Security-Based Swap Transaction Reporting Party Determination
Industry Suggested Operating Practices ("SOP")[1]

Publication Date: November 5, 2021
Publication updated: February 11, 2022[2]

1. Background and Purpose

The Securities and Exchange Commission ("SEC") issued the final version of its *Regulation SBSR – Reporting and Dissemination of Security-Based Swap Information* ("SBSR") in two parts, published on March 19, 2015[3] and August 12, 2016[4], respectively. SBSR establishes the requirements for the reporting of security-based swap transaction ("SBS") data to security-based swap data repositories ("SBSDR") for purposes of regulatory oversight and the public dissemination of certain SBS data for the purpose of post-trade transparency.

In 2020, the SEC provided relief ("SEC Relief") that certain actions with respect to the SBS reporting rules will not provide a basis for a Commission enforcement action for a period of four years following Regulation SBSR's Compliance Date 1 in each SBS asset class. The SEC Relief is set forth in the *Cross-Border Application of Certain Security-Based Swap Requirements* Final Rule and Guidance, effective April 6, 2020.[5]

With respect to Rule 901(a), the SEC Relief specifies that there would be no basis for enforcement action if a person with a duty to report an SBS transaction (or a duty to participate in the selection of the reporting side) under Rule 901(a) does not report the transaction (or does not participate in the selection of the reporting side) because, under the Commodity Futures Trading Commission ("CFTC") swap reporting rules in force at the time of the transaction, a different person (or no person) would have the duty to report a comparable swap transaction.

However, the SEC Relief with respect to Rule 901(a) does not extend to instances where a transaction falls within Rule 901(a)(2)(ii)(E) and one or both sides is relying on the exception to the de minimis counting requirement for ANE[6] transactions (i.e., is a "Relying Entity"). The SEC expects that a foreign dealing entity that is a Relying Entity would utilize staff of an affiliated U.S. registered SBS dealer or broker-dealer to report an ANE transaction.

The industry ISDA SBSR Implementation Working Group ("WG") has discussed and agreed the reporting party determination and tie-breaker logic, taking into consideration the SEC Relief, as described in the section "SBS Reporting Party (RCP) Determination – Industry Standard Approach". Such ISDA Reporting Party Determination – Industry Standard Approach is consistent, to the extent possible, with the existing reporting party determination standard approaches[7] developed and published by ISDA; thus allowing reporting entities to reuse aspects of their existing builds and to accommodate multi-jurisdictional reporting by a single entity.

---

[1] Also known as "Industry Best Practices"
[2] Updated Section 2 "SBS RCP Determination- Industry Standard Approach" Scenario #2 for SBS where a Non-US SBSD faces a Relying Entity.
[3] 80 FR 14563 (https://www.gpo.gov/fdsys/pkg/FR-2015-03-19/pdf/2015-03124.pdf) ("SBSR Adopting Release")
[4] 81 FR 53545 (https://www.federalregister.gov/documents/2016/08/12/2016-17032/regulation-sbsr-reporting-and-dissemination-of-security-based-swap-information#page-53546)
[5] Compliance With Rules for SBSDRs and Reg SBSR ("SEC Relief") Section C @6346, https://www.govinfo.gov/content/pkg/FR-2020-02-04/pdf/2019-27760.pdf.
[6] For glossary of terms, see Appendix A.
[7] See CFTC Swap Transaction Reporting Party Requirements: https://www.isda.org/2015/04/02/cftc-swap-transaction-reporting-party-requirements-5/ and Canadian Transaction Reporting Party Requirements: https://www.isda.org/2015/03/20/canadian-transaction-reporting-party-requirements-2/

2. SBS Reporting Party ("RCP") Determination[8] – Industry Standard Approach[9]

Taking into consideration SBSR §901(a) and the SEC Relief, the industry has agreed the following logic for reporting party determination for reporting SBS transactions for the four year period provided under the SEC Relief. Should the Commission subsequently extend the SEC Relief for an additional period or make the SEC Relief permanent, then the industry logic outlined in this document would continue to apply for the applicable period, unless otherwise agreed by the industry.

