.11(b)(2)(i).

⁵ 12 CFR §1610.11(a).

⁶ 12 CFR §1610.11(d).

- Begin accepting instructions 9:00 a.m. ET
- Cut-off (Foreign Payment Orders) 4:30 p.m. ET
- Cut-off (Other than Settlement Payment Orders) 5:30 p.m. ET
- Cut-off (Settlement Payment Orders) 6:00 p.m. ET⁷

Applying the definition of business day in the NCCBR reporting rule, the period from Thursday 6 p.m. ET to Friday 6 p.m. ET would be a business day. Since the Fedwire is open on Sunday, this would appear to require that a firm submit a report by 11 a.m. ET on Sunday. FIF members do not believe that this is the intent of the OFR and request that the OFR provide written confirmation that a Covered Reporter would be required to report positions for the period from Thursday 6 p.m. ET to Friday 6 p.m. on or before 11 a.m. ET on Monday.

Similarly, based on the definition of business day, the period from Friday 6 p.m. to Sunday 6 p.m. could be considered a business day. FIF members do not believe that this is the intent of the OFR and request that the OFR provide written confirmation on this point.

More generally, FIF members request that the OFR provide written clarification that a business day is any day other than a Saturday, Sunday or national holiday. FIF members recommend that the OFR specify the Standard Federal Reserve Bank Holidays schedule as the schedule that firms should reference for the list of national holidays. This schedule is available at <https://www.frbservices.org/about/holiday-schedules>.

6. Modifications and terminations on the same business day

FIF members request confirmation that if a transaction is modified multiple times during a business day, a Covered Reporter would report based on the position after the final modification. FIF members further request confirmation that if a termination occurs on the same business day subsequent to such modifications, a Covered Reporter would still report based on the position after the final modification (and prior to the termination). FIF members further request confirmation that the same principles would apply for a firm in calculating whether it meets the applicable threshold for reporting.

7. Reporting errors corrected on a subsequent business day

The Reporting Instructions provide the following guidance for correcting a reporting error on a subsequent business day:

OFR staff review data submitted on the OFR SFT-2 report. As a result of their review and analytical procedures, OFR staff may ask reporters to explain data conditions and if the previously submitted report contains errors, to submit a full amended report containing corrected information on all transactions related to that file observation date. Since these data are time sensitive, reporters should respond as quickly as possible to these

⁷ Available at <https://app.frbservices.org/resources/financial-services/wires/operating-hours.html>.

requests. The full amended report must be submitted via the Data Collection Utility or any successor system identified by the OFR. When corrections to previous reports are necessary, the filer should identify the prior file observation date and contact the OFR to inform staff that a full amended report for that file observation will be submitted.

For these purposes, the phrase “full amended report” refers to the entire day’s report. Do not send only the corrected lines.⁸

As noted in the letter that FIF submitted to the OFR on June 20, FIF members are very concerned about having to resubmit a full file for a prior business day if corrections are only required for a subset of records for that business day. FIF members are concerned that this could result in the corrected records impacting other records in the file, thereby generating a large number of errors from what could initially have been a small number of errors. FIF members would like to discuss with OFR representatives potential alternative approaches, including the approach proposed in the June 20 FIF letter (see Item 9 from that letter).⁹

8. Security identifier field

The Reporting Instructions provide the following description for the Securities Identifier field:

Report the identifier of the securities transferred between the cash borrower and the cash lender in the transaction. If the securities do not have a centrally assigned identifier, then report “NO IDENTIFIER”. The character limit for this field is 12.

FIF members note that the String “NO IDENTIFIER” is 13 characters, which means that reporting “NO IDENTIFIER” would result in a rejection of the record. One potential approach to address this issue would be for a covered reporter to report this String without a space between the two words. FIF members intend to adopt this approach for reporting, absent guidance to the contrary from the OFR.

FIF members further note that the rule identifies this field as the “Security identifier” field while the Reporting Instructions sometimes refer to this field as the “Securities Identifier” field and sometimes refer to this field as the “Security Identifier” field.

