

## Best Practice: Reporting Unwinds and Novations Executed as New Transactions

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## I. Introduction

This guide represents an industry best practice, as discussed and agreed by the ISDA Data & Reporting U.S. Compliance Working Group, to uniformly remedy Swap Dealer (“SD”) trade bookings and reporting by the relevant Reporting Counterparty (“RCP”) under the CFTC’s Part 43 and Part 45 rules (the “reporting requirements”) in edge cases where a client executes a new trade either off-facility or on a Swap Execution Facility (“SEF”), and then advises the SD(s) that the trade is actually an unwind or novation of a pre-existing bilateral trade and requests that the SD remedy in accordance with their intention. In order to avoid this situation, every effort should be made by the client to notify the SD at the time of execution that the transaction is a post-trade event on an existing swap rather than a new swap.

Further, unless a SEF is capable of processing post-trade events on bilateral transactions, execution of the event should occur bilaterally with the SD who can book and report the event in accordance with the client’s intention. The industry should strive for pre-trade clarity to avoid the complexity that arises from amending bookings where such actions have impact on a reporting counterparty’s compliance with the reporting requirements.

*Please note:* This best practice does not apply to cases where the parties enter into an off-setting transaction with the intention to retain both positions and net their exposure.

### **Off-facility**

Revising the booking for an off-facility swap is made more complex by the reporting requirements, as trade amendments impact the quality and timeliness of the reporting. Therefore, even in cases where the swap was executed bilaterally, it is important to have a consistent approach to resolution that recognizes the legitimacy of any executed swaps and allows the SD(s) to comply with their reporting requirements, while still achieving the end-state desired by the client.

### **On-facility**

Remedying the booking and reporting for SEF executed swaps is more complex than when execution occurs off-facility, since the SEF creates the Unique Swap Identifier (“USI”) and has the creation data reporting obligation for swaps executed on or pursuant to the rules of its platform.

Although SDs recognize that clients may prefer to cancel and revise bookings to reflect only the post-trade event they intended to execute against the bilateral swap, this is not feasible since a new trade has already been booked and reported by the SEF. The SD does not have the exclusive ability to revise trade bookings and correct reporting to reflect the client’s intention.

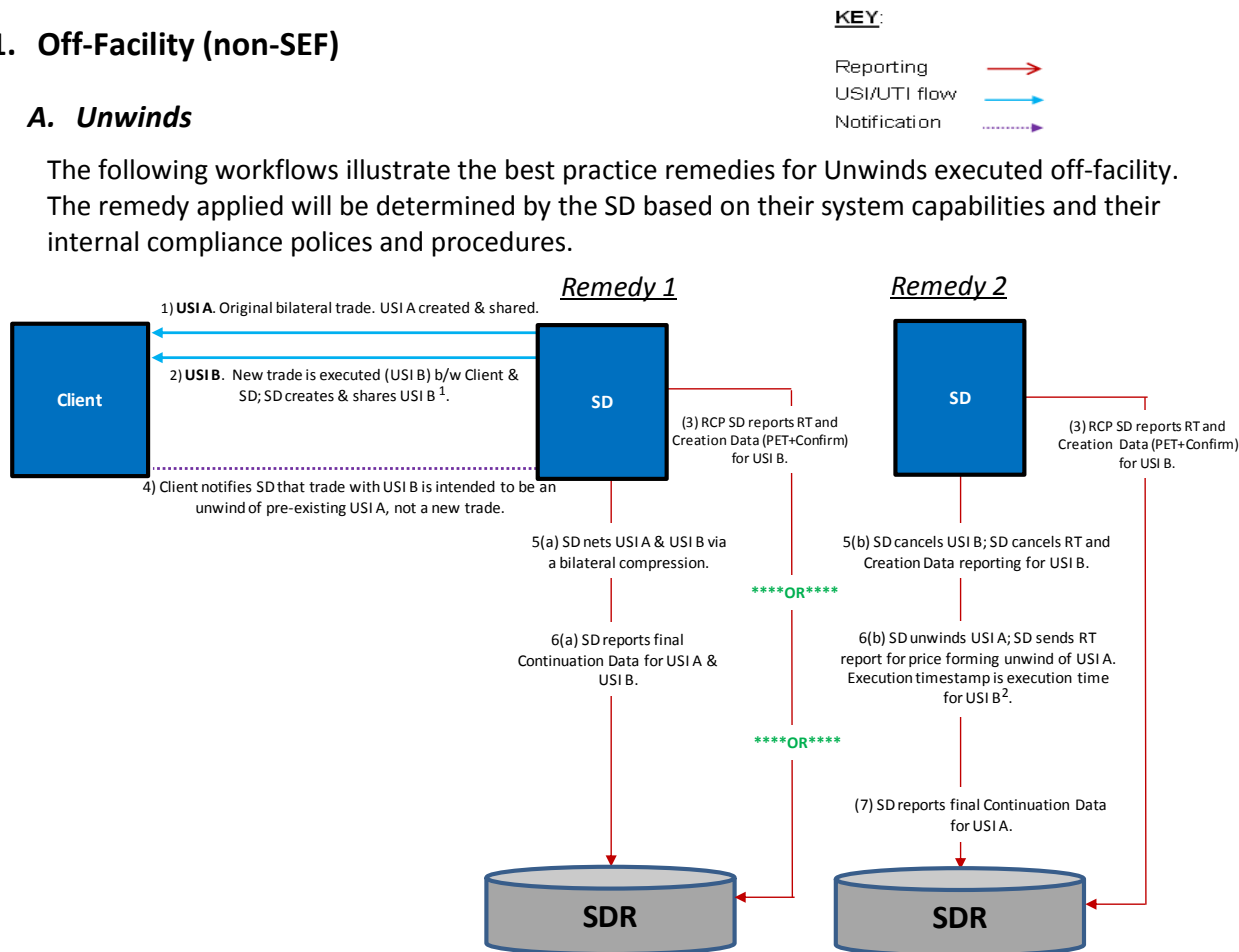
Therefore, the best practice for swaps executed via a SEF in this document reflects a practical remedy that is within the control of the SD(s) to revise trade bookings and reporting in a manner that recognizes the legitimacy of the original bilateral swap and the SEF executed swap, but achieves the end-state desired by the client.

