

SMPG – Tax sub-group

Telephone Conference Minutes

16th May 2013

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**Attendees**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | **Country** |  | **First Name** | **Last Name** | **Institution** | **Participation** |
|  | BE | Ms. | Véronique | Peeters | BNY Mellon | Excused |
| **Facilitator** | N/A | Mr. | Jacques | Littré | SWIFT | 🗸 |
|  | CH | Mr. | Reto | Baumgartner | Credit Suisse | 🗸 |
|  | DE | Mr | Daniel | Schaefer | HSBC | Excused |
|  | FR | Mrs.  | Kimchi | Phungtran | BNP Paribas | Excused |
| **Co-chair** | FR | Mr | Jean-Pierre | Klak | State Street | 🗸 |
|  | IT | Mrs | Paola | Deantoni | Societe Generale | Excused |
|  | LU | Mr. | Bernard | Lenelle | Clearstream | 🗸 |
|  | LU | Mr | Charles | Boniver | RBC IS | Excused |
| **Co-chair** | SG | Mr | Jyi-Chen | Chueh | Standard Chartered | 🗸 |
|  | UK & IE | Mrs. | Mariangela | Fumagalli | BNP Paribas | 🗸 |
|  | US | Mrs. | Sonda | Pimental | BBH | 🗸 |
|  | XS | Mrs | Delphine | Haillez | Euroclear | Excused |
|  | ZA | Mr. | Sanjeev | Jayram | First National Bank | 🗸 |
|  | ZA | Mr | Dale | Van Rayne | First National Bank | Excused |
|  | ZA | Mr | Yusuf | Basha | First National Bank | 🗸 |

# Scope of the Tax Sub-group

Tax on Events vs. Tax on Transactions
Jean-Pierre has contacted Italy (Paola) regarding the European Financial Transaction Tax (FTT) and Italy confirmed they have the same approach/model as the French market on this topic.

As already communicated at the last meeting, Jean-Pierre reminds the group that the European Financial Transaction Tax topic is not in the scope of work of the tax-subgroup.

At the last SMPG Frankfurt meeting in April 2013, the creation of a new cross domains SMPG sub-group for the European FFT related issues has been proposed and will be first discussed at the next SMPG steering committee meeting.

The CA tax sub-group objective is rather to focus on:

* some of the specific phases of the tax processing flow so as to identify potential information gap;
* the correct usage of the tax elements/rates per CA event; and
* solving tax related CA events issues raised by the SMPG CA group.

# Tax Table



The objective is not at this stage to go into the a detailed analysis of the usage of the tax related message elements but rather to collect first-hand information about which elements are actually used or not.

No country feedback received before the Meeting.

Asian countries: Jyi-Chen mentions that the topic will be discussed at the APAC Regional MPG around beginning of June.

CH: will provide feedback for the June tax sub-group meeting.

UK: will revert on when they could provide feedback given that the task to collect that information from users can be huge.

LU: will provide mainly a cross border view of the tax rates usage.

**Actions**:

1. For next call June 20, all countries to provide their feedback for each code with a status ‘Used’ / ‘Not used’ locally. Each participant is required to give only a national view and not a global custodian point of view (involved in several countries).
2. Jacques to fill in the table the usage of tax rates as per the traffic figures collected in 2010.
3. Jacques to ask if SWIFT is planning again to collect traffic data on tax elements on a regular basis.

# Tax processing flow / certification process



Bernard walks the sub-group through the tax processing flow chart (see attached slide above) then the group discuss on which steps the group should focus in priority.

The group agrees to focus initially on the 4 following steps of the flow:

* Account set-up
* Certification and instruction
* Tax repayment / claim
* Notification

and also resolves to split the notification steps into the following 2 aspects:

* Tax processing related information
* CA event related tax information

It is also agreed to start with the “Account Set-Up” step at the next conference call.

Sonda confirms that FATCA fits into this value chain description and that it can be addressed as part of the Account Set-Up phase.

As complementary input, below an example of tax messaging flow already discussed in an earlier tax subgroup meeting:



**Feedback received from Sanjeev (ZA) before the conf call.**

*Value Chain Description of the tax landscape*

* *We are generally in agreement with the Value Chain Description of the tax landscape.*
* *The withholding tax process in South Africa is slightly different in that:-*
* *Legislation has made provision for Regulated Intermediaries (RI). The duties of the RI include the collection of withholding taxes (WHT), reporting on withheld taxes and paying such taxes to the Tax Authority.*
* *In order to avail of relief from WHT the investor is required to make the required declaration (can be seen as certification). The declaration is required once and will remain in force until the “status” of the investor or the applicable Double Taxation Agreement (DTA) changes, either the investor is required to inform their service provider.*
* *The tax reclaims are directed to the RI and not the Tax Authority. South Africa is thus seen as a “quick reclaim” market. Tax reclaims can be made up to 3 years from the pay date of the event after which no claim is possible.*
* *Service providers have, to an extent, enhanced their systems to annotate account with the applicable tax rate.*

**Action:**

1. Countries to provide feedback on the 4 priorities defined above and identify issues for each of them.

# Other Items

## CA 221: related to SR2012 Change requests proposed by South Africa

Feedback received from Sanjeev (ZA) before the conference call:

*There were 2 issues here:*

1. *Tax on security distributions (Dividends in Specie – Spin-off)*
* *Currently sequence E1 in the MT564 (and D1 in the MT566) does not allow for the communication of tax qualifiers. This was referred to SWIFT we received guidance that these qualifiers can be communicated in sequence E. This is not the most desirable solution and South Africa will evaluate and consider whether we will lodge a CR.*
1. *Question whether one or two cash moves should be communicated where there is a taxable and non-taxable amount*
* *This situation arises where the company pays part of the cash distribution as a taxable dividend and a Secondary Tax on Companies (STC) credit. Prior to WHT coming into effect all taxation obligations on corporate action entitlements was paid by the Issuer. The Issuer satisfied tax obligations in terms of Secondary Tax on Companies (STC) legislation and as a result no deductions are made from the announced rates. Whilst paying STC the Issuer accumulated credits and in terms of the WHT legislation Issuers have 3 years from 1 April 2012 to distribute such STC credits to investors. Thereafter STC credits will be forfeited to the treasury.*
* *The WHT is communicated as TAXR and the STC credit as TAXC and the issue of 2 cash moves was referred to SWIFT who guided that one cash move with a net amount would be sufficient.*
* *As STC will eventually work itself out of the system South Africa will not lodge a CR in this regard.*

# Next Conference Calls

* Thursday June 20 from 2 PM to 3:30 PM CET.

**------------------------ End of the Meeting Minutes -----------------**