9. Minimum Maturity Date for an open repo that settles the following morning

The Reporting Instructions provide the following guidance for reporting the Minimum Maturity Date field: “For open transactions, report the [minimum] maturity date assuming one or both counterparties

⁸ Office of Financial Research, Reporting Instructions for Preparation of the Report of Non-centrally Cleared Bilateral Transactions in the U.S. Repurchase Agreement Market, available at <https://www.financialresearch.gov/data/collections/files/nccbr-reporting-instructions.pdf> (“Reporting Instructions”), at 6.

⁹ June 20 FIF Letter, at 11.

decide to terminate (i.e., decide to stop rolling over) the transaction on the file observation date.”¹⁰ FIF members request further clarification on this instruction.

It is a common scenario for a repo (including an open repo) to settle the morning following the date that the repo is agreed. Assume that an open repo is agreed on Tuesday August 6 and the Start Date for the open repo is August 7 (i.e., the repo will settle on the morning of August 7). In this scenario, FIF members would consider Wednesday August 8 to be the Minimum Maturity Date, but the Reporting Instructions could be interpreted to require that a firm report August 6 as the Minimum Maturity Date because a firm could terminate the repo on August 6. It appears that reporting August 6 as the Minimum Maturity Date for this scenario would result in a validation error (Validation 23 in the Technical Guidance)¹¹ because the Minimum Maturity Date (August 6) would be prior to the Start Date (August 7). To avoid this problem, FIF members request that the OFR provide confirmation that a covered reporter should report August 8 as the Minimum Maturity Date in this scenario (in other words, the OFR should provide guidance that the Minimum Maturity Date should always be on or after the Start Date).

More generally, FIF members note that reporting the Minimum Maturity Date for an open repo creates unnecessary confusion, and it should be sufficient for a covered reporter to report a repo with an “open repo” flag without having to also report a Minimum Maturity Date.

10. Validation of End Date against Minimum Maturity Date for an open repo

The Minimum Maturity Date field requires the reporting of a date while the Start Date and End Date fields require the reporting of a date and time. In this section, we consider a scenario where an open repo is agreed on Wednesday August 7 and also settles on August 7. In this scenario, FIF members would consider the Start Date to be August 7 and would consider the Minimum Maturity Date and the End Date to be August 8.

The Reporting Instructions provide the following instructions for reporting the End Date for open repos: “For ‘evergreen’ or ‘open’ repos, report the date provided for Minimum Maturity Date and report it as YYYYMMDDT00:00:00.000Z.”¹² This would mean that the covered reporter would report 20240808T00:00.000Z as the End Date. The Technical Guidance includes a validation that the “Minimum Maturity Date is equal to or less than the End Date.”¹³ If the OFR were to perform this validation by comparing only the date portion of the End Date and not converting the End Date time from UTC to ET, no validation error would occur. But if the OFR were to convert the End Date from UTC to ET, the End Date would be August 7 at 20:00 and the Minimum Maturity Date would be August 8. This would cause

¹⁰ Reporting Instructions, at 10.

¹¹ Office of Financial Research, Technical Guidance for Transmission of the Report of Non-centrally Cleared Bilateral Transactions in the U.S. Repurchase Agreement Market (May 6, 2024), available at <https://www.financialresearch.gov/data/collections/files/nccbr-technical-guidance.pdf> (“Technical Guidance”), at 7.

¹² Reporting Instructions, at 9.

¹³ Technical Guidance, at 6.

a validation error. Accordingly, FIF members request confirmation that the OFR, in performing this validation, will not convert the End Date time from UTC to ET.

11. Additional implementation challenges

FIF members have identified additional implementation challenges, as discussed in this section. These implementation challenges further support the need for an extension of the current compliance dates.

Guarantees

Firms have identified as an implementation challenge the fact that, in many cases, guarantees are not recorded in the systems that record repo transactions. In many cases, these guarantees are recorded elsewhere (for example, in legal documentation records), and firms are now required to link their repo transaction records to these other records. This is a significant implementation challenge for a number of firms.