Scenario #	Party 1[10]	Party 2[9]	RCP outcome	Notes[11]
1.	Security-Based Swap Dealer ("SBSD")[12]	SBSD[11]	**One SBSD** [13]	**Apply Rule SBSR;** ISDA SEC "Tie Breaker Logic for SBS". If two SBSDs faces each other, apply ISDA SEC "Tie Breaker Logic for SBS," even if one SBSD is guaranteed by another SBSD (see Section 4 "Tie-Breaker Logic for SBS" – Principle 1).
2.	SBSD[11]	Non-SBSD[11]	**SBSD (i.e. Party 1)**	**Apply Rule SBSR*.** • If Party 2 does not have a SBSD guarantee, the SBSD that is the direct counterparty ("cpy") to the SBS is RCP. • If Party 2 has a SBSD guarantee, use ISDA SEC "Tie Breaker Logic for SBS:" the SBSD that is the direct counterparty is RCP (see Section 4 "Tie- Breaker Logic for SBS" – Principle 2). *** For SBS where Non-US SBSD faces a Relying Entity with ANE:** • From November 8, 2021 (CD1) to February 13, 2022: the RCP as determined above to report SBS data to SBSDR. (This is regardless of whether the Relying Entity has or has not done ANE on the SBS, as the Non-US SBSD will not know.) • From and including February 14, 2022 (CD2): the RCP as determined above (i.e. SBSD is RCP for regulatory reporting and PPD, per Rule SBSR). — Relying Entities may use centralized disclosures to provide information about the extent ANE applies on their SBS trades with non-US SBSDs. The ISDA SBSR Implementation WG ("WG") agreed that such centralized disclosure could include the ISDA Relying Entity Disclosure List[14]. The Relying Entity may make updates to its disclosures available to such centralized disclosure list and the WG sufficiently prior to the change occurring. A non-US SBSD and/or Relying Entity may opt for a different way to communicate the existence of ANE on an SBS transaction.
			Instructions for Scenarios #3 through #5	**Party 1 and Party 2 will each determine for itself whether it is the RCP as follows:** **Step 1:** With respect to the SBS on its own side, party is a (i) "Relying Entity"[15] with "ANE"[16], (ii) Relying Entity w/out ANE facing a non-US Swap Dealer ("SD")

---

[8] Other than SBS that are Platform-executed and cleared or Clearing transactions (see Rule SBSR 901(a)(1) and 901(a)(2)(1)).

[9] Takes into consideration SEC Relief provided in Section C, *Cross-Border Application of Certain Security-Based Swap Requirements* Final Rule and Guidance, 85 Fed. Reg. 6270 (Feb. 4, 2020), https://www.govinfo.gov/content/pkg/FR-2020-02-04/pdf/2019-27760.pdf.

[10] For Major Security-Based Swap Participant (MSBSPs), apply SEC Relief – use 45.8 and "ISDA Asset Class Tie Breaker Logic for Swaps" developed for CFTC reporting as applicable.

[11] Principles referenced in Notes can be found in Section 3 of this document under "Guiding Principles."

[12] An SBSD irrespective of whether the party is a registered CFTC SD – it will not be necessary to understand whether a cpy is a CFTC SD using this approach.

[13] Blue shading = the logic uses Rule SBSR for the scenario. Green shading = the logic applies relief provided by SEC for SBSR.

[14] There are three Relying Entities as of 7 February 2022. ISDA currently maintains the Relying Entity Disclosure List on a quarterly basis. Should the number of Relying Entities rise or the Relying Entity Disclosure List becomes difficult to maintain for the purposes of the ISDA SBS RCP Determination SOP scenario, an alternative centralized solution may need to be explored at that time.

[15] "Relying Entity" means a party that for the SBS in question is relying on the exception to the de minims counting exemption for ANE Transaction in SEC Rule 240.3a71-3(d).

[16] Note: While ANE trades would result in reporting and public dissemination under Rule SBSR, the SEC Relief is believed by the ISDA SBSR Implementation industry Working Group to limit reporting of ANE Transactions to those SBS where one or both parties are "Relying Entities". Therefore, the SEC RCP Logic uses

Scenario #	Party 1[10]	Party 2[9]	RCP outcome	Notes[11]
				with a US person, SBSD or Major Security-Based Swap Participant ("MSBSP") guarantee, , or (iii) non-US person that is not a Relying Entity with ANE, but a non-US person with a US person, SBSD, or MSBSP guarantee facing a Relying Entity (this is regardless of whether the Relying Entity has or has not done ANE, as the non-US person with a US person, SBSD, or MSBSP guarantee will not know)? ➤ If Answer: No → Go to Step 2. ➤ If Answer: Yes → Apply cases "Apply Rule SBSR" within rows 3, 4, or 5 (as applicable). **Step 2:** Does party have a duty to report the SBS (or duty to participate in the selection of the reporting side) under Rule SBSR because: • party is a US person[i]; • party is a non-US person and its obligations under the SBS are guaranteed by a US person; • party's obligations under SBS are guaranteed by an SBSD (US or non-US); or • party is an MSBSP (US or non-US) or its obligations under SBS are guaranteed by an MSBSP (US or non-US)? ➤ If Answer: No →Party has no reporting obligation under Rule SBSR (and, thus, is not RCP for the SBS). ➤ If Answer: Yes → Then apply cases "Apply SEC Relief- use 45.8"[17] for Scenarios #3 - #5 below, i.e. Party to apply Part 45.8 (including ISDA CFTC "Tie Breaker Logic for Swaps") and party to be RCP if (and only if) under Part 45.8 (including ISDA CFTC "Tie Breaker Logic for Swaps") it is the designated RCP for the trade.
3.	SD (not an SBSD)	SD (not an SBSD)	If Neither Party Relying Entity with ANE[13]: **One SD (or no RCP)**	**Apply SEC Relief – use 45.8.** Under Part 45.8 for trade between two SDs, SDs can agree RCP through use of ISDA CFTC "Tie Breaker Logic for Swaps" developed for CFTC reporting to determine RCP outcomes. Examples include: a) Both parties US SD: **One SD is RCP.** b) Both parties non-US SD (and not guaranteed by a US person, SBSD, or MSBSP): **No RCP needed.** No duty to report under Rule SBSR, no need to make use of SEC Relief.[18] c) US SD faces non-US SD (guaranteed by US person or SBSD): **One SD is RCP.** d) Both parties non-US SD and both guaranteed by US person and/or SBSD: **One SD is RCP.** e) US SD faces non-US SD (without guarantees by US person or SBSD): • **The US SD is RCP if the CFTC "ISDA Tie Breaker Logic for Swaps" determines the US SD is RCP.** • If the ISDA CFTC "Tie Breaker Logic for Swaps" determines that the non-US SD (without any guarantees) is RCP, no action needs to be taken by the non-US SD as the non-US SD does not have a reporting obligation under Rule SBSR. Neither party reports the SBS. f) Both parties non-US SD, only one is guaranteed by US person: • **The non-US SD (with guarantee) is RCP if the ISDA CFTC "Tie Breaker Logic for Swaps" determines the non-US SD (with guarantee) is RCP.** • If the ISDA CFTC "Tie Breaker Logic for Swaps" determines that the non-US SD (without guarantee by USP) is RCP, the non-US SD (not guaranteed by USP), no action needs to be taken by the non-US SD (not guaranteed by USP) as it does not have a reporting obligation under Rule SBSR. Neither

