Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Office of Financial Research

12 CFR Part 1610

RIN 1505–AC58

Ongoing Data Collection of Centrally Cleared Transactions in the U.S. Repurchase Agreement Market

AGENCY: Office of Financial Research, Treasury.

ACTION: Proposed rule.

SUMMARY: The U.S. Department of the Treasury's Office of Financial Research (the ''Office'') is requesting comment on a proposed rule establishing a data collection covering centrally cleared transactions in the U.S. repurchase agreement market. This proposed collection will require daily reporting to the Office by covered central counterparties. The Office expects that the Board of Governors of the Federal Reserve System will act as the Office's collection agent, with required data to be submitted directly to the Federal Reserve Bank of New York. The collected data will be used to support the Financial Stability Oversight Council and as inputs to reference rates.

DATES: Comments must be received by September 10, 2018.

ADDRESSES: You may submit comments, identified by [RIN 1505–AC58], by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Matthew Reed, Chief Counsel, or Patrick Bittner, Senior Counsel, Office of the Chief Counsel, Office of Financial Research, 717 14th Street NW, Washington, DC 20220.

Instructions: All submissions received must include the agency name and RIN 1505–AC58 for this rulemaking. Because paper mail in the Washington, DC, area may be subject to delay, it is recommended that comments be submitted electronically. In general, all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Patrick Bittner, Senior Counsel, (202) 927–0035, *patrick.bittner@ofr.treasury.gov;* Matthew McCormick, Research Economist, (202) 927–8215, *matthew.mccormick@ofr.treasury.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

The Office of Financial Research (''Office'') is requesting comment on a proposed rule establishing a data collection covering centrally cleared transactions in the U.S. repurchase agreement market (''proposed collection''). This proposed collection will require reporting by certain U.S. central counterparties (''CCPs'') for repurchase agreement (''repo'') transactions. This proposed collection will serve two primary purposes: (1) Enhance the ability of the Financial Stability Oversight Council (''Council'') and the Office to identify and monitor risks to financial stability; and (2) support the calculation of certain reference rates. Under the Dodd-Frank Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act''), the Office is authorized to issue rules and regulations in order to collect and standardize data to support the Council in fulfilling its duties and purposes, such as identifying risks to U.S. financial stability. The Council recommended a permanent collection of repo data in its 2016 annual report to Congress and, as required by law, the Office consulted with the Council on the schedule of collection in September 2016.[1] The Council maintained this recommendation in its 2017 annual report. This proposed collection will require reporting on centrally cleared repo transactions, which comprise approximately one-quarter of all repo market transactions, marking an important step toward fully addressing the Council recommendation.

The expanded monitoring of the repo market made possible by this proposed collection appropriately helps fulfill the Council's duties and purposes because of this market's crucial role in providing short-term funding and performing other functions for U.S. markets, making it important for financial stability monitoring. The data will also support the calculation of the Secured Overnight Funding Rate (''SOFR''), which was selected by the Alternative Reference Rates Committee (''ARRC'') as its preferred alternative rate to U.S. dollar London Interbank Offered Rate (''LIBOR''), as well as the Broad General Collateral Rate (''BGCR''), helping fulfill

[1] *See* Minutes of the Financial Stability Oversight Council (September 22, 2016), *https://www.treasury.gov/initiatives/fsoc/council-meetings/Documents/September222016_minutes.pdf* and 12 U.S.C. § 5344(b)(1)(B)(iii).

another Council recommendation on the creation of alternative reference rates.[2]

II. Repurchase Agreement Market Background

A repo transaction is the sale of assets, combined with an agreement to repurchase the assets on a specified future date at a prearranged price. Repos are commonly used as a form of secured borrowing. The assets underlying the repo are used as collateral to protect the cash provider against the risk that the securities provider fails to repurchase the assets underlying the repurchase agreement. Market participants use repos for many reasons, such as using cash as collateral to borrow securities and to finance securities holdings. Central banks also use repos as an important monetary policy tool.[3] The interest rate on repo borrowing is calculated from the difference between the sale price and the repurchase price of the assets underlying the repo.

To protect the cash provider against a decline in the value of the securities subject to repurchase, cash providers typically require over-collateralization from borrowers. In an uncleared bilateral repo, the value of the securities pledged as collateral is discounted, which is referred to as a haircut. In a centrally cleared repo, overcollateralization is accomplished via initial margin. If the market value of the collateral falls during the life of the repo, the cash provider or, if cleared, the clearing firm, has the right to call on its counterparty to deliver additional collateral, known as variation margin, so that the loan remains over-collateralized against future adverse price movements.

Repo transaction documentation specifies the terms, including the types of securities that are acceptable to the cash provider as collateral, and the associated haircuts or initial margin requirements. Repos can be entered into with a range of fixed maturities, though repos are often overnight transactions. For term repos, repo rates can be negotiated on either a fixed or on a floating basis. There are also open tenor repos that do not have a fixed maturity and are instead renewed by mutual agreement.

a. Importance of Repurchase Agreement Markets and Associated Vulnerabilities

A stable and well-functioning repo market is critical to U.S. financial markets and the U.S. economy, and thus U.S. financial stability. The repo market is the largest short-term wholesale funding market in the United States. In 2008–09, runs on repos contributed to the financial crisis and helped lead to official sector intervention.[4] The repo market is important to facilitating the flow of cash and securities through the financial system. There are four functions that repo transactions can serve for individual participants: Low-risk cash investment, monetization of assets, transformation of collateral, and facilitation of hedging.[5] Repos also benefit financial markets broadly by supporting secondary market efficiency and liquidity.[6] These functions are described in the following paragraphs to provide a framework for understanding activity in the repo market and the associated vulnerabilities, and the need for the information this proposed collection will provide. Understanding the benefits and vulnerabilities of the repo market as a whole is important both in demonstrating the need for this proposed collection and determining which data elements are appropriate for inclusion.

i. Low-Risk Option for Cash Investment; Deposit Substitute

One of the functions repos offer is an alternative to insured deposits that provides similar, though less, liquidity and security. Financial market participants desire low-risk, money-like claims in order to meet demand for access to cash. Money and money-like claims can take a number of forms, including deposits and money market mutual fund investments. Because deposit insurance is capped in the United States, institutions seek repos backed by high-quality assets to place excess cash over the deposit insurance limit. The securities provided in the trade protect the cash provider against counterparty credit risk, while use of overcollateralization provides protection against market risk.[7] In general, higher-quality collateral and larger haircuts reduce the risk to the cash provider.

Repo markets can become less effective in providing deposit substitutes in times of market stress.[8] In certain circumstances, although repo claims are secured, they may still lose favor as collateral values drop or counterparty risk increases. This risk was realized for Bear Stearns in 2008, when a run on Bear Stearns' funding spread to its repo borrowing against high-quality collateral.[9] This example demonstrates that even repos backed by high-quality collateral can become sensitive to counterparty risk, potentially resulting in a run on the institution's funding.

ii. Monetizing Liquid Assets

Just as repos offer cash providers a deposit substitute, they allow cash borrowers to obtain funding in a cost-efficient manner. The monetization of assets achieved via repos offers a source of liquidity to firms that hold securities in inventory. For this reason, repos play an important role in the government securities market, as dealers often use repos to fund their purchases of Treasury securities at auction.

The ability to monetize assets enables firms to engage in maturity transformation, in which a firm funds long-term assets using short-term liabilities. For example, a firm can borrow cash in the repo market with overnight maturity, using the cash

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[2] *See* Financial Stability Oversight Council, *2014 Annual Report,* p. 10; *2015 Annual Report,* p. 17; *2016 Annual Report,* pp. 14–15; and *2017 Annual Report,* pp. 12–13, *https://www.treasury.gov/initiatives/fsoc/studies-reports/Pages/2017-Annual-Report.aspx.*

[3] *See* Lorie K. Logan, Federal Reserve Bank of New York, ''Operational Perspectives on Monetary Policy Implementation: Panel Remarks on 'The Future of the Central Bank Balance Sheet' '' (2018), *https://www.newyorkfed.org/newsevents/speeches/2018/log180504.*

[4] *See* Gary Gorton and Andrew Metrick, ''Securitized Banking and the Run on Repo,'' *Journal of Financial Economics* (June 2012), pp, p. 425–451.

[5] *See* Bank for International Settlements, study group report, Repo Market Functioning (April 2017), *https://www.bis.org/publ/cgfs59.htm.*

[6] *See* Bank for International Settlements (April 2017).

[7] Repos are generally subject to an exemption from the automatic stay in bankruptcy, meaning that if a cash provider's counterparty were to default, the cash provider could liquidate the collateral, recovering its value. 11 U.S.C. 559. In 2017, the Board of Governors of the Federal Reserve System and Federal Deposit Insurance Corporation adopted a final rule requiring U.S. global systemically important banks (G–SIBs) and their subsidiaries to amend their repo contracts to temporarily stay the exercise of default rights caused by the bankruptcy of an affiliate. *See* 82 FR 42882 (September 12, 2017).

[8] For example, greater demand for high-quality assets makes them more difficult to procure, which can lead to failures to return the repo collateral. This phenomenon can become self-perpetuating, as when failures rise, market participants become less likely to lend securities to avoid the possibility that they may not get them back. This further reduces the supply of securities, exacerbating the situation. As a result, an initial shock to asset markets that reduces the supply of acceptable alternatives to cash providers can be amplified through repo market dynamics, further reducing firms' options for deposit substitutes due to rising transaction fails.

[9] The maturity of Bear Stearns' repo funding deteriorated over several months before the firm experienced a run that first occurred on its bilateral repos secured by lower-quality assets, and then spread to its repos backed by U.S. Treasury securities. A similar dynamic occurred at a major European bank during the crisis, where the institution's bilateral repos backed by government securities dried up and only repos that were centrally cleared remained available to the firm. *See* Bank for International Settlements, Liqudity Stress Testing: A Survey of Theory, Empirics and Current Industry and Supervisory Practices (October 2013), *https://www.bis.org/publ/bcbs_wp24.htm.*

received to fund its holdings of long-term assets, which it provides as collateral. While maturity transformation is an essential function of the financial system, the asset-liability maturity mismatch gives rise to rollover risk.

