

SMPG – Tax sub-group

Telephone Conference Minutes

3rd May 2018

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**Attendees**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | **Country** |  | **First Name** | **Last Name** | **Institution** | **Participation** |
|  | AU | Mrs | Narelle | Rutter | BP2S |  |
|  | 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 | Excused |
|  | SE | Mr | Urban | Hane | Nordea | Excused |
| Co-chair | FR | Mr | Jean-Pierre | Klak | State Street |  |
|  | FR | Mr | Karim | Djenadi | BP2S | Excused |
|  | FR | Mrs | Celine | Bohm | BP2S |  |
|  | FR | Mrs | Alexandra | Sellam | BP2S |  |
|  | FR | Mr | Ilyas | Alikoglu | Bank of NEW-York | N/A |
|  | IT | Mrs | Paola | Deantoni | Societe Generale | Excused |
|  | LU | Mr | Nicolas | Godfrey | Clearstream | Excused |
| Co-chair | SG | Mr | Jyi-Chen | Chueh | Standard Chartered |  |
|  | UK & IE | Mrs | Mariangela | Fumagalli | BNP Paribas | Excused |
|  | UK & IE | Mr | Gabriel | Sampaio | BNP Paribas | Excused |
|  | US | Mr | Paul | Fullam | FIS Global | Excused |
|  | US | Mrs | Vandana | Pasricha | BBH | Excused |
|  | US | Mr | Caleb | Lanfear | BBH | Excused |
|  | US | Mr | Ian | De Sacia | DTCC | Excused |
|  | US | Mr | Steven | Sloan | DTCC | Excused |
|  | XS | MR | Jean-Paul | Lambotte | Euroclear |  |
|  | XS | Mr | Eric | Marega | 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 | Excused |

# Approval / comments on March 15th minutes call

Last minutes approved

# CA 392 - South African SR 2019 Change Request on Foreign Dividend Indicator

Subject discussed during the April SMPG.



The key issue for South Africa is to be able to distinguish between a local/domestic and a foreign dividend payment as there are different withholding tax implications and then receiver would also be able to distinguish which DTT (Double Taxation Treaty) is applicable. ZA is currently using COIN whilst but this should only be used when there are multiple distributions as explained in the GMP1 MP.

During a Tax SG conference call it was suggested to also distinguish in which “foreign” country the dividend is paid, hence the second/replacement CR asking for an ICTX qualifier to include the issuer’s country of taxation.

In general, there is not much support for the CR in the group as this information should normally be part of the reference data. However, this information is not in the corporate action announcement. The CR has come from client demand and ZA has changed the listing rules to say this information must be in the market announcement which generates a high volume of client queries.

**Decision of the SMPG**: The SMPG does not endorse the CR but instead asked the South African NMPG to propose an amendment to GMP1 for using COIN for single payment cases.

**Action decided by the global SMPG: Sanjeev/ZA NMPG to propose amendment to GMP1.**

**/////////**

Initial discussions within the Tax sub-group:

Sanjeev proposed for discussion a Change Request that South Africa will present for the next SR 2019 Maintenance session.



Background:   
The usage of COIN has been strictly limited so the proposal of ZA is to distinguish Foreign and Local dividend differently than using COIN.

TAXR / WITL are not enough to distinguish what is from the issuing part and the local part of the taxation.

Discussion during the call:

=> Regarding the code, should ZA propose FDIV?  
FDIV code already exists as Final Dividend (to distinguish Final Dividend vs Partial Dividend, PDIV). Another code should be chosen.

Nevertheless, it is confirmed during the call that the exact is reviewed by Standards before implementation and maybe different from the original proposal, so nothing urgent on that topic.

Jacques and SWIFT Standards will investigate on their side in due time.

=> Should we have the exact country or only an indicator?

Some feedbacks / comments already received from main actors in South Africa is to indicate a country code and not only indicator.

Regarding multi listed securities in Scandinavian countries, Urban said that it may be interesting. To be checked if it could be applicable

**Action**:

Subject presented during the April SMPG. No more actions related to the Tax sub-group.   
Topic closed.

