

SMPG – Tax sub-group

Telephone Conference Minutes

22nd November 2018

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**Attendees**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | **Country** |  | **First Name** | **Last Name** | **Institution** | **Participation** |
|  | AU | Mrs | Narelle | Rutter | ASX | Excused |
|  | BE | Mrs | Véronique | Peeters | BNY Mellon | Excused |
| Facilitator | N / A | Mr | Jacques | Littré | SWIFT | Excused |
|  | 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 |  |
| Co-chair | FR | Mr | Jean-Pierre | Klak | State Street |  |
|  | FR | Mr | Karim | Djenadi | BP2S | Excused |
|  | FR | Mrs | Celine | Bohm | BP2S | Excused |
|  | FR | Mrs | Alexandra | Sellam | BP2S | Excused |
|  | FR | Mr | Ilyas | Alikoglu | Bank of New-York |  |
|  | IT | Mrs | Paola | Deantoni | Societe Generale | Excused |
|  | LU | Mr | Alexander | Reis | Clearstream |  |
| Co-chair | SG | Mr | Jyi-Chen | Chueh | Standard Chartered |  |
|  | UK & IE | Mrs | Mariangela | Fumagalli | 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 |  |
|  | ZA | Mr | Dale | Van Rayne | First National Bank |  |
|  | ZA | Mr | Yusuf | Basha | First National Bank |  |

# Approval / comments on September 20th minutes call

Last minutes approved

# CA 392 - Foreign Dividend Indicator in South Africa

Subject re-opened further to the South African request raised during the SMPG in Sydney.
Please see below:

Sanjeev explained the background of the need for a foreign dividend indicator, and their revised proposal for a change of COIN in GMP1. Jyi-Chen reiterated the counterproposal to use TAXR and WITL, and only use WITL for foreign tax when applicable.

The problem is that, depending on the foreign country’s non-reclaimable tax rate (if it is 20% or higher), WITL may not be used since there will be no ZA tax withheld.

Christine commented that it is important to not change COIN in a manner that prevents it from being used as it is currently.

Narelle asked if conduit foreign income could be used instead. It does not reflect the country code, but otherwise should suit.

The South African Market will investigate this proposal.

* Previous comments on this topic:

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**:

The South African Market will investigate the possible usage of the Conduit Income.

# CA387 - MT566 and Tax Breakdown for Omnibus Account

No more input on this topic. Subject to close

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**:

subject closed.

# CA424 - Details of foreign tax deduction and base of tax in MT564/566 (Japanese Market request)

The Japanese Market raised an issue they have on foreign tax deduction and different base of tax between national tax and regional (local) tax.

The Tax sub-group made the link between this request and the current GMP1 rules based on the South African model: 8.34 Usage of Withholdings Tax Rates (TAXR, WITL).

Consequently, the proposal would be rather to use TAXR and WITL.

Please see attached the original question and the solution proposed.



**Action**:

Jean-Pierre to come back to the Japanese Market.

# Other topics

1. **Question raised by Thomas (Rockstroh) on TAXR**

Thomas was asking if we have some guidance for usage of SWIFT Identifier / Codes / Indicators for Tax Refund and defined when and how e.g. 22F::ADDB//TAXR must be filled.

There is a section in the GMP1 8.32: ‘Usage of Withholdings Tax Rate and Second Level Tax’ but it relates to TAXR as a rate.

There is also a reference to TAXR that looks strange on topic 10 related to Market Claims

*10.1.1 Indication that Confirmation is for a Claim*

*The message to be used is the Movement Confirmation message.*

*The following Additional Business Process Indicator codes can be used:*

*1) Claim or Compensation [code CLAI]: Claim or compensation – the posting is related to a claim on the associated corporate action event.*

***2) Tax refund [code TAXR] – The posting relates to a tax refund from the authorities on the associated corporate action event.***

**Action**:

Usage of 22F::ADDB//TAXR and potential Market Practice to be discussed further within the tax sub-group

1. **Denmark Market**

Urban (Hane) informed the group that, there is a proposal to introduce Relief at Source in Denmark in 2021. A question has been already raised about the certification process which may be event per event.

1. **Spain**

A focus is made during the call on the Spanish Market which may implement a Financial Transaction Tax similar to the ones existing in Italy and France. Some discussions on the process already started in Spain, eg: the transaction tax may depend on a certificate.

# Next Conference Calls

The group agrees on the following dates for 2019:

Thursday 31st January - Thursday 28th March - Thursday 13th June

Calls from 2pm to 3:30pm CET

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