As a result of the maturity mismatch that can arise from the monetization of liquid assets, this function, while a benefit of repos, is also a potential source of fragility. When the repo market is impaired, the ability of securities providers to borrow against their portfolios can be reduced.[10] An example of this dynamic occurred in 2007, when haircuts on repos backed by private-label mortgage-backed securities (''MBS'') began to rise as a result of doubts about the value of the underlying collateral. As haircuts rose, leveraged firms were forced to sell difficult-to-value assets, often to buyers that were even less able to value the assets. Those buyers required steeper discounts as a result, creating strong fire sale dynamics that further undermined the value of private-label MBS.[11] These runs passed through from dealers to leveraged funds, increasing the likelihood that those funds would be forced to dispose of assets in a fire sale, further reinforcing the fire sale dynamics.[12]

iii. Transformation of Collateral

Another function of repos is to exchange securities currently held for other securities. This type of transaction allows firms to exchange one asset for another asset, effecting a form of collateral transformation. For example, a firm may want to temporarily exchange lower-quality equity collateral for higher-quality Treasury securities that can be posted as margin. This goal can be accomplished through a pair of repo transactions in which the firm lends the equities in one repo transaction and uses the cash proceeds to borrow Treasury securities in a second repo transaction, effectively transforming the quality of its assets.[13]

Because high-quality collateral can become scarce in times of stress, risks can increase for leveraged firms that rely on repos to obtain margin-eligible securities. Potential difficulties in obtaining high-quality collateral during large market movements that trigger margin increases illustrate how collateral transformation transactions can compound risks. For leveraged firms that engage in strategies in both cash and derivatives markets, the inability to obtain collateral to post margin could undermine their ability to maintain a hedged position, and could force a disorderly unwind. This use of repos can therefore create linkages that can enable the propagation of shocks through securities financing, derivatives, and securities markets.

iv. Facilitating Hedging

Repos can be used as a lower-cost way to hedge specific risks than individually buying and selling assets. For example, by allowing underwriters to borrow and short an issuer's outstanding securities, repo markets let underwriters hedge the risk associated with holding newly issued securities that they have underwritten but not yet placed. This decreases the risk to underwriters and may reduce the cost to issuers. The reduced capacity of the repo market to facilitate hedging during periods of market stress can therefore make it more difficult for firms to manage exposures and engage in financial intermediation.

v. Supporting Secondary Market Efficiency and Liquidity

This final function of repos refers to their potential benefits for financial markets as a whole. Repo markets support secondary market efficiency and liquidity in securities markets both by funding dealer inventories and by helping dealers to source securities. Both allow dealers to quote prices on a broader range of securities more readily, thereby increasing asset market liquidity. Additionally, the ability of market participants to use repos to obtain securities for short sales improves pricing efficiency.

Repos allow dealers to quote prices more readily, improving market liquidity in two ways. First, because the repo market helps dealers to more effectively monetize assets on their balance sheet,[14] dealers are able to maintain larger inventories at a lower cost, which may allow them to quote prices on (*i.e.,* offer to sell) a larger volume or wider array of securities. Second, by enabling dealers to borrow securities on a short-term basis, repo markets allow dealers to quote prices for securities they do not currently hold in inventory but know they can access—a virtual inventory. Without repos, a dealer would have to maintain larger inventories at increased capital costs to make markets, adding to costs for the dealer and, by extension, issuers and investors. Thus, repo markets are critical to dealer trading and supporting market efficiency and liquidity.

The secondary market efficiency and liquidity provided by repos depend on a funding market with relatively stable collateral values. Repos create a tight coupling between funding liquidity and market liquidity. This can create a situation where a negative shock to the value of assets in dealers' portfolios reduces their ability to fund those portfolios. That reduces market liquidity, which can further reduce dealers' ability to fund their portfolios. Market liquidity provided by repos reinforces and is reinforced by the funding liquidity available to traders. Shocks to either market liquidity or funding liquidity can negatively affect both, potentially leading to liquidity spirals.[15] In extreme scenarios, liquidity spirals can manifest as fire sales in which firms are forced to deleverage with no ready buyers. That may cause prices to plummet below assets' fundamental value, which, in turn, may force further deleveraging.

b. Structure of the U.S. Repurchase Agreement Market

In the United States, repos are often described as occurring in either the tri-party or bilateral market. However, a more precise way of describing the segments of the U.S. repo market is to distinguish between transactions that are settled on the books of tri-party custodian banks, and repos that are settled on a delivery-versus-payment (''DVP'') basis. There are two market segments that rely on tri-party custodian banks for settlement. First, there is a non-centrally cleared segment, traditionally referred to as ''tri-party repo.'' Second, there is a centrally cleared segment, consisting of the

[10] This can occur when some securities become information-sensitive. Because cash providers seek to avoid gathering costly information about the quality of individual securities, increases in uncertainty as to the value of securities cause them to increase asset class-level haircuts in an attempt to recover their information-insensitivity. This reduces the ability of securities providers to borrow in repo against their portfolios. *See* Gary Gorton and Guillermo Ordoñez, ''Collateral Crises,'' *American Economic Review,* Vol. 104, no. 2 (February 2014), *https://www.aeaweb.org/articles?id=10.1257/aer.104.2.343.*

[11] *See* Gary B. Gorton, ''Information, Liquidity, and the (Ongoing) Panic of 2007,'' NBER Working Paper no. 14649 (January 2009), *http://www.nber.org/papers/w14649.*

[12] *See* Rajkamal Iyer and Marco Macchiavelli, ''Primary Dealers' Behavior During the 2007–08 Crisis: Part II, Intermediation and Deleveraging,'' *FEDS Notes* (June 28, 2017), *https://www.federalreserve.gov/econres/notes/feds-notes/primary-dealers-behavior-during-the-2007-08-crisis-part-II-intermediation-and-deleveraging-20170628.htm.*

[13] This approach is of particular importance to firms that hold lower-quality assets and engage in trades in, for example, derivatives, where higher-quality assets are required for margining.

[14] *See* Section II.A.ii, Repurchase Agreement Background, Monetizing Liquid Assets.

[15] *See* Markus K. Brunnermeier and Lasse Heje Pedersen, ''Market Liquidity and Funding Liquidity,'' *The Review of Financial Studies,* Vol. 22, no. 6 (June 2009), *https://doi.org/10.1093/rfs/hhn098.*

General Collateral Financial Repurchase Agreement service (''GCF Repo''), that provides trade matching and netting services on general collateral repos. DVP transactions also occur in two segments: Centrally cleared DVP repos; and uncleared DVP repos, typically referred to as bilateral repos, which involve two parties contracting directly without a central counterparty.

In tri-party repo, settlement occurs through a bank that provides collateral valuation, margining, and management services. The settlement bank provides back-office support to both parties in the trade by settling the repo on its books and confirming the terms of the repo, such as eligible collateral and haircuts, are met.[16] Agreements in tri-party repo are between specified counterparties and are made on a general collateral basis. In general collateral transactions, cash providers accept classes of securities at set haircuts rather than specific securities.

In GCF Repo, qualified members of the Fixed Income Clearing Corporation (''FICC'') Government Securities Division can trade repos on a general collateral basis without revealing their identities to counterparties. FICC, a subsidiary of the Depository Trust & Clearing Corporation (''DTCC''), provides the GCF Repo service. GCF Repo-eligible collateral consists of government and agency securities eligible for settlement via Fedwire, the Federal Reserve's payment and settlement system.[17] FICC acts as a CCP for participating members. Interposing a common counterparty for all transactions allows broker-dealers to limit counterparty risk and provides netting benefits. Transacting in GCF Repo is efficient because participants do not have to assign collateral for each specific trade; instead, collateral held at a tri-party clearing bank is allocated to net positions at the end of the day. The elimination of trade-by-trade DVP delivery requirements reduces participants' operational costs. The GCF Repo service recently was expanded to include Centrally Cleared Institutional Triparty (''CCIT''), a channel through which institutional counterparties (other than investment companies registered under the Investment Company Act of 1940, as amended [18]) can participate as cash providers in GCF Repo on a specified counterparty basis. This new service may lead to a tighter coupling between the GCF Repo and tri-party repo market segments, because it enables tri-party lenders that previously could not participate in the GCF repo market to lend directly to a cash borrower in the GCF repo market.

Outside the tri-party custodian banks, FICC operates the DVP Service as an additional repo platform for qualified members of its Government Securities Division.[19] Through this platform, bilateral repo transactions are novated to FICC, which then acts as a central counterparty to the transactions.[20] This platform provides settlement netting for legs of repo transactions occurring after the initial date of the agreement. Participants execute bilateral repos with other FICC members and submit security-specific trades for matching, comparison, and settlement. While some of these trades are negotiated on a general collateral basis, their settlement occurs on a specific-security basis.

Finally, there are uncleared bilateral repos, in which counterparties negotiate repo transactions directly with one another. A firm engaging in uncleared bilateral repos must manage the collateral flow, processing, settlement, valuation, and margining itself.

Analysis of data on primary dealer positions suggests that dealers act as cash providers in $3.0 trillion of bilateral repos, including those conducted through the DVP Service.[21]

c. Data Available on U.S. Repurchase Agreement Activity

While some members of the Council have access to certain data about the repo market, the data are insufficient to draw a complete picture of U.S. repo market activity and the associated vulnerabilities. As the financial crisis demonstrated, high-quality information is one of the best tools for identifying the build-up of risk. While improvements have been made, a full picture of all segments of the U.S. repo market is still largely unavailable. This proposed collection will cover certain centrally cleared repo transactions, allowing the Office to gather data on a mandatory basis on what it estimates to be approximately one-quarter of the U.S. repo market.[22] While this proposed collection will not yet provide a full picture of the entire U.S. repo market, when taken together with information collected about other types of repos by other regulators, discussed below, this proposed collection will enable access to transactional data on approximately half of U.S. repo market activity.

i. Tri-Party Repurchase Agreements

The Board of Governors of the Federal Reserve System (''Federal Reserve Board''), through the Federal Reserve Bank of New York (''FRBNY''), supervises the two tri-party custodian banks and, on a mandatory basis pursuant to its supervisory authority, collects daily data on transactions in these markets.[23] The data include information on: The interest rate; the counterparties; the collateral pledged; the type of transaction; the transaction initiation date; the transaction effective date; the transaction maturity date; whether the transaction is open-ended; the value of the funds borrowed; whether the transaction includes an option; and, if the transaction includes an option (*e.g.,* the ability to extend or terminate early), the minimum notice period required to exercise it.[24] Additionally, the FRBNY makes some aggregated data on tri-party repo publicly available. As of April 2018, daily tri-party repo volumes totaled about $1.8 trillion.[25]

ii. Centrally Cleared General Collateral Repurchase Agreements

A centrally cleared general collateral repo is a transaction that is cleared by

[16] Additionally, the settlement bank acts as custodian for the securities held as collateral and allocates collateral to trades at the close of the business day. This ensures that the party receiving securities receives the correct asset class, value, and haircut, while confirming that any newly posted collateral substituted during the life of the transaction meets the cash provider's collateral requirements.

[17] *See* Paul Agueci, Leyla Alkan, Adam Copeland, Isaac Davis, Antoine Martin, Kate Pingitore, Caroline Prugar, and Tyisha Rivas, ''A Primer on the GCF Repo® Service,'' *Federal Reserve Bank of New York Staff Reports* no. 671 (2014), *https://www.newyorkfed.org/research/staff_reports/sr671.html.*

[18] 15 U.S.C. 80a–1 *et seq.*

[19] *See* David Bowman, Joshua Louria, Matthew McCormick, and Mary-Frances Styczynski, ''The Cleared Bilateral Repo Market and Proposed Repo Benchmark Rates,'' *FEDS Notes* (February 27, 2017), *https://doi.org/10.17016/2380-7172.1940.*

[20] Novation in this context refers to the process by which the clearinghouse becomes the counterparty to both of the participants to the transaction. Novation is the substitution or swap of two parties in a contractual agreement., according to Black's Law Dictionary (10th ed., 2014).