## II. Best Practice Flows

### 1. Off-Facility (non-SEF)

#### A. Unwinds

The following workflows illustrate the best practice remedies for Unwinds executed off-facility. The remedy applied will be determined by the SD based on their system capabilities and their internal compliance policies and procedures.



#### Description of diagram steps:

- (1) Original trade execution (USI A). USI A created and shared.
- (2) SD executes a new trade (USI B) b/w Client & SD; creates & shares USI B<sup>1</sup>. (A & B are offsetting positions - have same terms; opposite direction.)
- (3) The RCP SD reports reports RT and Creation Data (PET+Confirm) for USI B.
- (4) Client notifies SD that trade with USI B is intended to be an unwind of pre-existing USI A, not a new trade.
- (5) **(a) SD nets USI A & USI B via a bilateral compression. Compressions are not subject to RT reporting**
- (6) **(a) SD reports final Continuation Data for USI A & USI B.**  
\*\*\*\*\*OR\*\*\*\*\*
- (5) **(b) SD cancels USI B; SD2 cancels RT and Creation Data reporting for USI B from Step 3.**
- (6) **(b) SD unwinds USI A; SD sends RT report for price forming unwind of USI A. Execution timestamp is execution time for USI B<sup>2</sup>.**
- (7) **SD reports final Continuation Data for USI A.**

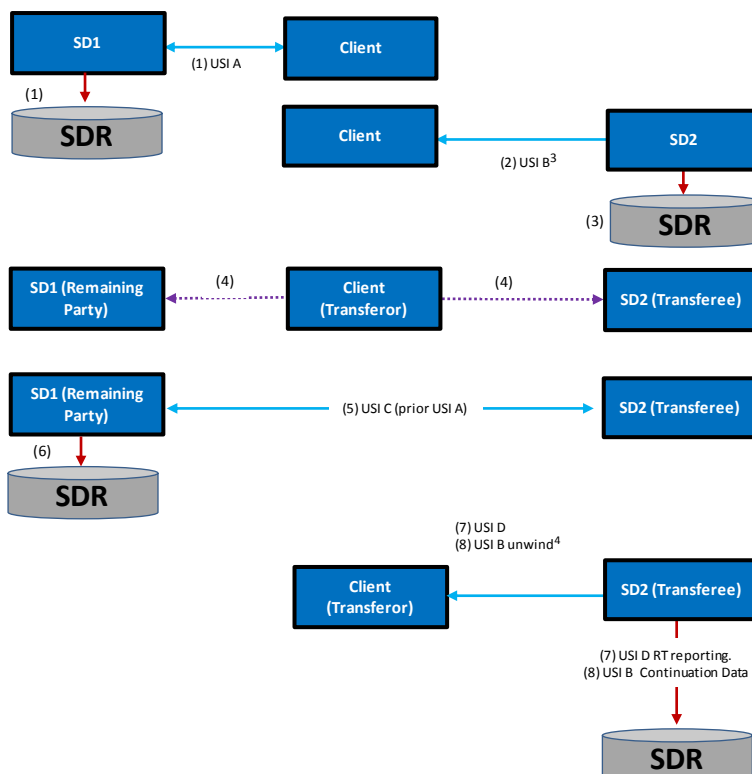
<sup>1</sup> Execution of the trade (USI B) as a new trade triggers the requirement to issue a confirmation for the trade (USI B). If the counterparty notifies the SD sufficiently prior to the issuance of the confirmation for the trade with USI B that such trade should be an unwind of the trade with USI A, an SD choosing to cancel the trade with USI B (see Steps 5-7) may be in a position to not issue a confirmation for the trade with USI B.

