

SMPG – Tax sub-group

Telephone Conference Minutes

29th October 2015

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**Attendees**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | **Country** |  | **First Name** | **Last Name** | **Institution** | **Participation** |
|  | BE | Mrs | Véronique | Peeters | BNY Mellon | Excused |
| Facilitator | N / A | Mr | Jacques | Littré | SWIFT |  |
|  | CA | Mr | Cairbre | Cowin | RBC IS | Excused |
|  | CH | Mr | Reto | Baumgartner | Credit Suisse | Excused |
|  | DE | Mr | Daniel | Schaefer | HSBC | Excused |
|  | DE | Mr | Thomas | Rockstroh | Clearstream |  |
| Co-chair | FR | Mr | Jean-Pierre | Klak | State Street |  |
|  | FR | Mr | Karim | Djenadi | BP2S |  |
|  | FR | Mrs | Celine | Bohm | BP2S | Excused |
|  | FR | Mrs | Alexandra | Sellam | BP2S | Excused |
|  | IT | Mrs | Paola | Deantoni | Societe Generale | Excused |
|  | LU | Mr | Nicolas | Godfrey | Clearstream | Excused |
|  | LU | Mr | Bernard | Lenelle | Clearstream | Excused |
|  | LU | Mr | Charles | Boniver | RBC IS | Excused |
| Co-chair | SG | Mr | Jyi-Chen | Chueh | Standard Chartered | Excused |
|  | UK & IE | Mrs | Mariangela | Fumagalli | BNP Paribas | Excused |
|  | US | Mrs | Sonda | Pimental | BBH | Excused |
|  | XS | Mrs | Delphine | Haillez | Euroclear |  |
|  | XS | Mrs | Marina | Kotti | 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 | Excused |

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

# Approval / comments on September 17th minutes call

No comments. Previous minutes approved

# Tax Table

No update received on the table.



# WITF/WITL/TAXR/COIN Change Request

Attached, the final CR sent to the Maintenance Working Group



Change Request approved by the MWG.

**Action:**

Waiting for country vote to confirm future implementation of the Change Request for SR2016.

Canadian Market / Tax sub-group to produce a Market Practice on COIN usage.

# Tax processing flow / certification process

  

Feedback received from several Markets. Please see attached.  
Some are still missing.

As per the current answers, the final proposal may result into a mix solution



**Action:**

Tax experts who didn’t answer yet are required to provide their feedback: BE – IT – UK&IE - US.

It is reminded that it is not necessarily an NMPG feedback that is required but a general point of view from Tax experts / Market representatives. Consequently, Tax sub-group participants are not obliged to get a feedback from ALL participants of their Market.

Jean-Pierre will consolidate all feedbacks to have a similar wording.

The final document will be the basis for further discussion within the group.

# FATCA

No update. Last presentation attached.

The group proposes that if there is nothing new from the IRS, we can close this topic next time.

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# Tax Breakdown requirements

Information required on Tax breakdowns

See attached file



No update

**Action:**,

* NMPGs to review the table on a regular basis in order to identify if they have some exceptions or discrepancies.

# Other topics

a. 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



Reminder : AU rather uses as a Rate type code but to be confirmed that all AU Market participants uses it on the same way.

**Action**:

* Au opinion to get and then a Change Request will be proposed in order to delete the code where it should not be used.

b. Question from South Africa on MT566s for multiple tax refunds for an omnibus account

Some clients (e.g. global custodians) normally operate omnibus accounts (multiple beneficiaries) and resultantly when a tax refund is claimed it is normally claimed for multiple beneficiaries. The South African market is viewed as a “quick refund” market as Dividend Withholding Tax (DWT) legislation has provided for Regulated Intermediaries who will collect, report and pay DWT to the South African Tax Authority. The South African Tax Authority requires each beneficiary to dividend (including refund claimants) to disclose certain “personal” information and resultantly these details are reported by the Regulated Intermediary to the Tax Authority. In order to claim any relief from DWT the beneficiary to the dividend is obliged to make a declaration as required by legislation. Thus without the required declaration no tax refund may be provided.

In those instances where a client operating an omnibus account claims DWT refunds on behalf of multiple beneficiaries should a consolidated MT566 messages be sent with an averaged tax rate and aggregate posting amount? The other option would be to send a MT566 for each beneficiary refund, i.e. multiple MT566 messages. A consolidated MT566 message could, inter alia, cause reconciliation challenges should it not be supported by a schedule payment of sorts. On the other hand sending an MT566 per beneficiary payment/refund could aid automation and reconciliation.

* Subject to link to the Certification process topic?

Additional discussion and comments that took place during Jan 2015 call:

We may have 3 cases for the reporting and usage of MT566:

1. Tax related in the MT566 is an average amount or the max amount applied on the omnibus account
2. One MT566 for each rate applied
3. One MT566 per final beneficiary

Is there any question of timing related to the process or to take into consideration (Posting of the income, Taxation, Client reporting, …)

Last point: should we decide a global Market practice for this case and the MT566 communication attached or is it only a client service subject depending on client preferences?