[21] *See* Viktoria Baklanova, Cecilia Caglio, Marco Cipriani, and Adam Copeland, ''The U.S. Bilateral Repo Market: Lessons from a New Survey,'' OFR Brief Series no. 16–01 (January 13, 2016), *https://www.financialresearch.gov/briefs/files/OFRbr-2016-01_US-Bilateral-Repo-Market-Lessons-from-Survey.pdf.*

[22] As measured by U.S. dollar volume.

[23] Bank of New York Mellon (''BNYM'') and JPMorgan Chase (''JPMC'') currently serve as the two clearing banks in the tri-party repo market. JPMC announced in July 2016 that it plans to exit government securities settlement for broker-dealers by the end of 2018. After 2018, BNYM may become the sole clearing bank in the tri-party repo market for Treasury securities. *See* Federal Reserve Board, Request for Information Relating to Production of Rates, 82 FR 41259, 41260 (August 30, 2017).

[24] *See* 82 FR 41259, 41260 (August 30, 2017).

[25] *See* Federal Reserve Bank of New York, ''Tri-Party-GCF Repo,'' undated online content, *https://www.newyorkfed.org/data-and-statistics/data-visualization/tri-party-repo#interactive/volume/collateral_value.*

a CCP where the settlement obligation is for an acceptable asset class as opposed to a specific security. Currently, only FICC offers this type of centrally cleared U.S. service, through its GCF Repo service. While the FRBNY has entered into a voluntary agreement with an affiliate of FICC, DTCC Solutions LLC (''DTCC Solutions''), to obtain limited daily data regarding GCF Repo transactions,[26] there is no mandatory collection of detailed transaction data from GCF Repo. The data set provided under the voluntary agreement includes: The interest rate of the transaction; information on the collateral that may be pledged in the transaction; the date the transaction is initiated; the date the transaction becomes effective; the date the transaction matures; the value of funds borrowed in the transaction; and an indicator differentiating between repos and reverse repos in relation to the CCP.[27] Notably, the data submission to the FRBNY does not include the identities of counterparties, although the FICC platform collects this information as a consequence of its trade processing. As of September 2017, daily GCF Repo volumes totaled about $400 billion on a gross basis.[28]

iii. Centrally Cleared Specific-Security Repurchase Agreements

A centrally cleared specific-security repo is a transaction that is cleared by a CCP where the settlement obligation is for a mutually agreed upon specific security, such as a security identified by a particular CUSIP or ISIN.[29] In the United States, currently only FICC offers this type of centrally cleared repo service through its DVP Service, through which bilateral repo transactions become centrally cleared. As is the case with existing centrally cleared general collateral repo, there is no mandatory regulatory collection of data on centrally cleared specific-security repo. Like GCF Repo, DTCC Solutions also provides limited daily data on transactions under FICC's DVP Service to the FRBNY under a voluntary agreement. The data include information only on repos backed by U.S. Treasury securities. For each trade, information is provided on the interest rate of the transaction; the specific collateral that is pledged in the transaction; the date the transaction is initiated; the value of funds borrowed in the transaction; and a field indicating whether the CCP is lending cash or securities.[30] As with the GCF Repo service, FICC's DVP Service data submission does not include counterparty information. FICC's DVP Service is estimated to clear about $400 billion in same-day-start overnight repos collateralized by Treasury securities alone.[31]

iv. Uncleared Bilateral Repurchase Agreements

Unlike the other three repo market segments, the wholly bilateral nature of uncleared repo means there is no central source for comprehensive data. To better understand the bilateral repo market, determine the value of a potential data collection, and gain insights into the design of such a collection, the Office and the Federal Reserve, with input from the Securities and Exchange Commission (''SEC''), conducted a pilot program collecting information on both centrally cleared and uncleared bilateral repo transactions. The pilot collection took place in 2015 and gathered data from a subset of U.S.-based broker dealers. The results and lessons learned were published in January 2016.[32] While the pilot did not survey all market participants, the paper summarizing the results of the pilot used data from the Federal Reserve's FR 2004 report, which collects information on market activity from primary dealers in U.S. government securities, to estimate that dealers provide on a daily basis about $3.0 trillion in cash in cleared and uncleared bilateral repo combined.[33] Significant lessons were learned about the uncleared bilateral repo market from the pilot. The Office is considering a separate rulemaking in the future to collect data on an ongoing basis about the uncleared bilateral segment of the U.S. repo market.

III. Alternative Reference Rate Background

LIBOR is a set of widely-used reference rates for different currencies and maturities that is intended to represent the cost of unsecured borrowing in the interbank market. The sustainability of U.S. dollar LIBOR is uncertain. In the wake of scandals arising from misconduct related to LIBOR submissions, banks have become increasingly reluctant to participate in the U.S. dollar LIBOR panel, and market participants generally have trended away from unsecured funding and toward secured funding transactions.[34] Only about one-quarter of current benchmark 3-month U.S. dollar LIBOR submissions are based on actual transactions because of the low volume of unsecured funding transactions.[35] With fewer transactions, panel members are less able to rely on arm's-length transactions as the basis for their submissions, which subjects participating firms to possible criticism or litigation risk. For these reasons, some U.S. dollar LIBOR participants have questioned their continued involvement. Recognizing the need to continue LIBOR publication while alternatives are identified and operationalized, the U.K. Financial Conduct Authority (''FCA'') released a consultation paper discussing its ability to compel banks to continue providing submissions to the LIBOR panel.[36] The paper concluded that the FCA's powers are time-limited and cannot guarantee the ongoing viability of LIBOR. Subsequently, the FCA secured a voluntary agreement with the LIBOR panel banks for their continued participation in LIBOR panels through 2021.[37]

For several years, the Council has recommended the identification of alternative reference rates.[38] Most recently, in its 2017 annual report, the Council encouraged the completion of work to develop a credible

[26] *See* 82 FR 41259, 41260 (August 30, 2017).

[27] *Id.*

[28] *See* Federal Reserve Bank of New York, ''Tri-Party-GCF Repo,'' undated online content, *https://www.newyorkfed.org/data-and-statistics/data-visualization/tri-party-repo#interactive/tripartygcf.*

[29] CUSIP is a nine-character alphanumeric code that identifies a North American financial security for the purposes of facilitating clearing and settlement of trades. The CUSIP system is owned by the American Bankers Association and is operated by S&P Global Market Intelligence. The International Securities Identification Number (ISIN) is a 12-character alphanumeric code that serves for uniform identification of a security through normalization of the assigned National Number. CUSIP serves as the National Securities Identification Number for products issued in the United States and Canada.

[30] *See* 82 FR 41259, 41261 (August 30, 2017).

[31] *See* Bowman, Louria, McCormick, and Styczynski (February 27, 2017).

[32] *See* Office, Bilateral Repo Data Collection Pilot Project, undated online content, *https://www.financialresearch.gov/data/repo-data-project/.* Nine bank holding companies voluntarily provided data on their outstanding bilateral repo and equivalent securities lending trades for three days.

[33] *See* Baklanova, Caglio, Cipriani, and Copeland (January 13, 2016).

[34] *See* Office's *2017 Financial Stability Report,* pp. 27–28.

[35] *See* ICE Benchmark Administration's ICE LIBOR Quarterly Volume Report, Q1 2018, *https://www.theice.com/publicdocs/ICE_Libor_Quarterly_Volume_Report_Q1_2018.pdf.*

[36] *See* Financial Conduct Authority, ''Powers in Relation to LIBOR Contributions'' (June 2017), pp. 15–16, *https://www.fca.org.uk/publication/consultation/cp17-15.pdf.*

[37] *See* Financial Conduct Authority, ''FCA Statement on LIBOR Panels'' (November 24, 2017), *https://www.fca.org.uk/news/statements/fca-statement-libor-panels.*

[38] *See* Financial Stability Oversight Council, recommendations in 2014, 2015, 2016, and 2017 annual reports, *https://www.treasury.gov/initiatives/fsoc/studies-reports/Pages/2017-Annual-Report.aspx.*

implementation plan to achieve a smooth transition to the new rate.[39]

Following a report by the Financial Stability Board, the U.S. effort to identify alternative interest rate benchmarks to U.S. dollar LIBOR was coordinated by the Federal Reserve and supported by the Council.[40] The Federal Reserve convened the ARRC in November 2014, with representation from many of the largest dealers.[41] This body, a voluntary, industry-led effort, worked to identify a preferred alternative reference rate and lay out a roadmap for a transition to that rate.

In December 2017, the Federal Reserve Board announced that the FRBNY, in cooperation with the Office, would begin producing three new reference rates based on repo transaction data during the second quarter of 2018.[42] These three rates are the tri-party general collateral rate, the BGCR, and the SOFR. Publication of these rates began on April 3, 2018.[43] The BGCR consists of overnight repos backed by Treasury securities that occur in tri-party repo and the GCF Repo service. The SOFR consists of overnight repos backed by Treasury securities that occur in the tri-party repo market, the GCF Repo service, and the DVP Service.[44] The ARRC selected the SOFR as its preferred alternative to U.S. dollar LIBOR.[45] The FRBNY is currently producing the SOFR and BGCR using the tri-party repo data it collects from BNYM through the Federal Reserve Board's supervisory authority and the data it obtains through the voluntary agreement with DTCC Solutions, discussed above. This proposed collection is expected to provide an ongoing and expanded source of data to support rates such as the SOFR and BGCR, helping to fulfill the Council's recommendation for the identification of alternative reference rates.

IV. Justification for Proposed Collection

a. Collection of Centrally Cleared Repurchase Agreement Data

i. Importance of Centrally Cleared Repurchase Agreement Data for Monitoring Financial Stability Risks

The collection of data on the centrally cleared segments of the repo market marks an important step in carrying out the Council's recommendation to expand and make permanent the collection of data on the U.S. repo market. The Council recommended a permanent collection of repo data in its 2016 annual report to improve transparency and risk monitoring which was reiterated in the 2017 annual report.[46] The Office believes that the proposed approach of collecting certain cleared repo data from CCPs, which already collect most or all of the requested data during trade processing, will result in lower aggregate costs to market participants than a collection from individual participants. FICC has indicated that on average, it matches, nets, settles, and risk-manages centrally cleared repo transactions valued at more than $1.7 trillion per day.[47] This proposed collection is expected to result initially in reporting only from two FICC services: The GCF Repo Service (a general collateral repo service), including CCIT; and the DVP Service (a specific-security repo service). This proposed collection, together with existing data collected on tri-party repos, will allow about half of the estimated activity in the U.S. repo market by volume to be analyzed and monitored.[48]

The collection of transactional data on centrally cleared repos is key to the Council's effective identification and monitoring of emerging threats to the stability of the U.S. financial system. The repo market plays a number of critical functions which have associated vulnerabilities that could give rise to conditions that impair the ability of repo markets to perform. These functions also create linkages between different financial markets and institutions, and therefore potential channels for the propagation of shocks. These vulnerabilities have developed in the past into threats to U.S. financial stability, most notably during the 2007–09 financial crisis.[49]

Despite the vulnerabilities, only one of the four segments of the U.S. repo market, the tri-party repo segment, is currently subject to a mandatory regulatory data collection. Data gaps and the absence of mandatory collections are a significant impediment to the Council's and its member agencies' ongoing ability to monitor developments in the repo market and potential emerging threats to financial stability. The lack of comprehensive data on repos creates material blind spots with regard to the most active short-term funding market in the U.S. financial system. This proposed collection is an important step in eliminating these blind spots.