<sup>2</sup> Note: real-time reporting will be late due to delayed notification.

## B. Novations

The following workflow illustrates the best practice remedy for Novations executed off-facility:

- 1) Original bilateral trade b/w Client & SD1. USI A created and shared. RCP SD1 reports RT and Creation Data (PET+Confirm) for USI A.
- 2) SD2 executes a new trade (USI B) between Client & SD2 instead of a novation; SD2 creates & shares USI B<sup>3</sup>.
- 3) RCP SD2 reports RT and Creation Data for USI B.
- 4) Client (Transferor) notifies SD1 (Remaining Party) & SD2 (Transferee) that trade is not new; Client requests Novation of USI A. 3 Parties agree.
- 5) Novation is executed (USI C); RCP could be either SD1 or SD2. If SD1 is RCP (shown), then SD1 creates & shares USI C (prior USI A). If RCP is SD2, then SD2 creates & shares USI C (prior USI A). For the remainder of diagrammed flows, we assume RCP is SD1.
- 6) RCP for USI C reports Continuation Data for USI C (prior USI A).
- 7) If the execution of the novation between Client (Transferor) and SD2 (Transferee) is a price-forming event, then SD2 reports RT data using separate USI (USI D). This may be unnecessary since SD2 has reported the execution via USI B (Step 3).
- 8) SD2 unwinds USI B (no rationale/link to USI C)<sup>4</sup> and reports final Continuation Data for USI B.



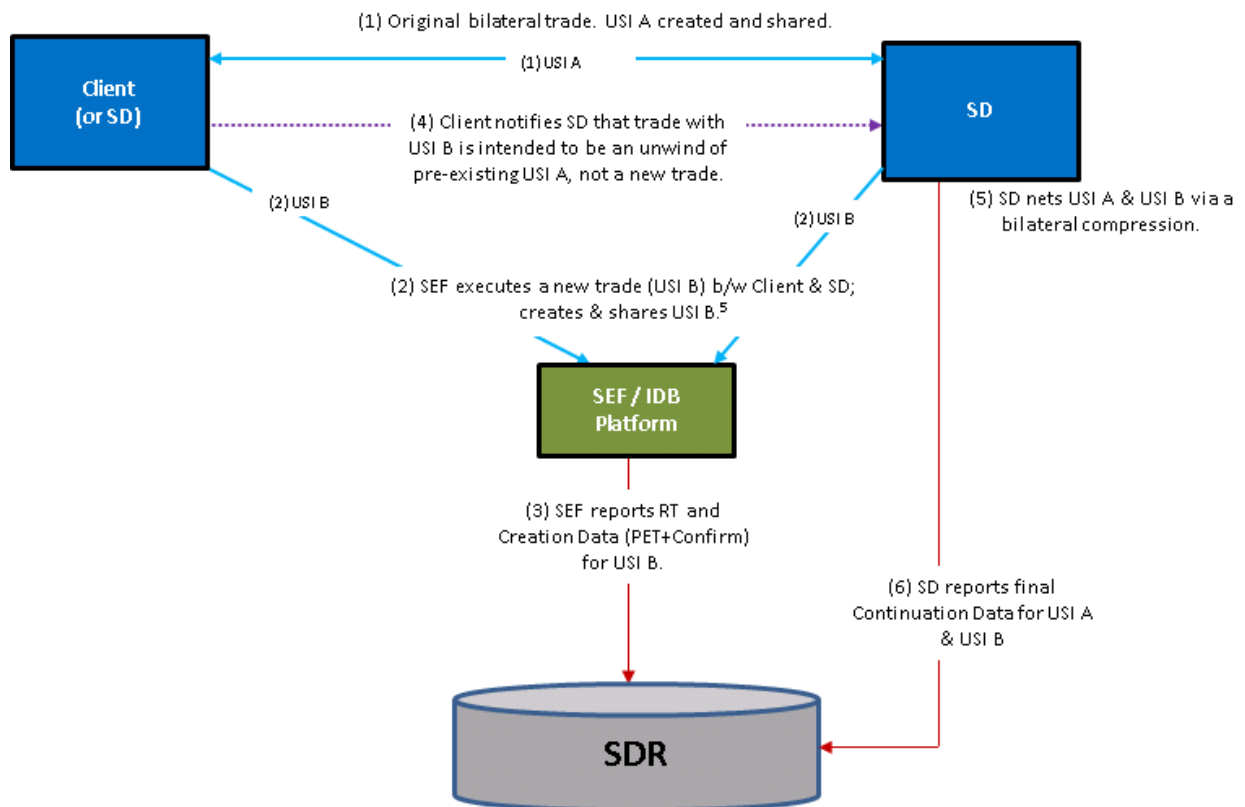
<sup>3</sup> Execution of the trade (USI B) as a new trade triggers the requirement to issue a confirmation for such trade (USI B).