---

"Relying Entities with ANE" rather than something like "Entities with ANE."

[17] SEC Relief for SBSR: there will be no basis for an SEC enforcement action "if a person with a duty to report an SBS transaction (or a duty to participate in the selection of the reporting side) under Rule 901(a) does not report the transaction (or does not participate in the selection of the reporting side) because, under the [CFTC] swap reporting rules in force at the time of the transaction, a different person (or no person) would have the duty to report a comparable swap transaction," https://www.govinfo.gov/content/pkg/FR-2020-02-04/pdf/2019-27760.pdf.

[18] Note: Practically speaking, this example is included for illustrative purposes since both parties will answer "no" in "Step 2" of "Instructions for Scenarios #3 through #5" and therefore will not need to consult Scenario 3.

Scenario #	Party 1[10]	Party 2[9]	RCP outcome	Notes[11]
				party reports the SBS.
			If Both Parties are Relying Entities with ANE [13]: **One Relying Entity.**	**Apply Rule SBSR** 901(a)(2)(ii)(E) to be used as set forth in the SEC Relief addressing ANE transactions. • If both parties at the same level, they would agree who is RCP , which can be via the ISDA SEC "Tie Breaker Logic for SBS".
			If Only one party is Relying Entity with ANE[13]: **Relying Entity**	**Apply Rule SBSR** 901(a)(2)(ii)(E) to be used as set forth in the SEC Relief addressing ANE transactions. • The Relying Entity is RCP.[19]
4.	SD	CP not an SBSD/SD	If Neither Party Relying Entity with ANE[13]: **SD (or No RCP)**	**Apply SEC Relief – use 45.8.** Under Part 45.8 for trade between SD and non-SD, the SD is RCP[20]. Examples include: a) If both parties are US persons: **SD is RCP.** b) US SD faces non-US CP (with or without a US person guarantee): **US SD is RCP**. c) Non-US SD (not guaranteed by USP) faces US person or non-US person (guaranteed by a US person or by a SBSD or MSBSP): **No RCP** • The US person/non-US person (with guarantee) "Applies SEC Relief – use 45.8" and determines that the Non-US SD is RCP. The Non-US SD (not guaranteed by USP) does not have a reporting obligation under Rule SBSR. No action needs to be taken by non-US SD.[21] d) Non-US SD (guaranteed by a US person or by a SBSD) faces US person OR non-US person[22] (with or without a USP or SBSD guarantee): **Non-US SD is RCP**. • Non-US person (not guaranteed) does not have a reporting obligation under SBSR
			Both Parties Relying Entities with ANE[13]: **One Relying Entity**	**Apply Rule SBSR** 901(a)(2)(ii)(E) to be used as set forth in the SEC Relief addressing ANE transactions. • If both parties are at the same level, parties to agree who is RCP, which can be via the ISDA SEC "Tie Breaker Logic for SBS". [23]
			Only one party is Relying Entity with ANE[13]: **Relying Entity**	**Apply Rule SBSR** 901(a)(2)(ii)(E) to be used as set forth in the SEC Relief addressing ANE transactions. • Relying Entity is RCP per Rule SBSR. Note: If the party that is not a RE is a non-US person with a US person, SBSD, or MSBSP guarantee, then the party that is not the RE can rely on SEC Relief for 901(a) (see SEC SBSR FAQ #8[24]).
5.	CP not	CP not	If Neither	**Apply SEC Relief – use 45.8; ISDA CFTC "Tie Breaker Logic for Swaps" as**

---

[19] FAQs on Regulation SBSR Implementation, Q#8, https://www.sec.gov/tm/faqs-reg-sbs-implementation. While the SBSR FAQ (#8) does not seem to cover this sub-scenario as the counterparty that is not the Relying Entity is an SD, the most practicable outcome seems to be that the Relying Entity is RCP, however, cpys to the SBS are able to agree on an alternative RCP designation.