From a financial stability perspective, it is important to monitor transactions in centrally cleared repo for three reasons. First, repos that are transacted through a CCP on a blind-brokered basis can act as a critical market for repo borrowers that are under stress. Even uncleared repos backed by high-quality collateral can become sensitive to counterparty risk, potentially resulting in a run on the institution's funding.[50] Shifts in activity from specific-counterparty repos to blind-brokered

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[39] *See* Financial Stability Oversight Council, *2017 Annual Report,* p. 13, *https://www.treasury.gov/initiatives/fsoc/studies-reports/Documents/FSOC_2017_Annual_Report.pdf.*

[40] *See* Financial Stability Board report, Reforming Major Interest Rate Benchmarks (July 22, 2014), *http://www.fsb.org/2014/07/r_140722/. See* Financial Stability Oversight Council, 2014, 2015, 2016, and 2017 annual reports, *https://www.treasury.gov/initiatives/fsoc/studies-reports/Documents/FSOC%202016%20Annual%20Report.pdf.*

[41] *See* Alternative Reference Rates Committee, minutes for December 2014 meeting, and list of initial ARRC representatives (December 12, 2014), *https://www.newyorkfed.org/medialibrary/microsites/arrc/files/2015/Dec-12-2014-ARRC-Minutes.pdf.* The committee's current membership is available at *https://www.newyorkfed.org/arrc/governance.html.*

[42] *See* Federal Reserve Board, Production of Rates Based on Data for Repurchase Agreements, 82 FR 58397 (December 12, 2017).

[43] *See* Federal Reserve Bank of New York, Statement Introducing the Treasury Repo Reference Rates (April 3, 2018), *https://www.newyorkfed.org/markets/opolicy/operating_policy_180403.*

[44] Production of this new rate, in addition to addressing a financial stability issue, may improve market liquidity, as benchmark regulation has been found to do. *See* Matteo Aquilina, Gbenga Ibikunle, Vito Mollica, and Tom Steffen, ''Benchmark Regulation and Market Quality,'' U.K. Financial Conduct Authority Occasional Paper no. 27 (July 3, 2017), *https://www.fca.org.uk/publication/occasional-papers/op17-27.pdf.*

[45] *See* Alternative Reference Rates Committee, The ARRC Selects a Broad Repo Rate as its Preferred Alternative Reference Rate, (June 22, 2017), *http://www.newyorkfed.org/medialibrary/microsites/arrc/files/2017/ARRC-press-release-Jun-22-2017.pdf.*

[46] *See* Financial Stability Oversight Council, *2017 Annual Report,* p. 14, *https://www.treasury.gov/initiatives/fsoc/studies-reports/Documents/FSOC_2017_Annual_Report.pdf* and *2016 Annual Report,* p. 14, *https://www.treasury.gov/initiatives/fsoc/studies-reports/Documents/FSOC%202016%20Annual%20Report.pdf.*

[47] *See* Depository Trust & Clearing Corporation, DVP Repo Transactions, undated online content, *https://www.dtcclearning.com/products-and-services/fixed-income-clearing/government-securities-division-gsd/dvp-service/dvp-repo-transactions.html.*

[48] *See* Baklanova, Caglio, Cipriani, and Copeland (January 13, 2016), using a method first outlined in Copeland, et al., ''Lifting the Veil on the U.S. Bilateral Repo Market.'' Liberty Street Economics: *http://libertystreeteconomics.newyorkfed.org/2014/07/lifting-the-veil-on-the-us-bilateral-repo-market.html.*

[49] During the financial crisis, the repo market first began to show stress in the summer of 2007, and runs on repos played a central role in the failures of Bear Stearns and Lehman Brothers. These threats can manifest quickly; the run on Bear Stearns took place over less than a week. *See* Financial Crisis Inquiry Commission, ''Conclusions of the Financial Crisis Inquiry Commission,'' (January 2011) pp. 286–290.

[50] *See* Adam Copeland, Antoine Martin, and Martin Walker, ''Repo Runs: Evidence from the Tri-Party Repo Market'' (2011), *Federal Reserve Bank of New York Staff Reports.*

transactions can therefore indicate market perceptions that a firm may be under stress.

Second, while counterparty risk is mitigated by the use of CCPs, adverse changes in the value of collateral can propagate shocks arising elsewhere in the financial system to CCP members by impacting their ability to borrow in centrally cleared repo.[51] Further, collateral held at tri-party custodian banks that is used in centrally cleared repos within the tri-party system is not available for delivery outside of the tri-party system, making information on the collateral used in this venue important for understanding broader market dynamics.

Third, while CCPs offer benefits in terms of settlement and risk management, they may also propagate shocks to their members. If a repo CCP were to fail, the repo intermediation capacity of the financial system would be limited during a period of market stress. Even if this risk were judged to be remote, in a circumstance where, as here, there may be only one CCP, disruption of such a critical service could have severe implications. For these reasons, and as noted by the Council in its 2017 annual report, further analysis of risks related to CCPs is appropriate.[52]

Questions:

1. Is a data collection on centrally cleared repo transactions as proposed appropriate? Does a centrally cleared repo collection support the Council's recommendations?

2. To what extent may collecting counterparty information improve financial stability monitoring?

ii. Importance of Centrally Cleared Repurchase Agreement Data to Alternative Reference Rates

This proposed collection is expected to support the calculation of the SOFR, the ARRC's preferred alternative reference rate. The SOFR relies on Treasury repo data from three of the four segments of the U.S. repo market. The Federal Reserve collects data for the tri-party portion through its supervisory authority over the clearing banks. While data on some GCF Repo and DVP Service transactions are available to the FRBNY through a voluntary agreement with DTCC Solutions, a permanent collection of these data will increase confidence that the alternative reference rate's inputs will continue to be available. This viability is important because the long-term success of any alternative reference rate relies on the confidence market participants place in it.

Another benefit of this proposed collection is the ability to require specific data fields from centrally cleared general collateral repo and centrally cleared specific-security repo services for use in reference rate calculation.[53] The Office has reviewed these data fields with the FRBNY and believes the information would help to improve and ensure the ongoing quality of the SOFR and BCGR. From an early stage, the Office has contributed to the development of alternative reference rates and has designed this proposed collection to maximize its compatibility with alternative reference rates. Some of the data fields in this proposed collection that are not currently received under the voluntary agreement between the FRBNY and DTCC Solutions would help ensure the continued quality of the rates. Most notably, the identity of transaction counterparties is important for rate calculation as it allows the calculation agent to identify and, as appropriate, exclude, transactions (*e.g.,* affiliate transactions) that may not be representative of market activity. Further, by making available data on trades that are outside the current scope of the voluntary data collection that supports the rates, this proposed collection would allow the Federal Reserve and the Office to better monitor the evolution of markets and ensure that the rates continue to target their intended underlying interests.

Finally, this proposed collection would help ensure the long-term viability of the SOFR and BGCR by including within its scope reporting from certain central counterparties that meet the $50 billion activity-based materiality threshold. This assures rate production will be able to include new comparable transactions in the calculation of the rate as U.S. repo markets evolve in the future. This is of particular importance given that trading in products tied to the new rate might eventually subsume most volume that is currently tied to U.S. dollar LIBOR. This proposed collection will help ensure a continued source of standardized data on centrally cleared repos regardless of potential changes in market structure.

Questions:

3. Would establishing a regulatory reporting requirement to collect data on centrally cleared repos help ensure the continued availability and quality of the ARRC's selected alternative reference rate?

b. Uses of the Data Collection

This proposed collection will be used by the Office to improve the Council's and member agencies' monitoring of the U.S. repo market and identifying and assessing potential financial stability risks. The additional daily transaction data this proposed collection will provide will facilitate identification of potential repo market vulnerabilities and will also help identify shifting repo market trends that could be destabilizing or indicate stresses elsewhere in the financial system. Such trends might be reflected in indicators of the volume and price of funding in the repo market at different tenors, differentiated by the type and credit quality of participants and the quality of underlying collateral. Further, analyzing the collateral data from this collection together with other data available to the Office, the Council, and member agencies will enable a clearer understanding of collateral flows in securities markets and potential financial stability risks.

The Office expects, consistent with the Dodd-Frank Act, to share data and information with the Council and member agencies, and such data and information must be maintained with at least the same level of security as used by the Office and may not be shared with any individual or entity without the permission of the Council.[54] Consistent with this authority, the Office expects to make available the data from this proposed collection to the Federal Reserve Board and the FRBNY for purposes of meeting the above alternative reference rate and monitoring objectives as well as other market analysis and research. The Office will also make data collected and maintained under this proposed collection available to the Council and member agencies, as necessary to support their regulatory responsibilities.[55] The sharing of any data from this proposed collection will be subject to the confidentiality and

[51] The linkages between funding and asset markets creates risk of spillovers from one market to another because of the shared use of collateral. Price impacts on collateral arising from the forced sale of collateral due to the lack of confidence in the collateral or a particular counterparty can have widespread effects beyond the original transactions, leading to contagion that can culminate in fire sales and potential threats to financial stability. The shared use of collateral between different segments of the repo market therefore creates a channel through which centrally cleared repo transactions can be impacted by activity in other portions of the repo market.

[52] *See* Financial Stability Oversight Council, *2017 Annual Report,* pp. 123–4, *https://www.treasury.gov/initiatives/fsoc/studies-reports/Documents/FSOC_2017_Annual_Report.pdf.*

[53] *See infra* Section V(b), information required, for a discussion of individual data fields.

[54] 12 U.S.C. 5343(b).

[55] 12 U.S.C. 5344(b)(5).

security requirements of applicable laws, including the Dodd-Frank Act.[56] Pursuant to the Dodd-Frank Act, the submission of any non-publicly available data to the Office under this proposed collection will not constitute a waiver of, or otherwise affect, any privilege arising under federal or state law to which the data or information is otherwise subject.[57]

Aggregate or summary data from this proposed collection might be provided to the public to increase market transparency and facilitate research on the financial system, to the extent that intellectual property rights are not violated, business confidential information is properly protected, and the sharing of such information poses no significant threats to the U.S. financial system. The potential sharing of aggregate or summary data collected under this proposed collection would help fulfill a recommendation of the Council to make appropriately aggregated securities financing data available to the public.[58]

The Office may also use the data to sponsor and conduct additional research.[59] This research may include the use of these data to help fulfill the duties and purposes under the Dodd-Frank Act relating to the responsibility of the Office's Research and Analysis Center to develop and maintain independent analytical capabilities to support the Council and relating to the programmatic functions of the Office's Data Center.[60] For example, access to data on centrally cleared repos will allow the Office to conduct research related to the Council's analysis of potential risks arising from securities financing activities.

c. Legal Authority

The ability of the Office to collect centrally cleared repo data in this proposed collection derives in part from the authority to promulgate regulations regarding the type and scope of financial transaction and position data from financial companies on a schedule determined by the Director in consultation with the Council.[61] The Office consulted with the Council on the proposed permanent collection of repo data at the Council's September 22, 2016, meeting.[62] The Office also provided a public update to the Council on November 16, 2017.[63]

The Office also has authority to promulgate regulations pursuant to the Office's general rulemaking authority under Dodd-Frank Act section 153, which authorizes the Office to issue rules, regulations, and orders to the extent necessary to carry out certain purposes and duties of the Office.[64] In particular, the purposes and duties of the Office include supporting the Council in fulfilling its duties and purposes, and supporting member agencies, by collecting data on behalf of the Council and providing such data to the Council and member agencies, and standardizing the types and formats of data reported and collected.[65] The Office must consult with the Chairperson of the Council prior to the promulgation of any rules under section 153 [66]—this consultation occurred prior to the publication of this proposed collection.