<sup>4</sup> There is currently no ability to link the novation (USI C) and the unwind of USI B.

## 2. On-facility (via SEF)

### A. Unwinds

The following workflow illustrates the best practice remedy for Unwinds executed via SEF:



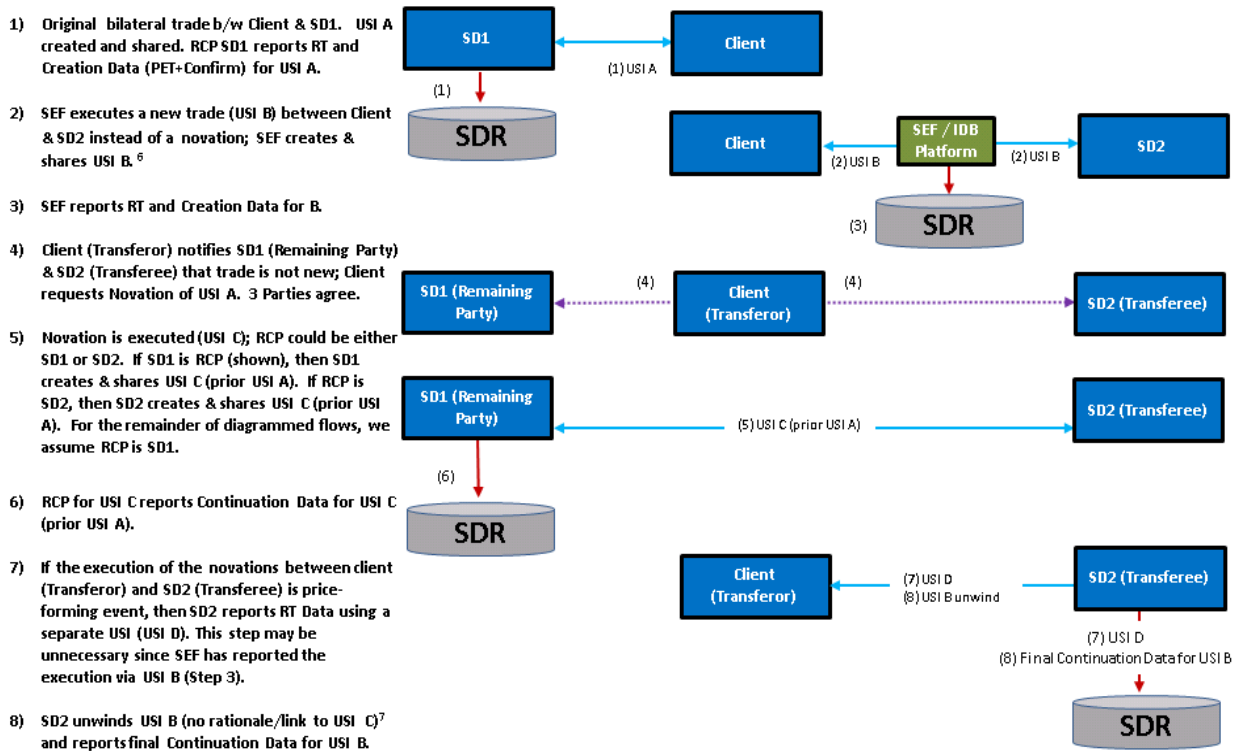
#### Description of diagram steps:

- (1) Original trade execution (USI A). USI A created and shared.
- (2) SEF executes a new trade (USI B) b/w Client & SD; creates & shares USI B.<sup>5</sup> (A & B are offsetting positions - have same terms; opposite direction.)
- (3) SEF reports RT and Creation Data (PET+Confirm) for USI B.
- (4) Client notifies SD that trade is pre-existing (intended to be an unwind of USI A), not a new trade.
- (5) SD nets USI A & USI B via a bilateral compression. Compressions are not subject to RT reporting.
- (6) SD reports final Continuation Data for USI A & USI B.

<sup>5</sup> Execution of the trade (USI B) as a new trade triggers the requirement to issue a confirmation for such trade (USI B).

## B. Novations

The following workflow illustrates the best practice remedy for Novations executed via SEF:



<sup>6</sup> Execution of the trade (USI B) as a new trade triggers the requirement to issue a confirmation for such trade (USI B).

<sup>7</sup> There is currently no ability to link the novation (USI C) and the unwind of USI B.