

SMPG – Tax sub-group

Telephone Conference Minutes

31st January 2019

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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 | Excused |
| 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 | Excused |
|  | UK & IE | Mrs | Mariangela | Fumagalli | BNP Paribas |  |
|  | US | Mr | Paul | Fullam | FIS Global | Excused |
|  | US | Mrs | Vandana | Pasricha | BBH |  |
|  | US | Mrs | Elizabeth | Lanfear | BBH |  |
|  | 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 | Excused |
|  | XS | Mr | Eric | Marega | Euroclear | Excused |
|  | 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 November 22nd minutes call

Last minutes approved

# CA 392 - Foreign Dividend Indicator in South Africa

Comments during January 31st 2019 call:

Sanjeev reminds to the group the background of this topic.

TAXR / WITL implementation and related Market Practices were only a partial answer to the South African need => need to identify local and foreign tax + the issuing country

COIN was not appropriate for the usage required by ZA, this is the reason why CDFI (Conduit Income) was proposed by the SMPG

One concern regarding CDFI. This code is coming from the Australian market and Conduit is dedicated to Australia. So proposal to change the definition removing ‘Conduit’ ?

The South African Market will investigate the possible usage of the Conduit Income and if a Change Request is necessary

DSS on ETYP / ITYP will also be investigated

Comment dated Nov 22nd 2018:
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 continue its investigations

# 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.

During January 2019, call, it has been confirmed that the Japanese Market is fine with the proposal. Topic to close



**Action**:

Topic closed.

# 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**:

Issue solved. Call between the German banks. No more issues. Topic closed

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.

Jan: no official calendar yet.

1. **Tax payments related to trade activity;**
i.e. Stamp Duty, VAT, FTT, Cap Gain Tax etc.

The US Market raised a new subject to discuss / investigate within the Tax sub-group: taxation that relates to Securities settlement activity.

Jean-Pierre highlights that, in France, when the Financial Transactions Tax (FTT) has been implemented the Market Practice was jointly established between the Settlement / Reconciliation NMPG and the Corporate Actions NMPG.

Consequently, we’ll have to pay attention to the fact that, depending on the subject we’ll discuss,
we’ll have to include the Settlement / Reconciliation group in these discussions.

# Next Conference Calls

Thursday 28th March - Thursday 13th June

Calls from 2pm to 3:30pm CET

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