This proposed collection will support the Council and member agencies by addressing the Council's recommendation to expand and make permanent the collection of data on the U.S. repo market; helping the Council and member agencies identify, monitor, and respond to risks to financial stability; identifying gaps in regulation that could pose risks to U.S. financial stability; and assisting in the production of alternative reference rates.[67] The Office understands that the full scope of transaction information on the centrally cleared repo market required to fulfill the purposes of this proposed collection is not currently available to the Council or member agencies, including the primary financial regulatory agency for clearing agencies. The Council has recognized in its annual reports that weaknesses in LIBOR raised financial stability concerns and recommended the identification of alternative reference rates such as the secured, transactions-based rates this proposed collection will bolster. Thus, by supporting the production of alternative reference rates, this proposed collection will support the Council in fulfilling its duties and purposes.

The Office's statutory authority allows for the collection of transaction or position data from financial companies.[68] ''Financial company,'' for purposes of Office authority, has the same meaning as in Title II of the Dodd-Frank Act.[69] For this proposed collection, the Office expects that CCPs for repos, as defined in this proposed collection, will typically be ''financial companies'' as defined in Title II because they are incorporated or organized under federal or state law and are companies ''predominantly engaged'' in activities that the Federal Reserve Board has determined are financial in nature or incidental thereto for purposes of section 4(k) of the Bank Holding Company Act of 1956 [70] (or they are a subsidiary thereof).[71] For a company to be ''predominantly engaged'' in activities that are financial in nature or incidental thereto, either (1) at least 85 percent of the total consolidated revenues of the company for either of its two most recently completed fiscal years must be derived, directly or indirectly, from financial activities; or (2) based upon all the relevant facts and circumstances, the consolidated revenues of the company from financial activities must constitute 85 percent or more of the total consolidated revenues of the company.[72]

Dodd-Frank Act section 201(b) required the Federal Deposit Insurance Corporation (''FDIC'') to issue a rule establishing the criteria for determining whether a company is predominantly engaged in activities that are financial in nature or incidental thereto for purposes of Title II. The final rule adopted by the FDIC indicates that the determination of whether an activity is financial in nature is based upon Section 4(k) of the Bank Holding Company Act of 1956,

[56] *E.g.,* 12 U.S.C. 5343(b), 5344(b)(3).

[57] 12 U.S.C. 5343(b), 5322(d)(5).

[58] *See* Financial Stability Oversight Council, Council's *2017 Annual Report,* p. 16, *https://www.treasury.gov/initiatives/fsoc/studies-reports/Documents/FSOC%202016%20Annual%20Report.pdf.*

[59] 12 U.S.C. 5343(b)(2).

[60] 12 U.S.C. 5344(b) discusses the Office's Data Center, and 12 U.S.C. 5344(c) discusses the various uses of data by the Office's Research and Analysis Center to support the Council.

[61] 12 U.S.C. 5344(b)(1)(B)(iii).

[62] *See* Financial Stability Oversight Council, meeting minutes (September 22, 2016), *https://www.treasury.gov/initiatives/fsoc/council-meetings/Documents/September222016_minutes.pdf.*

[63] *See* Financial Stability Oversight Council, meeting minutes (November 16, 2017), *https://www.treasury.gov/initiatives/fsoc/council-meetings/Documents/November162017_minutes.pdf,* and Office, OFR Update on Bilateral Repo Collection (November 22, 2017), *https://www.financialresearch.gov/from-the-management-team/2017/11/22/ofr-update-on-bilateral-repo-collection/.*

[64] 12 U.S.C. 5343(a), (c)(1).

[65] 12 U.S.C. 5343(a). The Council's purposes and duties include identifying risks to U.S. financial stability; responding to emerging threats to the stability of the U.S. financial system; monitoring the financial services marketplace in order to identify potential threats to U.S. financial stability; making recommendations in such areas that will enhance the integrity, efficiency, competitiveness, and stability of the U.S. financial markets; and identifying gaps in regulation that could pose risks to the financial stability of the United States. 12 U.S.C. 5322(a).

[66] 12 U.S.C. 5343(c)(1).

[67] *See supra,* discussion in Section IV(a) about the importance of collecting repo data.

[68] 12 U.S.C. 5344(b)(1)(B)(iii).

[69] 12 U.S.C. 5341(2).

[70] 12 U.S.C. 1843(k).

[71] A ''financial company'' also includes a bank holding company or a nonbank financial company supervised by the Federal Reserve Board. 12 U.S.C. 5381(a)(11).

[72] 12 CFR 380.8(a).

and that since the Federal Reserve Board is the agency with primary responsibility for interpreting and applying Section 4(k), the FDIC coordinated its rulemaking pursuant to § 201(b) of the Dodd-Frank Act with the Federal Reserve Board's rulemaking defining the term ''predominantly engaged in financial activities'' for purposes of Title I of the Dodd-Frank Act.[73] Consistent with the Federal Reserve Board's final rule, the FDIC's final rule interpreting how to evaluate whether an entity is a ''financial company'' for purposes of Title II of the Dodd-Frank Act includes the activities of repo clearing including transferring money or securities; providing any device or other instrumentality for transferring money or other financial assets; providing financial data processing, storage and transmission services; arranging, effecting, or facilitating financial transactions for the account of third parties; and providing to customers as agent transactional services with respect to government obligations.[74] Given the necessary experience, expertise and market credibility, entities that clear repos will typically be predominantly engaged in these or related financial activities, and therefore will be financial companies and potentially covered reporters under this proposal. The one expected covered reporter appears to be predominately engaged in these financial activities, making it a financial company.[75]

V. Collection Design

This proposed collection will be the first recurring and mandatory data collection from the Office. The proposed regulatory text includes two sub-parts: the first sets out general requirements for data collection necessary for this proposal and any future Office proposed collections, and the second lists the requirements specifically relevant to this proposed collection. The first regulatory text sub-part cites the statutory authority of the Office to require the submission of information. The second regulatory text sub-part is designed to describe individual collections by the Office. This proposed collection will be the first section under this sub-part. The section includes three tables that describe the data elements that covered reporters will be required to submit. The Office expects to publish filing instructions regarding matters such as data submission mechanics and formatting in connection with any final rule on the Office's website.

a. Scope of Application

This proposed collection will require the submission of transaction information by any CCP whose average daily total open commitments in repo contracts across all services over all business days during the prior calendar quarter is at least $50 billion. ''Open commitments'' refers to the CCP's gross cash positions, prior to netting. For example, a CCP might clear two trades beginning on the same day with an overnight maturity; in the first trade, Firm A lends $100 million to Firm B in exchange for $100 million of securities, and in the second trade, Firm C lends Firm A $100 million in exchange for $100 million of securities. The total open commitments for the CCP for these two trades is $200 million. A CCP is defined in this proposed collection as ''a clearing agency that interposes itself between the counterparties to transactions, acting functionally as the buyer to every seller and the seller to every buyer.''[76] The Office proposes defining ''clearing agency'' the same way as in the Securities Exchange Act of 1934, as amended, which defines a clearing agency as ''any person who acts as an intermediary in making payments or deliveries or both in connection with transactions in securities or who provides facilities for comparison of data respecting the terms of settlement of securities transactions, to reduce the number of settlements of securities transactions, or for the allocation of securities settlement responsibilities.''[77] Only CCPs that are clearing agencies and that perform the central clearing function for repo transactions at or above the volume threshold are required to report as covered reporters under this proposed collection. The regulatory text also defines ''repurchase agreement.''[78] Requiring submission of transaction-level repo data from CCPs allows for a more efficient collection than a data submission from each clearing member.

As noted above, this proposed collection establishes a $50 billion volume threshold for determining whether a CCP is a covered reporter and is therefore required to report. The Office believes the proposed $50 billion activity-based threshold indicates sufficient volume for the CCP to be considered a material CCP in the repo market. One of the benefits of a CCP is the netting it provides to clearing members, which increases with the size of the CCP's services. As a result, CCPs in a given market tend to be few in number and large.

While the Office understands that there is only one reporter currently covered by this proposed collection's scope, any other CCP would be required to start submitting data under this rule beginning on the first business day of the third calendar quarter after the calendar quarter in which the CCP meets the $50 billion activity-based materiality threshold. For example, if a CCP were to surpass the threshold beginning with the quarter ending on March 31 of a given year, that CCP would become subject to the reporting requirements of the rule on the first business day of the calendar quarter that begins after two intervening calendar quarters—in this case, October 1.

A covered reporter whose volume falls below the $50 billion threshold for at least four consecutive calendar quarters will have its reporting obligations cease. For example, if a covered reporter ceases to meet the $50 billion threshold beginning with the quarter ending June 30 of a given year, and remains below the $50 billion threshold in each of the following three quarters (in this example, through the quarter ending March 31 of the following year), its reporting obligations would cease as of April 1.

This proposed collection will require CCPs that meet the aforementioned repo volume thresholds to report all repos they clear. Given the existing differences between how general collateral and specific-security trades are reported to repo clearing services, this proposed collection separates the reporting information required into distinct schedules for each type of centrally cleared repo service.

Questions:

4. The covered reporter definition seeks to include in the rule's scope only current or future material repo CCPs. The definition also seeks to exclude tri-party custodian banks already required to report on another portion of the repo

[73] For the final version of each rule, *see* Federal Reserve System, Definitions of ''Predominantly Engaged In Financial Activities'' and ''Significant'' Nonbank Financial Company and Bank Holding Company, Final Rule, 78 FR 20756 (March 29, 2013); and Federal Deposit Insurance Corporation, Definition of ''Predominantly Engaged in Activities That Are Financial in Nature or Incidental Thereto,'' Final Rule, 78 FR 34712 (June 4, 2013).

[74] 12 CFR 380.8(b).

[75] The Office has reviewed the disclosures of the expected covered reporter and its parent under this proposed collection and believes it is predominantly engaged in financial activities and is therefore a financial company.

[76] This definition of ''central counterparty'' is consistent with the definitions used by the Committee on Payment and Market Infrastructures and the International Organization of Securities Commissions (''CPMI–IOSCO''), *see Principles for Financial Market Infrastructures* (April 2012), p. 9, *https://www.bis.org/cpmi/publ/d101a.pdf,* and the Financial Stability Board, *see Guidance on Central Counterparty Resolution and Resolution Planning,* p. 22, *http://www.fsb.org/wp-content/uploads/P050717-1.pdf.*

[77] 15 U.S.C. 78c(a)(23).