[20] Note: Certain transactions will have no RCP for example in the case of a Non-US SD faces non-US person (both not guaranteed), there is no duty to report under Rule SBSR for either party, no need to make use of SEC Relief.

[21] Note: US persons/non US person (with US guarantee) that do not wish to rely on the SEC Relief in this scenario may consider reaching out to non-US SD to address reporting of the trade.

[22] Non-US person (not guaranteed) does not have a reporting obligation under SBSR.

[23] On the question of permitting both sides to report to avoid having to communicate ANE, SEC Staff responded on 27 September 2021 that it would not be open to providing relief for potential dual-reporting, SEC SBSR is a single-sided regime, and SEC would not want to be left to sort out duplicates.

[24] FAQs on Regulation SBSR Implementation, https://www.sec.gov/tm/faqs-reg-sbs-implementation.

Scenario #	Party 1[10]	Party 2[9]	RCP outcome	Notes[11]
	SBSD/SD	SBSD/SD	**Party Relying Entity with ANE[13]:** **Per outcome of CFTC 45.8 waterfall**	**needed[25].** Examples include: a) If both cpys are US persons, parties can agree who is RCP (apply the CFTC "ISDA Tie Breaker Logic for Swaps" to determine), unless only one CP is a Financial Entity, then the Financial Entity is RCP. b) If only one party is a US person, the US person is RCP, even if the other party has a US Person guarantee. c) If only party is a Financial Entity, the Financial Entity is RCP, unless the cpy that is not a Financial Entity is a US person, then the US person (non-Financial Entity) is RCP. d) If both parties are Financial Entities or neither party is a Financial Entity, apply CFTC "ISDA Tie Breaker Logic for Swaps," unless only one party is a US Person, then the party that is the US Person is RCP. e) If all are non-US activity, then not reportable - no RCP needed.
			If Both Parties Relying Entities with ANE[13]: **One Relying Entity**	**Apply Rule SBSR** Rule 901(a)(2)(ii)(E) to be used as set forth in the SEC Relief addressing ANE transactions. • If both parties at the same level, parties to agree who is RCP which can be via the ISDA SEC "Tie Breaker Logic for SBS [26]".
			If Only one party is a Relying Entity with ANE[13]: **Relying Entity**	**Apply Rule SBSR** 901(a)(2)(ii)(E) to be used as set forth in the SEC Relief addressing ANE transactions. • If the other party is non-US, not a US person, and not guaranteed by a US person, SBSD, or MSBSP, the Relying Entity is RCP per Rule SBSR; • Relying Entity is RCP. Note: If the party that is not a RE is non-US person with US person, SBSD, or MSBSP guarantee, then the party that is not the RE can rely on SEC Relief for 901(a) (SEC SBSR FAQ #8).
6.	Neither side includes SBSD, nor US person, nor non US person with SBS ANE dealing activity and the SBS is effected by or through registered broker dealer (including SBSEF) - see Rule SBSR 901(a)(ii)(E)(4).		**Registered Broker Dealer (including SBSEF)**	**Apply Rule SBSR.** • While the CFTC reporting rules address certain comparable RCP designations[27], SEC clarified that for trades falling under Rule SBSR 901(a)(ii)(E)(4), no life cycle event reporting is required (see 81 FR 53599). As a result, as Rule SBSR does not require RCP for life cycle events. Apply Rule SBSR and no RCP designation from CFTC rules required.

---

[25] Note: Certain transactions will have no RCP (e.g. if all are non-US activity or if there is no "US nexus").

[26] On the question of permitting both sides to report to avoid having to communicate ANE, SEC Staff responded on 27 September 2021 that it would not be open to providing relief for potential dual-reporting, SEC SBSR is a single-sided regime, and SEC would not want to be left to sort out duplicates.

[27] If there is no SD cpy to the trade, CFTC Part 45.8(f) provides …if neither counterparty to a swap is a U.S. person, but the swap is executed on or pursuant to the rules of a swap execution facility ("SEF") or designated contract maker ("DCM") or otherwise executed in the United States, or is cleared by a derivatives clearing organization ("DCO"):

(1) For such a swap executed on or pursuant to the rules of a SEF or DCM, the counterparties shall agree which counterparty shall be the reporting counterparty.

(2) For an off-facility swap, the counterparties shall agree as one term of their swap which counterparty shall be the reporting counterparty.

3. Mixed Swaps

The ISDA SBSR Implementation WG agreed on resolutions to specific challenges related to mixed swaps RCP determination and reporting, as outlined below:

Challenge #1: Both counterparties to the trade report to both CFTC and SEC on a mixed swap.