The South African Market provided additional documentation. Please see attached.



**Action**:

* No feedback from the different Markets. It is decided that it will be only a South African Market Practice. Topic closed in the tax Sub-group.

c) Question from the Korean Market related to CA289 => The CA SMPG forwarded the below subject to the Tax sub-group.

Market: Korea

Example: Merger/Exchange offer of Kyongnam Bank (KR7192520005)

In this exchange offer, holdings of Kyongnam Bank were blocked from trading and converted to Bnk Financial (KR7138930003) shares as a mandatory event.  This transaction is subject to capital gains tax.  Shareholders are allowed to submit their average acquisition price (AAP) in order for subcustodians to apply a lower CGT.  Submission of the AAP is purely voluntary and currently announced in the narrative.  Since the event is a mandatory event, clients cannot send in an MT565 to advise their AAP – this will need to be mandatory e.g. via MT 599 or fax.  What is the best practice for announcing the AAP? E.g. should this event be announced as mandatory with choice where your options are:

1. Accept the resultant stock (in this case bnk financial) where no AAP will be submitted, or,
2. Accept the resultant stock and submit an AAP.

Or should the ability to submit an AAP be treated as a separate event? Or is there another practice that can be used?

We checked with the KR NMPG, and they commented that their best practice is to announce an AAP through any separate instruction such as MT 568/599 rather than an announcement of the mandatory event with AAP option. According to the KR market practice, AAP’s submission is the shareholders responsibility and sub-custodians do not support and do not consider AAP’s submission as separate events.

The APAC WG group suggested that this query be brought to the global SMPG for discussion as they wanted to know if there is a better way to process this rather than using the MT 568/599, and if there are any similar scenarios globally.

Question: is it a subject to be handled by the Tax sub-group?

**Action**:

The group had decided that it is a subject to be handled and discussed by the CA SMPG and make the link between this subject and the on-going discussions related to Mandatory events where an additional information is required. Topic closed in the Tax sub-group.

d) Tax subjects related to the last Maintenance Working Group (MWG)

* TXAP:

Definitions (short and long) :

|  |  |
| --- | --- |
| Issuer/Offeror Taxability Indicator | Proceeds are taxable according to the information provided by the issuer/offeror. |

The qualifier TXAP is present in the Secmove sequence as follows:

In option H, if Qualifier is TXAP, Indicator must contain the following code:

|  |  |  |
| --- | --- | --- |
| TXBL | Taxable | The securities proceeds are taxable. |

The qualifier TXAP is present in the Cashmove sequence

In option H, if Qualifier is TXAP, Indicator must contain the following code:

|  |  |  |
| --- | --- | --- |
| TXBL | Taxable | The cash proceeds are taxable. |

USAGE RULES

The Issuer/Offeror Taxability Indicator (TXAP) may only be used when no tax rate is provided in the message. It must not be used in events such as dividend or interest.

As of today, in the GMP1, it is stated that:

**3.13 Tax Applicability Indicator Usage**

TXAP may only be used when no tax rate is provided in the message. The purpose is to inform of the taxability, at a later stage/event, of the securities credited in this stage/event.

:16R:GENL

:20C::CORP//

:20C::SEME//

:23G:REPE

:22F::CAEV//SOFF

:22F::CAMV//MAND

:25D::PROC//COMP

:16R:LINK

:13A::LINK//564

:20C::PREV//

:16S:LINK

:16S:GENL

:16R:USECU

:35B:ISIN XX0000001234

ABC SHARES

:16R:ACCTINFO

:97A::SAFE//12345

:93B::ELIG//UNIT/10000,

:16S:ACCTINFO

:16S:USECU

:16R:CADETL

:98A::ANOU//YYYYMMDD

:98A::XDTE//YYYYMMDD

:98A::MEET//YYYYMMDD

:98A::RDTE//YYYYMMDD

:16S:CADETL

:16R:CAOPTN

:13A::CAON//001

:22F::CAOP//SECU

:17B::DFLT//Y

:16R:SECMOVE

:22H::CRDB//CRED

:22H::TXAP//TXBL

:35B:ISIN XX0000012345

DEF SHARES

:36B::ENTL//UNIT/5000,

:92D::ADEX//1,/2,

:98A::PAYD//YYYYMMDD

:98A::AVAL//YYYYMMDD

:16S:SECMOVE

:16S:CAOPTN

ZA and DE confirm during the call that they don’t use it.

**Action**:

Tax sub-group to work on how TXAP should be used.

Is it something dedicated to the US Market Practice. What about the FTT ?

To link with ETYP / ITYP Market Practice

# Next Conference Calls

The next conference call for 2015 is planned for 10th December.

**Action**:

Jyi-Chen and Jean-Pierre to propose some additional dates until June 2016

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