[78] *See* Regulatory Text § 1610.10(a).

market from reporting under this proposal. Does the proposed covered reporter definition meet this objective and if not, what might the Office consider as an alternative?

5. Is the $50 billion activity-based volume threshold for identifying covered reporters clear and appropriate for ensuring the inclusion of only current or future material repo CCPs?

6. Is collecting centrally cleared repo transactions from CCPs more efficient than collecting these transactions from individual counterparties? How could the collection be made more efficient?

7. Are the definitions of general collateral trade and specific-security trade in the proposed regulatory text sufficiently clear to allow reporters to determine on which schedules they should be reporting?

b. Information Required

This proposed collection has three schedules: the first covers details on general collateral trades, the second covers details on the securities used to collateralize net positions in general collateral repo, and the third covers specific-security trades. Each schedule is tailored to capture specific information regarding covered transactions in a manner that the Office believes reflects the data exchanged with CCPs in the ordinary course of business. The required data elements in these schedules are listed in Tables 1, 2, and 3 of Section § 1610(c) of the proposed regulatory text. Each table lists each required element and a brief description of that element. Below is a description of the general categories of information covered by the collection and further detail on certain key data fields.

i. Legal Entity Identifier Usage

The Office's published brief on the interagency bilateral repo pilot collection noted difficulties in working with the data due to the absence of standardized counterparty information.[79] Authorities from around the world, including those in the United States, have established a global legal entity identifier (''LEI'') system, with oversight effected by a Regulatory Oversight Committee, composed of those same authorities, to coordinate and oversee a global system of legal entity identification. A Swiss nonprofit foundation, the Global LEI Foundation (''GLEIF''), was established to provide operational governance and management of local operating units that issue LEIs. The LEI is a 20-character identifier based on the ISO 17442 standard that identifies distinct legal entities that engage in financial transactions. An LEI allows for unambiguous identification of firms and affiliates.[80]

The Office proposes to require reporting of an LEI. The LEI reported must be properly maintained, meaning it must be kept current and up to date according to the standards implemented by the GLEIF. The Office believes that while requiring the LEI may result in some additional compliance costs, doing so is reasonable and appropriate due to the added clarity and substantial benefit for the monitoring it provides and rate production. Based on a review of the public membership lists of counterparties to the one expected covered reporter, the Office estimates that under the proposed collection, approximately 800 counterparties will need to acquire an LEI at a cost of approximately $100 per instance initially and approximately $50 on an annual basis thereafter, for a total aggregate cost of $80,000 to market participants the first year and $40,000 annually thereafter. Each legal entity transacting with a covered reporter will be required to obtain only one LEI regardless of the number of reported transactions. The Office recognizes that the LEI acquisition cost may be only a portion of the total compliance cost for repo counterparties, and that firms may incur additional costs stemming from the inclusion of the LEI in their trade reporting systems. In this regard, there are two viable options for including an LEI in the data fields. The first option is to amend the messaging system to include the LEI. The second option is to add LEIs of reporting entities and counterparties after the transactions take place but prior to submission of data to the Office. While this second option would require fewer parties to update their systems, it is possible that market participants may desire access to the LEIs of their counterparties for risk management purposes, thus making the first option preferable to member firms. Either option would be acceptable to the Office.

Identification of the entities involved in a covered repo transaction is important to enhance the ability of the Council and the Office to identify risks to U.S. financial stability by allowing it to understand repo market participants' exposures, concentrations, and network structures. This proposed collection requires the submission of the LEI of each covered reporter, direct clearing member, counterparty, and broker involved in a covered transaction.[81] The LEIs of these entities will facilitate evaluation of the covered transaction and whether a covered transaction was conducted on an arm's-length basis or between affiliates. Further, these LEIs will reduce the need for manual intervention in matching identical participants that supply different naming conventions depending on the sponsoring broker reporting, and eventually, when the LEI system fully produces this capacity, in helping to identify parent and affiliate relationships.

Mandatory adoption of the LEI will also benefit firms and regulators by improving the ability to combine repo information with other information necessary to monitor system or firm risk. This is particularly so given that more than 1 million firms have obtained an LEI and are therefore becoming capable of obtaining these benefits. The aggregate cost savings for the financial service industry upon broader adoption of the LEI have been estimated in the hundreds of millions of dollars.[82]

This proposed collection includes reporting fields for the LEIs of the direct clearing members that are parties to a covered transaction. This proposed collection also includes reporting fields for the LEIs of any cash or securities provider that is a counterparty to the transaction. For these fields, respondents should indicate the LEI of the indirect clearing member if one exists, and otherwise the LEI of the direct clearing member, that has provided cash or securities. When a registered broker is a counterparty to a transaction, it should be listed both as the broker and as a cash provider or securities provider.

Questions:

8. What, if any, challenges do participants in centrally cleared repo markets anticipate regarding obtaining and maintaining an LEI?

9. What, if any, challenges do potential respondents anticipate in reporting the LEIs of participants in centrally cleared repo markets?

[79] *See* Baklanova, Caglio, Cipriani, and Copeland (January 13, 2016).

[80] *See* Global Legal Entity Identifier Foundation, Introducing the Legal Entity Identifier, undated online content, *https://www.gleif.org/en/about-lei/introducing-the-legal-entity-identifier-lei/*.

[81] For purposes of the data reporting schedules, a broker is an entity that is an SEC-registered broker and is arranging a covered transaction for the accounts of other entities acting as cash providers or securities providers.

[82] *See* generally, McKinsey & Company and Global Legal Entity Identifier Foundation, ''The Legal Entity Identifier: The Value of the Unique Counterparty ID,'' (October 2017), pp. 4, 14, and 17, *https://www.gleif.org/en/about-lei/mckinsey-company-and-gleif-creating-business-value-with-the-lei/*.

10. Would respondents and repo market participants prefer to amend the messaging system to include LEIs, or to add LEIs of reporting entities and counterparties after the transactions take place but prior to submission of data to the Office?

ii. Transaction Information

Transaction-level data coupled with counterparty information permit an understanding of detailed exposures among firms and across asset markets. Transaction-level data are also necessary inputs to calculate the SOFR and BGCR. Transaction-level data will require a unique identifier for each transaction. This identifier must be assigned by the covered reporter and never re-used for another transaction over the life of this proposed collection. The transaction identifier must be persistent throughout the life cycle of the transaction, regardless of any subsequent amendments to the transaction, such as substitutions of collateral. Because CCPs currently must track the life cycle of each trade for settlement purposes, some type of unique identification scheme already exists. Any CCP required to report under this rule would be required to submit its own unique, persistent transaction identifier. As an alternative to a reporter-generated transaction identifier, the Office encourages, but is not requiring, respondents to coordinate with their counterparties to adopt and report using the Unique Transaction Identifier.[83]

In all cases where securities identifiers are used, the type of identifier must be reported, such as ISIN or CUSIP. General collateral trade submissions must contain information on the security asset class in order to identify the correct transactions for rate production. This field must consist of an identifier that corresponds to a set of agreed-upon securities. Collateral delivered against net exposures between firms and CCPs must also be identified using a specific security identifier. This provides information on how CCP exposures are collateralized, as well as the quantity of securities that have been delivered against net exposures. The general collateral trades also must indicate whether the securities were delivered to the CCP against a net security delivery obligation or received from the CCP as collateral against a net cash loan.

Reporting on specific-security repos will require a security identifier as well as information on the quantity of securities delivered against a position, and whether substitution of collateral is permitted. Knowing the quantity of securities delivered will help determine levels of over-collateralization in the market and the flow of securities as firms engage in security transformation and acquire specific securities for delivery or sale. Indicating whether substitution of collateral is allowed may indicate the motivation for a trade. In the case of transactions allowing collateral substitution, covered reporters are required to supply an identifier indicating the securities that are acceptable to the cash provider as substitutes under the repo for the initially pledged collateral.

Questions:

11. The Office is not proposing the reporting of a standardized transaction identifier at this point. Is this the appropriate decision and if so, at which point should such an identifier be required?

12. Should the UTI be required at this point in the event that another covered reporter comes into existence in order to harmonize transactions across clearing platforms?

iii. Date and Tenor Information

This proposed collection will require information on the start and end dates of transactions; the date that each transaction was agreed to; whether a trade has optionality; and, for repos that are open or have optionality, the first possible maturity of the transaction. Existing CCPs do not presently allow for optionality in repos or for open transactions, but if offered in the future, these features would be important to capture.

There are a number of proposed fields regarding date and tenor information. The agreement timestamp is the date and time on which a covered transaction was agreed to. This field is critical for differentiating same-day-start trades from forward-settling trades. The information is essential to understanding how a transaction is priced and determining whether the transaction should be included in an alternative reference rate. The start date is the date on which a settlement obligation related to the exchange of cash and securities for a covered transaction first exists. The match timestamp refers to the time and date on which the covered transaction is matched by the covered reporter. The end date refers to the date on which the cash providers and securities providers to the covered transaction are obliged to return the cash and securities.

For an open trade, no end date is to be specified, and the optionality field must indicate that the transaction has an open maturity. The minimum maturity field in this case must be used to indicate the next date that the interest rate is to be reset.

For repos with optionality, the end date for a transaction must continue to be specified as the date that the transaction would terminate if no option were exercised. The optionality field indicates how the maturity of a transaction can be changed after initial agreement. Minimum maturity in this case refers to the earliest possible date on which the parties could be obliged to return the cash and securities, taking optionality into account.

Observation days consist of all days on which a covered reporter accepts and processes covered transactions. For every observation day, covered reporters are required to submit a file of all outstanding transactions to the Office's collection agent by 6:00 a.m. Eastern time the following business day.

iv. Trade Size and Rate

The principal amount in the centrally cleared general collateral trades schedule is the amount of cash borrowed or lent. This schedule also requires 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. This rate must be expressed as the annualized rate based on an actual/360-day count.

The securities quantity field in the general collateral net exposure schedule for the general collateral repo collection and the specific-security trades schedule is defined as the principal amount or par value of the securities pledged in a repo transaction.

The specific-security trades schedule includes four fields on the exchange of cash in these repo transactions. Information is required on the amount of cash exchanged by the cash and securities providers at the initiation and close of the trade. This schedule also requires information on the rates reported by the cash and securities providers.

[83] The Unique Transaction Identifier (''UTI''), alternatively called Unique Swap Identifier (''USI''), is a globally unique identifier for individual transactions in financial markets. USIs were introduced in late 2012 in the United States, when reporting transactions to trade repositories became mandatory under the Dodd-Frank Act. The term USI is specific to U.S. regulation, while the UTI represents the output of a global effort among regulators to harmonize transaction reporting standards across jurisdictions. The method for creating and maintaining UTIs was designed to support existing USIs and provide a global regulatory approach. Large trading firms reporting under multiple regulatory regimes may use the terms interchangeably. *See* CPMI–IOSCO, Consultative Report on Harmonization of the Unique Transaction Identifier (August 2015), *http://www.iosco.org/library/pubdocs/pdf/IOSCOPD500.pdf.*

v. Price of Collateral/Security

The securities value field in the general collateral net exposure schedule requires the reporting of the market value of the securities pledged, inclusive of accrued interest. The market value of securities is, in combination with the identifier, important for understanding how CCP exposures are collateralized.