Agreed resolution for Challenge #1:
  ➢ From SBSR Compliance Date 1 (November 8, 2021), if a firm determines it is the RCP for both CFTC and SEC on a mixed swap, report to CFTC by identifying CFTC on DTCC "Trade Party 1 – Reporting Destination"; report a separate record to SEC by identifying SEC on "Trade Party 1 – Reporting Destination".   Alternatively, the values "CFTC; SEC" may be reported on a single DTCC "Trade Party 1 – Reporting Destination" message.

  ➢ From SBSR Compliance Date 1 (November 8, 2021), if a firm determines it is the RCP for only one regulator on a mixed swap (i.e. either CFTC or SEC), report to either CFTC or SEC by identifying the relevant regulator on the DTCC "Trade Party 1 – Reporting Destination" field using a single record. [28]

Challenge #2: In cases where RCPs differ on a mixed swap (e.g. if one cpy reports to CFTC and one cpy reports to SEC), there is the possibility that Cpy 1 and Cpy 2 to the mixed swap send different Unique Transaction Identifiers (UTI)/Unique Swap Identifiers (USI).

Agreed resolution for Challenge #2:
  ➢ Transaction identifiers (e.g. UTI/USI) may differ for the interim period between SBSR Compliance Date 1 (November 8, 2021) to CFTC UTI compliance date (currently expected to be May 25, 2022) in cases where each counterparty to a mixed swap trade determines that they are the RCP (one to CFTC, one to SEC), each issues its own UTI/USI and both parties report.

The resulting SBS RCP determination for Mixed Swaps would be as follows:

Mixed Swaps – RCP determination				
Party 1	Party 2	CFTC Reporting	SEC Reporting	Notes, if applicable
SBSD/SD	SBSD/SD	Apply ISDA CFTC "Tie Breaker Logic for Swaps:" **One SBSD/SD is RCP.**	Apply Rule SBSR; Apply ISDA SEC "Tie Breaker Logic for SBS": **One SBSD is RCP.**	
SBSD/SD	SBSD	Apply CFTC Rule 45.8: **SBSD/SD is RCP**.	Apply Rule SBSR; Apply ISDA SEC "Tie Breaker Logic for SBS": **One SBSD is RCP.**	For the interim period between SBSR Compliance Date 1 (expected to be November 8, 2021) to CFTC UTI compliance date (expected to be May 25, 2022), Party 1 and 2 may not use the same USI/UTI in cases where each counterparty to the mixed swap trade determines that it is the RCP (one to CFTC, one to SEC) and each issues its own USI/UTI and both parties report.
SBSD/SD	SD	Apply ISDA CFTC "Tie Breaker Logic for Swaps:" **One SD is RCP**.	Apply Rule SBSR: **SBSD/SD is RCP.**	
SBSD/SD	Non-SBSD/SD	Apply CFTC Rule 45.8: **SBSD/SD is RCP.**	Apply Rule SBSR: **SBSD/SD is RCP.**	

---

[28] Currently, some firms may be flagging both CFTC and SEC on a single DTCC "Trade Party 1 – Reporting Destination" message, so this may be a build modification.

| SBSD | Non-SBSD/SD | • **US Person/Financial Entity reports:** if both parties the same, apply ISDA CFTC "Tie Breaker Logic for Swaps."
• If both non US: **No RCP.** | Apply Rule SBSR: **SBSD is RCP**. | For the interim period between SBSR Compliance Date 1 (expected to be November 8, 2021) to CFTC UTI compliance date (expected to be May 25, 2022), Party 1 and 2 may not use the same USI/UTI in cases where each counterparty to the mixed swap trade determines that it is the RCP (one to CFTC, one to SEC) and each issues its own USI/UTI and both parties report. |
| SD | Non-SBSD/SD | Apply CFTC Rule 45.8: **SD is RCP.** | **Relying Entity with ANE is RCP:**
• If a party has reporting obligation under Rule SBSR and is US Person/Financial Entity: the party reports.
• If both are at the same level: Apply ISDA CFTC "Tie Breaker Logic for Swaps".
• If both are non-US: **No RCP.** | |

4. Tie-Breaker Logic for SBS

The reporting party determination for SBS determines the party with the reporting obligation for a SBS to a greater extent and in more specificity than the reporting hierarchy within SBSR alone. However, as there are still pairings in which the parties are equivalent in status, the parties should use this ISDA Tie-Breaker Logic for SBS, the agreed industry convention developed for this purpose.

Guiding Principles

Tie-breaker logic for SBS for Credit, Equity, and Rates have been included in this document to align with the scope of asset classes in which products may be classified as SBS or SBS components of a mixed swap. Regardless of asset class, however, the industry WG has provided the following guiding principles:

1. Principle 1: If two SBSDs face each other, each as a direct counterparty to the SBS, apply asset-class tie breaker logic, even if one SBSD is guaranteed by another SBSD.