Government Securities Brokers and Government Securities Dealers

In determining whether it meets the transaction volume threshold to be a Category 2 Covered Reporter, a firm is required to exclude transactions with government securities dealers and government securities brokers.¹⁴ FIF members are not aware of any publicly-available list of government securities dealers and government securities brokers. A number of FIF members are currently implementing changes to internal processes and systems to seek to identify whether their counterparties are government securities dealers or government securities brokers. This is a significant implementation challenge for a number of firms.

Trade timestamp

The NCCBR reporting rule requires the reporting of a trade timestamp for each repo. A number of FIF members have trading systems that do not allow for the manual input of a transaction timestamp. Instead, these systems generate a timestamp based on the time of entry of the transaction into the system. These firms are required to update their systems to enable the input and reporting of a transaction timestamp. This is a significant implementation challenge for a number of firms.

12. Maximum file size

The Technical Guidance indicates that the OFR will reject a file that is 25 MB or larger.¹⁵ It appears that a covered reporter can only submit one data file and one checksum file for a File Observation Date.¹⁶ FIF members request guidance on what a covered reporter should do if it has a file size for a File Observation Date that is 25 MB or larger.

¹⁴ 12 CFR 1610.11(b)(2)(ii).

¹⁵ Technical Guidance, at 6.

¹⁶ Id. at 2.

13. Compliance Date for a firm that qualifies as a covered reporter after the effective date

Sections (e)(3) and (e)(4) of the rule provide as follows:

(3) Any financial company not described in subparagraph (e)(1) or (2) of this section that meets the criteria set forth in paragraph (b)(2)(i) of this section after the effective date of this section shall comply with the reporting requirements pursuant to this section **150 days after the last day of the calendar quarter in which such financial company becomes a covered reporter** [emphasis added].

(4) Any financial company not described in subparagraph (e)(1) or (2) of this section that meets the criteria set forth in paragraph (b)(2)(ii) of this section after the effective date of this section shall comply with the reporting requirements pursuant to this section **270 days after the last day of the calendar quarter in which such financial company becomes a covered reporter** [emphasis added].¹⁷

The Reporting Instructions provide as follows:

Changes in Reporting Status – Any financial company that meets the Category 1 criteria after the effective date of the Final Rule “Ongoing Data Collection of Non-centrally Cleared Bilateral Transactions in the U.S. Repurchase Agreement Market” shall comply with the reporting requirements on **the first business day of the fourth full calendar quarter following the calendar quarter in which such financial company becomes a Covered Reporter** [emphasis added].

Any financial company that meets the Category 2 criteria after the effective date of the Final Rule shall comply with the reporting requirements pursuant to this section on **the first business day of the fifth full calendar quarter following the calendar quarter in which such financial company becomes a Covered Reporter** [emphasis added].¹⁸

FIF members request that the OFR update the Reporting Instructions to conform to the rule.

14. Draft FAQs

Given the complexity of repo workflows, FIF members recommend that the OFR provide industry members with draft FAQs for review. FIF members would commit to review any draft FAQs on a timely basis. FIF members believe that such a process would help to ensure that the final FAQs provide industry members with a clear understanding of the reporting requirements, and the end result would be reporting that is more consistent across industry members.

FIF members also would be available to participate on a call with OFR representatives to discuss any of the comments or questions set forth in this letter and the prior FIF letters.

¹⁷ 12 CFR §§1610.11(e)(3) and (e)(4).

¹⁸ Reporting Instructions, at 4.

15. Onboarding

Are there required dates for onboarding for (i) testing and (ii) production? Is there a single required onboarding date that applies for both testing and production?

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FIF and our members appreciate the OFR's attention to the items set forth in this letter. Please contact me at howard.meyerson@fif.com if you have any questions or would like further clarification as to any of the items above.

Very truly yours,

/s/ Howard Meyerson

Howard Meyerson
Managing Director, Financial Information Forum