Questions:

13. Are the proposed reporting fields generally appropriate? Do any particular proposed reporting fields raise specific questions or concerns?

14. Are there any additional fields not currently being requested that the Office should consider including in order to better accomplish the Office's or Council's goals presented in this proposal?

15. The proposed regulatory text contains definitions the Office believes are necessary. Are these definitions clear?

c. Submission Process and Implementation

The Office intends to require submission through a collection agent. The Office believes this approach will decrease the costs of compliance for covered reporters and allow data reporting to commence sooner than would otherwise be possible. The Office expects that the Federal Reserve Board will act as the Office's collection agent, with required data to be submitted directly by covered reporters to the FRBNY. The FRBNY will transmit collected data to the Office.

Additionally, the Office expects the FRBNY will have access to the reported data for purposes of the daily SOFR and BGCR rate production. To produce this alternative reference rate calculation, data on covered transactions must be submitted by respondents to the FRBNY no later than 6:00 a.m. Eastern time on the business day following the transaction. The submission process will allow for the secure, automated transmission of files. The Office expects that the final rule will go into effect 60 days after its publication in the **Federal Register** and is proposing that covered reporters begin to comply with the final rule 60 days after its effective date. The Office believes this implementation period will provide adequate time for covered reporters to comply with the proposed requirements.

Questions:

16. Would respondents incur additional costs due to the requirement for unique transaction identification? If so, please provide estimates of those costs.

17. Does the proposed 60-day compliance period for a central counterparty that is a covered reporter on the effective date of the rule provide sufficient time to comply with the data reporting requirements?

18. Does the two quarter phase in period for a central counterparty that becomes a covered reporter after the effective date of the rule provide sufficient time to comply with the data reporting requirements?

19. Are there any additional costs associated with data reporting as contemplated by this proposed collection? If so, please provide estimates of those costs.

20. Would increasing the time period between the effective date of a final rule and the subsequent compliance date substantially reduce burdens for covered reporters or repo market participants, or improve the quality of the data reported under this proposed collection? Are there any aspects of the proposed collection that a phased-in reporting requirement would be particularly useful for?

21. What, if any, barriers to entry could the requirements of this proposed collection create for future CCPs for repo?

VI. Administrative Law Matters

a. Paperwork Reduction Act

The collection of information contained in this proposed collection has been submitted to the Office of Management and Budget (''OMB'') in accordance with the Paperwork Reduction Act of 1995 (''PRA'').[84] Comments on the collection of information should be sent to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury/Office of Financial Research, Office of Information and Regulatory Affairs, Washington, DC 20503 (or by email to *oirasubmission@omb.eop.gov*), with copies to the Office of Financial Research at 717 14th Street NW, Washington, DC 20220.

The proposed collection establishes the permanent collection of certain information on repo transactions and is a ''collection of information'' pursuant to the PRA. Any collection of information addressed to all or a substantial majority of an industry is presumed to involve 10 or more covered reporters.[85] While the Office estimates there is only one covered reporter, the Office has undertaken a PRA analysis to ensure that the proposed collection will continue to be PRA compliant in the event additional central counterparties become subject to the rule's reporting requirements. The Office is an independent regulatory agency under the PRA [86] and for purposes of OMB review. In accordance with the requirements of the PRA, the Office may not conduct or sponsor, and a covered reporter is not required to respond to, an information collection unless it displays a currently valid OMB control number.

The Office anticipates that this proposed collection will require submission by one covered reporter, which will be required to make a general collateral and specific-security submission daily in accordance with the tables in the proposed regulatory text. The Office anticipates an annual burden of 1,512 hours per covered reporter. This figure is arrived at by estimating the daily reporting time to be approximately 3 hours for each general collateral and specific-security submission, multiplied by 2 to reflect both types of submissions by the covered reporter, and multiplying that figure by an average of 252 business days in a year, the typical number of days per year that do not fall either on weekends or on holidays widely observed by the market.

To estimate hourly wages, the Office used data from the May 2016 Bureau of Labor Statistics Occupational Employment Statistics for credit intermediation and related activities (NAICS 522000). For hourly compensation, a figure of $75 per hour was used, which is an average of the 90th percentile wages in seven different categories of employment (compliance officers, accountants and auditors, lawyers, management occupations, financial analysts, software developers, and statisticians), plus an additional 32 percent to cover subsequent wage gains and non-wage benefits, which yields an estimate of $99 per hour.[87] Using these assumptions, the Office estimates the recurring operational costs for general collateral and specific-security submissions to be $74,844 annually, for a total estimated annual cost to the covered reporter of $149,688.

Office Estimates Summary:

Title: Ongoing Data Collection of Centrally Cleared Transactions in the U.S.

[84] 44 U.S.C. 3501 *et seq.*

[85] 5 CFR 1320.3(c)(4)(ii).

[86] 44 U.S.C. 3502(5).

[87] The estimate includes an assumed additional 2 percent for subsequent wage gains from 2016 to 2017, and 30 percent for non-wage employee benefits, according to the Bureau of Labor Statistics' June 2017 Employer Costs for Employee Compensation, *https://www.bls.gov/news.release/archives/ecec_09082017.htm.*

Repurchase Agreement Market

Office: Office of Financial Research.

Frequency of Response: Daily (12 CFR 1610.10(d)).

Affected Public: Businesses or other for-profit.

Scope of Covered Reporters: Any central counterparty, defined as a clearing agency that interposes itself between the counterparties to transactions, whose average daily total open commitments in repurchase agreement contracts across all services over the prior calendar quarter is at least $50 billion. (12 CFR 1610.10(a), (b)(2)).

Number of Covered Reporters: One covered reporter submitting information on two clearing services.

Estimated Time Per Covered Reporter Per Submission: 6 hours.

Number of Submissions:

Daily submission containing both general collateral transactions (12 CFR 1610.10(c)(3), (4)) and specific security trades (12 CFR 1610.10(c)(5)).

Anticipated Annual Submissions: 252.

Total Estimated Annual Burden: 1,512 hours.

In addition to recurring reporting costs, the Office anticipates the covered reporter will experience one-time initial start-up costs to account for data management systems and software, operations, and alignment of reporting schedules for ease of data transmission. The estimate of these initial costs is 2,500 hours for the two general collateral schedules, and 2,500 hours for the specific-security schedule, per covered reporter. Because the Office anticipates one covered reporter submitting both the general collateral schedules and the specific-security schedule, the estimated initial start-up cost of required reporting for both submissions is $495,000.

The Office invites comments on the following: (a) Whether the proposed collection of information is necessary for the proper performance of the Office, including whether the information would have practical utility; (b) the accuracy of the estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information required to be maintained; (d) ways to minimize the burden of the required collection of information, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to report the information.

b. Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act (the ''RFA'') to address concerns related to the effects of agency rules on small entities.[88] The Office is sensitive to the impact its rules may impose on small entities. The RFA requires agencies either to provide an initial regulatory flexibility analysis with a proposed rule for which general notice of proposed rulemaking is required, or to certify that the proposed rule will not have a significant economic impact on a substantial number of small entities.[89] In accordance with section 3(a) of the RFA, the Office is certifying that this proposed collection will not have a significant economic impact on a substantial number of small entities.

As discussed above, this proposed collection will only apply to CCPs for repos whose average daily total open commitments in repo contracts across all services over the prior calendar quarter is at least $50 billion. Currently, under this scope, this proposed collection would apply only to one entity, whose corporate parent's total consolidated assets were $39 billion as of March 31, 2018.[90] Reporting will be required of additional central counterparties beginning on the first business day of the third calendar quarter after the calendar quarter in which such central counterparties meet the $50 billion activity-based materiality threshold. If a covered reporter ceases to meet this threshold for at least four consecutive calendar quarters, its reporting obligations under this rule would cease.

Under regulations issued by the Small Business Administration, a ''small entity'' includes those firms within the ''Finance and Insurance'' sector with asset sizes that vary from $7.5 million in assets to $550 million or less in assets.[91] For purposes of the RFA, entities that are banks are considered small entities if their assets are less than or equal to $550 million. The size of the activity-based threshold in this proposed collection ensures that any respondent will be well beyond these small entity definitions.

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), it is hereby certified that this proposed collection will not have a significant economic impact on a substantial number of small entities.

c. Plain Language

The Office has sought to present this proposed collection in a simple and straightforward manner. The Office invites comments on how to make this proposal, the regulatory text, or the reporting schedules easier to understand. The Office specifically invites comments on the following questions:

22. Are the requirements in the proposal clearly stated? If not, how could the proposed rule be more clearly stated?

23. Does the proposed rule contain language or jargon that is not clear? If so, which language requires clarification?

24. Would a different format (e.g., groupings, ordering of sections, use of headings, paragraphing) make the proposed rule easier to understand? If so, what changes to the format would make the proposed rule easier to understand?

List of Subjects in 12 CFR Part 1610

Confidential business information, Economic statistics, Reference rates, Repurchase agreements, Clearing, Central counterparty, Data collection.

■ For the reasons stated in the preamble, the Office of Financial Research proposes to add 12 CFR Part 1610 as set forth below:

PART 1610—REGULATORY DATA COLLECTIONS

Subpart A—Collections Generally

Subpart B—Specific Collections

Authority: 12 U.S.C. 5343 and 5344

Subpart A—Collections Generally

§ 1610.1 General Authority.

The collections under this part are made pursuant to the authority contained in 12 U.S.C. 5343(a) and (c)(1) and 5344(b).

§ 1610.2 General Definitions.

Council means the Financial Stability Oversight Council.

Legal Entity Identifier or LEI for an entity shall mean the global legal entity identifier maintained for such entity by

[88] 5 U.S.C. 601 *et seq.*

[89] 5 U.S.C. 603(a).

[90] *See* DTCC, ''DTCC Condensed Consolidated Financial Statements as of March 31, 2018 and December 31, 2017 and for the three months ended March 31, 2018 and 2017,'' *http://www.dtcc.com/~/media/Files/Downloads/legal/financials/2018/DTCC-Condensed-Consolidated-Financial-Statements-Q1-2018.pdf.*

[91] 13 CFR 121.201.

a utility accredited by the Global LEI Foundation or by a utility endorsed by the Regulatory Oversight Committee that satisfies the standards implemented by the Global LEI Foundation. As used in this definition:

(1) Regulatory Oversight Committee means the Regulatory Oversight Committee (of the Global LEI System), whose charter was set forth by the Finance Ministers and Central Bank Governors of the Group of Twenty and the Financial Stability Board, or any successor thereof; and

(2) Global LEI Foundation means the not-for-profit organization organized under Swiss law by the Financial Stability Board in 2014, or any successor thereof.

Office means the U.S. Department of the Treasury's Office of Financial Research.

§ 1610.3 Treatment of Collected Information.

The Office will treat any financial transaction data or position data submitted to the Data Center under this part in accordance with the relevant provisions of law, including 12 U.S.C. 5343(b) and 5344(b).