2. Principle 2: In cases where an SBSD, as a direct counterparty to the SBS, faces a non-SBSD with a guarantee by an SBSD, the SBSD that is the direct counterparty to the SBS is RCP, even if the non-SBSD is guaranteed by an SBSD.

Asset Class Tie-Breaker Logic for SBS

The below assumes that both parties have a reporting obligation under SBSR, and that they are only applying the applicable tie-breaker logic in the event they are at the same level of the reporting hierarchy and the case is not covered by the principles above.

A. Credit

When both parties (either direct counterparties or indirect counterparties, as applicable) are at the same hierarchy level (i.e., SBSD, MSBSP, U.S. person or non-U.S. person w/ANE), the reporting side is the Floating Rate Payer (a/k/a 'seller').

For swaptions, the reporting side is the Floating Rate Payer of the underlying swap.

For total return swaps, the seller (which is the Floating Rate Payer and the receiver of total return) is the reporting side.

For novated transactions, the RCP/UTI generating party should be reassessed between the Transferee and the Remaining Party based on the above.

B. Equities

When both parties (either direct counterparties or indirect counterparties, as applicable) are of the same hierarchy level, the reporting side will be the:

- Seller of performance on any product in the taxonomy[29]/Unique Product Identifier (UPI).
- Seller of product on all other (exotic) products in the taxonomy/ UPI.
- If seller cannot be identified the fall back would be for the parties to agree amongst themselves.
- For Portfolio Swaps Agreements (PSA's) the seller will remain the seller regardless of the underlying's performance.

For the avoidance of doubt, if the trade is confirmed via negative affirmation, the provider of the negative affirmation agreement is the reporting side.

C. Rates

With respect to a debt option (i.e. a cash settled bond option or bond forward which is deemed a SBS), the Option Buyer is the reporting side.

With respect to an exotic rates transaction which is a mixed swap, or deemed to be a SBS, the reporting side shall be determined based on a comparison of the Legal Entity Identifiers (LEIs) of both counterparties at the same hierarchical level, using the process explained below in "LEI Tie-breaker process".

---

[29] "Taxonomy" is defined as the ISDA OTC Taxonomy v1.0 available here: http://www2.isda.org/otc-taxonomies-and-upi/.
UPI is defined as the global Unique Product Identifier ISO 4914 standard, or until such time as one is available, the CPMI-IOSCO Technical Guidance https://www.bis.org/cpmi/publ/d169.pdf.

D. LEI Tie-breaker process

When the LEI tie-breaker is invoked the following processes will be used:

    1. LEI/Identifier (IDs) Tie-breaker Logic Scenarios

        i.   When only one of the parties has an LEI then the party with the LEI is the reporting side.

        ii.   When both parties have an LEI then determine based on comparison of the two LEIs in accordance with the below.

    2. Determining sort order of identifiers

- LEI are comprised of characters from the following set {0-9, A-Z}.

- For avoidance of doubt, before comparing IDs convert all IDs to UPPER CASE only.

- For comparison basis, the sort order will be reverse ASCII sort order. For avoidance of doubt the following are sort order of precedence:

   - Z, Y, X, W, V, U, T, S, R, Q, P, O, N, M, L, K, J, I, H, G, F, E, D, C, B, A, 9, 8, 7, 6, 5, 4, 3, 2, 1, 0.

    3. When comparing two IDs the reporting side will be the based on the party with the first LEI in the list when sorted in reverse ASCII sort order (a/k/a "Reverse ASCII sort, first LEI").

5. Change in Registration Status

The ISDA SBSR Implementation Working Group discussed and agreed on June 29, 2021 that the approach to changes in registration status used for SEC trade reporting should be consistent with the one in use by the industry for CFTC reporting.

Therefore, for SBSR, the RCP obligation remains unchanged through the remaining life of the UTI until it is matured / terminated / novated away / compressed into a new transaction, even if counterparty registration status changes during the life of the trade. The RCP is reassessed only when a new UTI is created. (In summary if an event does not result in a new UTI, the RCP remains unchanged. If the event results in a new UTI, the RCP is calculated a fresh for the new UTI using the statuses effective at that date).

Further, for purposes of determining the reporting counterparty for live historical SBS, the SBSR Implementation WG agreed to apply the status of the counterparty as of November 2nd, 2021.[30]

---

[30] As agreed by the SBSR Implementation WG on November 2, 2021, as the SEC's SBSD/MSBSP's registration list includes several entities dated November 2, 2021, although the registration application due date was November 1, 2021, https://www.sec.gov/files/list_of_sbsds_msbsps11-02-2021locked930am.xlsx.

6. Lifecycle Event Table

In general, a contract intrinsic event would not result in a new UTI, nor would a bilaterally negotiated event that does not change the parties to the SBS. Events that change the parties to the SBS and/or result in a new SBS(s) would prompt the creation of a new UTI(s), and thus require a new assessment of the reporting side based on the parties to the resulting SBS(s).

