

SMPG – Tax sub-group

Telephone Conference Minutes

15th May 2014

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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 |
|  | DE | Mrs | Andreana | Pileri | Commerzbank |  |
|  | FR | Mrs.  | Kimchi | Phungtran | BNP Paribas | Excused |
| Co-chair | FR | Mr | Jean-Pierre | Klak | State Street |  |
|  | FR | Mrs | Pascaline  | Letang | BP2S | Excused |
|  | FR | Mrs | Marzena | Lenczowska | BP2S |  |
|  | IT | Mrs | Paola | Deantoni | Societe Generale | Excused |
|  | LU | Mr. | Bernard | Lenelle | Clearstream | Excused |
|  | LU | Mr | Ludovic | Schwindt | Clearstream | Excused |
|  | LU | Mr | Charles | Boniver | RBC IS | Excused |
| Co-chair | SG | Mr | Jyi-Chen | Chueh | Standard Chartered |  |
|  | UK & IE | Mrs. | Mariangela | Fumagalli | BNP Paribas | Excused |
|  | US | Mrs. | Sonda | Pimental | BBH |  |
|  | XS | Mrs | Delphine | Haillez | Euroclear |  |
|  | XS | Mrs | Marina | Kotti | Euroclear |  |
|  | ZA | Mr. | Sanjeev | Jayram | First National Bank | Excused |
|  | ZA | Mr | Dale | Van Rayne | First National Bank | Excused |
|  | ZA | Mr | Yusuf | Basha | First National Bank |  |

New participant for France : Pascaline LETANG. Replaced for this call by Marzena Lenczowska

**Action**: NMPGs to eventually look for tax experts candidates in their local Markets.

# Approval / comments of March 13th call minutes

No comments.

The minutes are approved.

# Tax Table

No update received on the table.



# WITF/WITL/TAXR MP

1. **Feedback of Jyi Chen regarding his presentation during CA SMPG in London**

Highlights :

Positive feedback from the CA SMPG regarding the goal of the group to harmonize and simplify usage of TAXR / WITF / WITL

Recommendation from the CA SMPG to focus on an analysis on TAXR / WITL / WITF as amounts.

According to the feedbacks a new version of the document has been shared with the CA SMPG (sent on Monday 12th May with the German Market document related to German Funds withholding tax scenario). The goal is to have a final agreement from the CA SMPG in order to launch a Change Request : conference call of the CA SMPG planned for 22nd May.



Discussion regarding Option B with the country code : it provides probably more clarity but how to show in the amounts? In order to do so : new format to create in the amount fields.

Suggestion to say that distinction between currency codes could be enough ZAR vs NGN for example if we come back to South African examples.

1. **German Funds withholding tax scenario**



Andreana presented the document prepared by the German NMPG.

Key highlights: Options A and C are OK but for option B : withdrawal of WITF may cause problems.

Suggestion to use WITL ?

Andreana explained that there is a reclaim opportunity even if the taxation is not a German tax

The need is to have a replacement for WITF : it could be either WITL with a change of the definition or another rate type code such as a CPLT.

Option B (country codes) looks difficult to apply on this scenario

**Action:**

The next step will be to wait for the final feedback from the CA SMPG and prepare the SR 2015 Change Request accordingly.

# Tax processing flow / certification process



Bernard being not able to attend the meeting, the subject is postponed to the next conference call

**Action:**For next conference call, Bernard and co-chairs to prepare an updated document for discussion

# FATCA

Sonda provided some updates related to FATCA implementation by IRS.

1. The market is waiting for an approval from IRS in July on the US FATCA Market Practices. The impact – if any – may be rather on account opening process
2. Reminder on the fact that new qualifiers (exemption type codes) will come for the SR2014 :
3. Sonda will share some documents with the group : Presentation by BBH on behalf of ISITC. Accounting diligence, client documentation, …
4. Question was raised on whether the US ISITC is considering any guidelines / standards in identifying FDAP (Fixed or Determinable Annual or Periodical) Income for FATCA in MT564 / MT566

As per regulations, FATCA generally applies to 1) “withholdable payments”, which consists of a) FDAP income and b) gross proceeds from the sale or other disposition of property that can produce interest or dividend income and 2) pass-thru payments

Some intermediaries and end investors are wondering whether US service providers would be able to determine the FDAP nature of an event. Indeed, while the US custodian may not need to apply FATCA at its level, there is still possibility that, further down the chain, another service provider may need to apply a FATCA withholding towards its underlying customers

=> Having a FDAP indicator identified at the starting point of the chain would facilitate FATCA rules application across the chain

1. Regarding SR2014, Jacques explained that SWIFT will wait for the IRS validation before publishing the final exemption type codes. No changes on Income type codes

# CA 200.2 – Options for Tax Treatment

No further actions: topic CA 200.2 is closed

Information required on Tax breakdowns

See attached file



During the previous call, the group had highlighted that some markets require specific IDs:

* Portugal : the Tax ID is mandatory
* Asia : the local ID of the investor is required

**Action:**,

* NMPGs to review the table to identify if they have some exceptions / discrepancies.

# Other topics

a. different deadlines between the available position and the stock lending position.

Lending deadline: CA SMPG explained that, since multiple MT566 can be supported (e.g. one for the settled position entitlement, another one for the lent position), it is still possible to reflect different tax rates for each respective position buckets as such we proposed to close the tax item

**Action:**,

* Subject close for the Tax sub group

b. Question from APAC WG on ‘FLFR’:

For subsequence E2 Cash Movement Field 92a: Rate, FLFR is defined twice:

* defined as a ‘Qualifier’ along with ‘GRSS’.
* Defined as a ‘rate type code’ in the qualifier GRSS



SWIFT Singaporean representative got some contacts with the Australian Market.

Jyi-Chen also confirmed that a working group in Australia exists and the case will be also raised to them.

**Actions**:

* Australian representative should participate in the next Maintenance Working Group. The different participants will be able to discuss this subject with this person.

# Next Conference Calls

Scheduled on: 26th Jun from 2pm to 4pm

New dates to prepare from September to December 2014

**Action:** Bernard, Jacques and co-chairs to propose next dates.

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