§ 1610.4–9 [Reserved]

Subpart B—Specific Collections

§ 1610.10 Centrally-Cleared Repurchase Agreement Data.

(a) *Definitions.*

Central counterparty means a clearing agency that interposes itself between the counterparties to transactions, acting functionally as the buyer to every seller and the seller to every buyer.

Clearing agency has the same meaning as set forth in 15 U.S.C. 78c(a)(23).

Covered reporter means any central counterparty for repurchase agreement transactions that meets the criteria set forth in Paragraph (b)(2); provided, however, that any covered reporter shall cease to be a covered reporter only if it does not meet the dollar threshold specified in Paragraph (b)(2) for at least four consecutive calendar quarters.

General collateral trade means a repurchase agreement transaction in which the trade reported to the central counterparty is for a category of securities as opposed to a specific security.

Repurchase agreement transaction means an agreement of a counterparty to transfer securities to another counterparty in exchange for the receipt of cash, and the simultaneous agreement of the former counterparty to later reacquire the same securities (or any subsequently substituted securities) from that same counterparty in exchange for the payment of cash; or an agreement of a counterparty to acquire securities from another counterparty 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 counterparty in exchange for the receipt of cash.

Specific-security trade means a repurchase agreement transaction where the trade as reported to the central counterparty is for a mutually agreed upon specific security.

(b) *Purpose and Scope.* (1) *Purpose:* The purpose of this data collection is to require the reporting of certain information to the Office about repurchase agreement transactions cleared through a central counterparty. The information will be used by the Office to support the Council and member agencies by facilitating financial stability monitoring including research consistent with support of the Council and its member agencies and for the publication of alternative reference rates.

(2) *Scope of Application:* Reporting under this Section is required by any central counterparty for repurchase agreement transactions whose average daily total open commitments in repurchase agreement contracts (gross cash positions prior to netting) across all services over all business days during the prior calendar quarter is at least $50 billion.

(c) *Data Required.* (1) Covered reporters shall report trade and collateral information on all repurchase agreement transactions, subject to Paragraph (c)(2), in accordance with the prescribed reporting format in this section.

(2) Covered reporters shall only report trade and collateral information with respect to any repurchase agreement transaction for which there is a current or future delivery obligation as of the file observation date, including forward-starting transactions.

(3) Covered reporters shall submit the following data elements for all general collateral transactions:

TABLE 1—GENERAL COLLATERAL TRADES

Data element	Explanation
File Observation Date	The observation date of the file (typically one business day before the day the file is submitted).
Covered Reporter LEI	The Legal Entity Identifier of the covered reporter.
Transaction ID	Respondent-generated unique transaction identifier.
Submission Timestamp	Time that trade is first submitted to clearing service.
Match Timestamp	Time that trade is matched by clearing service.
Securities Asset Class Identifier	Asset class identifier.
Securities Asset Class Identifier Type	Type of securities identifier used.
Cash Provider LEI	The Legal Entity Identifier of the cash provider.
Cash Provider Direct Clearing Member LEI	The Legal Entity Identifier of the direct clearing member through which the cash provider accessed the clearing service.
Securities Provider LEI	The Legal Entity Identifier of the securities provider.
Securities Provider Direct Clearing Member LEI	The Legal Entity Identifier of the direct clearing member through which the securities provider accessed the clearing service.
Broker LEI	The Legal Entity Identifier of the broker.
Start Date	The start date of the repurchase agreement.
End Date	The date the repurchase agreement matures.
Rate	The repurchase agreement rate, expressed as an annual percentage rate on an actual/360-day basis.
Principal	The amount of cash borrowed or lent.
Optionality	The type of optionality, if any, in the repurchase agreement.
Minimum Maturity	The earliest possible date on which the transaction could end in accordance with its contractual terms (taking into account optionality).

(4) Covered reporters shall submit the following data elements on the collateral delivered against net general collateral exposures for all general collateral transactions:

TABLE 2—GENERAL COLLATERAL NET EXPOSURE

Data element	Explanation
File Observation Date	The observation date of the file (typically one business day before the day the file is submitted).
Covered Reporter LEI	The Legal Entity Identifier of the covered reporter.
Direct Clearing Member LEI	The Legal Entity Identifier of the direct clearing member of the clearing service.
Transaction Side	Indicates the side of the transaction: collateral was received by or delivered from the covered reporter.
Securities Identifier	Identifier of securities transferred.
Securities Identifier Type	Type of securities identifier used.
Securities Quantity	Par value or quantity (as applicable) of securities transferred.
Securities Value	The market value as of most recent valuation of securities transferred, including accrued interest.

(5) Covered reporters shall submit the following data elements for all specific-security trades:

TABLE 3—SPECIFIC-SECURITY TRADES

Data element	Explanation
File Observation Date	The observation date of the file (typically one business day before the day the file is submitted).
Covered Reporter LEI	The Legal Entity Identifier of the covered reporter.
Transaction ID	Respondent-generated unique transaction identifier.
Cash Provider LEI	The Legal Entity Identifier of the cash provider.
Cash Provider Direct Clearing Member LEI	The Legal Entity Identifier of the direct clearing member through which the cash provider accessed the clearing service.
Securities Provider LEI	The Legal Entity Identifier of the securities provider.
Securities Provider Direct Clearing Member LEI	The Legal Entity Identifier of the direct clearing member through which the securities provider accessed the clearing service.
Broker LEI	The Legal Entity Identifier of the broker.
Submission Timestamp	Time that trade is first submitted to clearing service.
Match Timestamp	Time that trade is matched by clearing service.
Start Date	The start date of the repurchase agreement.
End Date	The date when the repurchase agreement matures; the close leg settlement date.
Optionality	The type of optionality, if any.
Minimum Maturity	The earliest possible date on which the transaction could end in accordance with its contractual terms (taking into account optionality).
Security Identifier	Identifier of pledged security.
Securities Identifier Type	Type of securities identifier used.
Securities Quantity	Par value or quantity (as applicable) of securities transferred.
Substitution Collateral Identifier	Asset class identifier or no substitution.
Substitution Collateral Identifier Type	Type of securities identifier used.
Cash Provider Start Leg Amount	The amount of cash transferred by the cash provider on the open leg of the transaction.
Securities Provider Start Leg Amount	The amount of cash received by the securities provider on the open leg of the transaction.
Cash Provider Rate	The rate of interest received by the cash provider, expressed as an annual percentage rate on an actual/360-day basis.
Securities Provider Rate	The rate of interest paid by the securities provider, expressed as an annual percentage rate on an actual/360-day basis.
Cash Provider Close Leg Settlement Amount	The amount of cash received by the cash provider on the close leg of the transaction.
Securities Provider Close Leg Settlement Amount.	The amount of cash paid by the securities provider on the close leg of the transaction.

(d) *Reporting Process and Collection Agent.* The Office may designate a collection agent for the data reporting. Covered reporters shall submit the required data for the previous business day by 6:00 a.m. Eastern time on the following business day.

(e) *Compliance.* (1) Any central counterparty that is a covered reporter as of the effective date of this Section shall comply with the reporting requirements pursuant to this Section 60 days after the effective date of this Section. Any such covered reporter's first submission shall be submitted on the first business day after such compliance date.[1]

(2) Any central counterparty that becomes a covered reporter after the effective date of this Section shall comply with the reporting requirements pursuant to this Section on the first

[1] For example, if this Section becomes effective on March 15, a central counterparty that meets the dollar threshold specified in Paragraph (b)(2) for the calendar quarter ending the previous December 31 will be required to submit its first report on the first business day after May 14.

business day of the third calendar quarter following the calendar quarter in which such central counterparty meets the dollar threshold specified in Paragraph (b)(2).[2]

Kenneth J. Phelan,

Acting Director, Office of Financial Research.

[FR Doc. 2018–14706 Filed 7–9–18; 8:45 am]

BILLING CODE 4810–25–P–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0589; Product Identifier 2018–NM–021–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Airbus SAS Model A318 and A319 series airplanes; Model A320–211, –212, –214, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. This proposed AD was prompted by reports of false resolution advisories (RAs) from certain traffic collision avoidance systems (TCASs). This proposed AD would require modification or replacement of certain TCAS processors. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by August 24, 2018.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Honeywell Aerospace, Technical Publications and Distribution, M/S 2101–201, P.O. Box 52170, Phoenix, AZ 85072–2170; phone: 602–365–5535; fax: 602–365–5577; internet: *http://www.honeywell.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0589; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Steven Dzierzynski, Aerospace Engineer, Avionics and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7367; fax 516–794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2018–0589; Product Identifier 2018–NM–021–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. We will consider all comments received by the closing date and may amend this NPRM based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this NPRM.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2017–0196, dated October 5, 2017 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus SAS Model A318 and A319 series airplanes; Model A320–211, –212, –214, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. The MCAI states:

> Since 2012, a number of false TCAS resolution advisories (RA) have been reported by various European Air Navigation Service Providers. EASA has published certification guidance material for collision avoidance systems (AMC 20–15) which defines a false TCAS RA as an RA that is issued, but the RA condition does not exist. It is possible that more false (or spurious) RA events have occurred, but were not recorded or reported. The known events were mainly occurring on Airbus single-aisle (A320 family) aeroplanes, although several events have also occurred on Airbus A330 aeroplanes. Investigation determined that the false RAs are caused on aeroplanes with a Honeywell TPA–100B TCAS processor installed, P/N [part number] 940–0351–001. This was caused by a combination of three factors: (1) Hybrid surveillance enabled; (2) processor connected to a hybrid GPS [global positioning system] source, without a direct connection to a GPS source; and (3) an encounter with an intruder aeroplane with noisy (jumping) ADS–B Out position.
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> EASA previously published Safety Information Bulletin (SIB) 2014–33 to inform owners and operators of affected aeroplanes about this safety concern. At that time, the false RAs were not considered an unsafe condition. Since the SIB was issued, further events have been reported, involving a third aeroplane.
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> This condition, if not corrected, could lead to a loss of separation with other aeroplanes, possibly resulting in a mid-air collision.
>
> Prompted by these latest findings, and after review of the available information, EASA reassessed the severity and rate of occurrence of false RAs and has decided that mandatory action must be taken to reduce the rate of occurrence, and the risk of loss of separation with other aeroplanes. Honeywell International Inc. published Service Bulletin (SB) 940–0351–34–0005 [Publication Number D201611000002] to provide instructions for an upgrade, introducing software version 05/01, changing the processor unit to P/N 940–0351–005.
>
> EASA previously issued AD 2017–0091 (later revised) to address the unsafe condition on aeroplanes that had the P/N 940–0351–001 processor installed by Airbus major change or SB. However, part of the fleet had the same P/N installed by STC [supplemental type certificate]. The relevant STC approval holders (see section Remarks of this [EASA] AD for contact details) have been notified and modification instructions (see section Ref. Publications of this [EASA] AD) can be obtained from those companies.
>
> For the reason described above, this [EASA] AD requires modification or

[2] For example, a central counterparty that meets the dollar threshold specified in Paragraph (b)(2) in a calendar quarter ending March 31 will become a covered reporter subject to the reporting requirements pursuant to this Section on the following October 1 and will be required to submit its first report on that date.