The following table indicates which lifecycle events would result in a new UTI at the point the event occurs or is executed:

Event Type		Triggers new UTI Generation?
New Trade		Yes
Amendment (correction to the trade for		No
Cancel (trade booked in error)		No
Trade Allocated	Original Unallocated "Block" Trade	Yes
	Allocated Trades	Yes (each allocation)
Cleared Positions	Original Bilateral Trade ("alpha")	Yes
	Cleared Positions ("beta" and "gamma")	Yes
	Original Unallocated "Block" Trade	Yes
	Block cleared pre-allocation	Yes
	Post-clearing allocations	Yes (each allocation)
Termination / Unwind		No
Partial Termination / Partial Unwind / Partial Decrease		No
Increase / Decrease		No
Full or Partial Novation - 3-way or 4-way	Original Trade (b/t Transferor and Remaining Party or Transferor 1 and Transferor 2)	Yes
	Novated Trade (b/t Transferee and Remaining Party or b/t Transferee 1 and Transferee 2)	Yes

	Fee trade (b/t Transferor and Transferee or b/t Transferor 1 and Transferee 1) (For public reporting only)	Yes
Exercise	Original Option/Swaption	Yes
	New SBS (resulting from physically settled swaption)	Yes
Prime Brokerage	EB-client execution (only in three-legged PB scenario)	Yes
	EB: PB leg	Yes
	PB: Client leg	Yes
Succession Events	Rename	No
	Reorganizations	Yes (each new trade)
Credit Events	Bankruptcy / Failure to Pay / Repudiation/Moratorium	No
	Restructuring	Yes[31]
Compression Events	Termination of Original Trade	No
	Original Trade – Amendment/Increase/Decrease	No
	New Trade	Yes
CCP: Position Transfer (i.e. transfer of a		Yes
CCP: Compression		Yes

---

[31] If full notional of Credit Default Swap is not triggered, the notional may be split into two transactions.

Appendix A - Glossary of Terms

Term	Definition
Alpha	Bilateral SBS transaction which is executed with the intention that it will be submitted to a clearing agency for acceptance.
ANE	An acronym for "arrange, negotiate or execute". In accordance with §242.908(a) and (b) of SBSR, references to ANE refer to SBS transactions which are connected with a non-U.S. person's SBS dealing activity which has been arranged, negotiated or executed by personnel of such non-U.S. person located in a U.S. branch or office, or by personnel or an agent of such non-U.S. person located in a U.S. branch or office.
CCP or Registered Clearing Agency	Registered clearing agency includes clearing agencies which are registered with the SEC or are deemed registered by the SEC regardless of the location of their principal place of business. A list of registered and deemed registered clearing agencies can be found here: https://www.sec.gov/rules/sro.shtml. In this document a registered clearing agency is also referred to as a CCP. Please note that the SEC has not provided guidance as to whether an exempted clearing agency would be responsible for reporting. They intend to consider the issue if they exempt from registration a clearing agency that acts as central counterparty for SBS. See footnote 162 of SBSR.
Clearing transaction	Any SBS transaction that has a registered clearing agency as a direct counterparty.
Unregistered clearing agency	An unregistered clearing agency is neither registered nor deemed registered with the SEC. An unregistered clearing agency which has its principal place of business in the U.S. may have an obligation to report under SBSR according to §242.908(a) of SBSR.
Direct counterparty	As defined in §242.900 (k) of SBSR, direct counterparty means a person that is a primary obligor on a security-based swap.
ED	The executing dealer which is a direct counterparty to a SBS which is entered into via a prime brokerage arrangement.
Indirect counterparty	As defined in §242.900 (p) of SBSR, indirect counterparty means a guarantor of a direct counterparty's performance of any obligation under a security-based swap such that the direct counterparty on the other side can exercise rights of recourse against the indirect counterparty in connection with the SBS; for these purposes a direct counterparty has rights of recourse against a guarantor on the other side if the direct counterparty has a condition or unconditional legally enforceable right, in whole or in part, to receive payments from, or otherwise collect from, the guarantor in connection with the SBS.
MSBSP	A direct counterparty or indirect counterparty to a SBS which is *registered* with the SEC as a major security-based swap participant.
PB	The prime broker which is a direct counterparty to SBS which are entered into via a prime brokerage arrangement.
Platform	Platform is either a national securities exchanges or a security-based swap execution facility (SBSEF) that is registered or exempt from registration.