# CA 315 - Extending CA MPs to ISO 20022 - How to tax cash dividend events and reinvest on cash dividend events in the context of an omnibus account.

Topic discussed within the CA SMPG.

Below the comments provided during the November CA SMPG call

No issues in AU. The omnibus account is split in different categories of tax regimes.

No issues in SE, the default (highest) tax rate is applied and is followed by a tax breakdown process with domicile certificates requested.

No Issue in DE with reinvestments either.

In RU, according current legislation in Russia we do not have account type «omnibus account». Reinvestment within a CA is not supported by legislation in Russia. Beneficial owners does not have such possibility (t reinvest proceeds) within a CA.

Comment during March call:

Used very often in Scandinavian countries, Urban would be interested in working on the workflow

**Action:**

The Tax Sub Group will deal with the more global “tax breakdown” issue.

# CA387 - MT566 and Tax Breakdown for Omnibus Account

Subject initially raised initially by Delphine within the Tax sub-group.

Discussed during April SMPG.

Feedback received from remaining NMPGs:

FI: One MT566 is sent per account and tax rate

PL: KDPW sends an aggregated MX CACO (seev.036) with multiple BO movements. CSD members split that into multiple MT566, one per BO.

SE: sends either one MT566 per tax rate or one MT566 per account.

DK: Only two NMPG members responded; both send one MT566 per account and tax rate.

JP: Depends on the sub custodian, some send one MT566 per account and others send one MT566 per account and tax rate.

ZA: Depends on the custodian, some send one MT566 per account and others send one MT566 per account and tax rate.

Follows a discussion of what exactly the original question was: did it refer to a breakdown received before payment date, a breakdown received after payment date/i.e. a quick refund or a tax reclaim?

From a GMP1 market practice perspective, it should not matter, as long as the movements in the messages reconcile with the movements on the account/s, we are fine.

* **Action mentioned during the global SMPG**: The Tax SG to revert in case they wish to create a market practice on use of aggregated tax rate

**////**

Initial discussions:

If a client has an omnibus account for which he provided a breakdown ending in several tax rates applicable.   
We are booking the credit for the full account in one movement ==> a single MT566 should be reported.   
Can we report several cash moves to be able to provide the breakdown?

Comments during March 2017 call:

Reminder: the current rule is 1 posting = 1 MT566

Narelle explained that in Australia, they can split between Frank and Unfrank.

So more generally, what about repeatability of qualifiers? TAXR is not repeatable.

We can also refer to the question from the Polish Market on the Pre-Advice of Cash: CA362

Germany will probably have a similar case next year (due to changes in the Tax law).

Comments during June 15th 2017 call:

The issue is that a client = an omnibus account, Consequently, for the payment : a single MT566 so a breakdown is necessary to be reported

Should we go to manage several cashmoves?

It seems that BBH has already a similar case, Dana will investigate internally

What Market Practice should we put in place and how should we document the GMP1?

For Global Custodians linked to BP2S : there are several cashmoves

**Action**:

To review within the Tax sub-group with a wider audience if a specific Market Practice is necessary otherwise the subject will be closed.

# Other topics

1. **Information about the German Market**

Presentation made by Thomas regarding the changes of the Tax law (known as new regulation “InvStG”) and a presentation regarding ‘Tax issues’ on T2S (focus on Market claims).

Major highlights:

* No more cash events on accumulation funds (Thesaurierenden Fonds)
* Due to the new rules, there will be some obligations for the foreign investment funds related to the Fund Status Certificate that they will have to manage.

Advantages of the law:

- For shareholders, no more tax for incomes distributed by the fund

- For the fund itself: taxation moving from 26% to 15%

More generally, the goal of the new law is to remove the Tax discrimination between German funds vs non-German funds.

Open issues: Market claims. Thomas explained that the key point is to identify for whom the transactions have been made. The Custodian can identify the Financial Institutions and not the final client. Current proposal is that Market Claims settle as gross in T2S.

FAQ related to the new law should be published by German authorities.

 

**Action**:

No additional questions raised on the new German law. topic to close.

# Next Conference Call

- Thursday 20th September 2018 from 2 to 4 pm CET

- Thursday 22nd November 2018 from 2 to 4 pm CET

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