	A "national securities exchange" is a securities exchange (such as a stock exchange) that is registered with the Securities and Exchange Commission under Section 6 of the Securities Exchange Act. List of registered exchanges: http://edgar.sec.gov/divisions/marketreg/mrexchanges.shtml Certain entities currently meet the definition of SBSEF but are not yet required to register and won't have mechanism to do so until the finalization of the SBSEF registration rules. These entities currently operate pursuant to an exemption from certain provisions of the Securities Exchange Act.
Platform-executed alpha	A SBS which is executed on a Platform and will be submitted to clearing.
Registered broker-dealer	A person which is registered with the SEC under its Broker-Dealer Registration requirements. SEC broker-dealer registration facts: https://www.sec.gov/answers/bdregis.htm Data on active broker-dealers: https://www.sec.gov/foia/docs/bdfoia.htm
SEC	The Securities and Exchange Commission
SBS	A security-based swap transaction.
SBSEF	A security-based swap execution facility which is either registered or exempt from registration by the SEC.
SBSD	A direct counterparty or indirect counterparty to a SBS which is *registered* with the SEC as a major security-based swap participant.
SBSR	*Regulation SBSR – Reporting and Dissemination of Security-Based Swap Information*, as adopted by the SEC
Side	As defined in §242.900 (hh) of SBSR, side means a direct counterparty or any guarantor of that direct counterparty's performance who meets the definition of indirect counterparty in connection with the SBS.
Tie-breaker logic	Tie-breaker logic refers to the ISDA Asset Class Tie-breaker Logic as developed by the industry and published by ISDA. Available here: https://www.isda.org/2016/03/14/isda-asset-class-tie-breaker-logic/
Transaction A, Transaction B	As used by the SEC in its guidance in SBSR regarding the reporting of SBS which are entered into via a prime brokerage arrangement, in a two-legged scenario: Transaction A is the SBS between the ED and the PB Transaction B is the SBS between the PB and the client
U.S. person	As defined by the SEC in §240.3a71-3(a)(4) of its regulations.

U.S. person §240.3a71-3(a)(4)):
(i) Except as provided in paragraph (a)(4)(iii) of this section, U.S. person means any person that is:
(A) A natural person resident in the United States;

(B) A partnership, corporation, trust, investment vehicle, or other legal person organized, incorporated, or established under the laws of the United States or having its principal place of business in the United States;

(C) An account (whether discretionary or non-discretionary) of a U.S. person; or

(D) An estate of a decedent who was a resident of the United States at the time of death.

(ii) For purposes of this section, principal place of business means the location from which the officers, partners, or managers of the legal person primarily direct, control, and coordinate the activities of the legal person. With respect to an externally managed investment vehicle, this location is the office from which the manager of the vehicle primarily directs, controls, and coordinates the investment activities of the vehicle.

(iii) The term U.S. person does not include the International Monetary Fund, the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, the United Nations, and their agencies and pension plans, and any other similar international organizations, their agencies and pension plans.

(iv) A person shall not be required to consider its counterparty to a security-based swap to be a U.S. person if such person receives a representation from the counterparty that the counterparty does not satisfy the criteria set forth in paragraph (a)(4)(i) of this section, unless such person knows or has reason to know that the representation is not accurate; for the purposes of this final rule a person would have reason to know the representation is not accurate if a reasonable person should know, under all of the facts of which the person is aware, that it is not accurate.

U.S. person CFTC 2013 Cross-Border Guidance: Commission will interpret the term ''U.S. person'' generally to include, but not be limited to: 235 (i) Any natural person who is a resident of the United States; (ii) any estate of a decedent who was a resident of the United States at the time of death; (iii) any corporation, partnership, limited liability company, business or other trust, association, joint-stock company, fund or any form of enterprise similar to any of the foregoing (other than an entity described in prongs (iv) or (v), below) (a ''legal entity''), in each case that is organized or incorporated under the laws of a state or other jurisdiction in the United States or having its principal place of business in the United States; (iv) any pension plan for the employees, officers or principals of a legal entity described in prong (iii), unless the pension plan is primarily for foreign employees of such entity; (v) any trust governed by the laws of a state or other jurisdiction in the United States, if a court within the United States is able to exercise primary supervision over the administration of the trust; (vi) any commodity pool, pooled account, investment fund, or other collective investment vehicle that is not described in prong (iii) and that is majority-owned by one or more persons described in prong (i), (ii), (iii), (iv), or (v), except any commodity pool, pooled account, investment fund, or other collective investment vehicle that is publicly offered only to non-U.S. persons and not offered to U.S. persons; (vii) any legal entity (other than a limited liability company, limited liability partnership or similar entity where all of the owners of the entity have limited liability) that is directly or indirectly majority-owned by one or more persons described in prong (i), (ii), (iii), (iv), or (v) and in which such person(s) bears unlimited responsibility for the obligations and liabilities of the legal entity; and (viii) any individual account or joint account (discretionary or not) where the beneficial owner (or one of the beneficial owners in the case of a joint account) is a person described in prong (i), (ii), (iii), (iv), (v), (vi), or (vii).

[i] If there is no SD cpy to the trade, CFTC Part 45.8(f) provides …if neither counterparty to a swap is a U.S. person, but the swap is executed on or pursuant to the rules of a SEF or DCM or otherwise executed in the United States, or is cleared by a DCO:

(1) For such a swap executed on or pursuant to the rules of a SEF or DCM, the counterparties shall agree which counterparty shall be the reporting counterparty.

(2) For an off-facility swap, the counterparties shall agree as one term of their swap which counterparty shall be the reporting counterparty.