

SMPG – Tax sub-group

Telephone Conference Minutes

7th November 2013

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Table of Contents

[1. Approval / comments of October 3rd call minutes 3](#_Toc374095273)

[2. Tax Table 3](#_Toc374095274)

[3. WITF/WITL/TAXR MP 3](#_Toc374095275)

[4. Tax processing flow / certification process 4](#_Toc374095276)

[5. FATCA 5](#_Toc374095277)

[6. CA 200.2 – Options for Tax Treament 5](#_Toc374095278)

[7. CA 221 – SR2012 Follow up Items 5](#_Toc374095279)

[8. Other topics 5](#_Toc374095280)

[9. Next Conference Calls 5](#_Toc374095281)

**Attendees**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Country** |  | **First Name** | **Last Name** | **Institution** | **Participation** |
| BE | Ms. | Véronique | Peeters | BNY Mellon | Excused |
| N / A | Mr. | Jacques | Littré | SWIFT |  |
| CH | Mr. | Reto | Baumgartner | Credit Suisse | Excused |
| DE | Mr | Daniel | Schaefer | HSBC | Excused |
| DE | Mrs | Andreana | Pileri | Commerzbank | Excused |
| FR | Mrs. | Kimchi | Phungtran | BNP Paribas | Excused |
| FR | Mr | Jean-Pierre | Klak | State Street |  |
| 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 |
| SG | Mr | Jyi-Chen | Chueh | Standard Chartered |  |
| UK & IE | Mrs. | Mariangela | Fumagalli | BNP Paribas |  |
| US | Mrs. | Sonda | Pimental | BBH | Excused |
| XS | Mrs | Delphine | Haillez | Euroclear |  |
| XS | Mrs | Marina | Kotti | Euroclear |  |
| XS | Mrs | Valerie | Wynants | Euroclear |  |
| ZA | Mr. | Sanjeev | Jayram | First National Bank |  |
| ZA | Mr | Dale | Van Rayne | First National Bank |  |
| ZA | Mr | Yusuf | Basha | First National Bank |  |

**New participants:**

Marina and Valerie from Euroclear joined the call with Delphine.

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

# Approval / comments of October 3rd call minutes

No comments received. Minutes are approved.

# Tax Table

No update received on the table.



# WITF/WITL/TAXR MP

**ZA Market**

Sanjeev presented the South African Market different scenarios regarding usage of WITF and TAXR. (see here below):



ZA utilises TAXR to communicate the tax that will be withheld in terms of the ZA Dividend Withholding Tax (DWT) legislation and WITF for any foreign taxes withheld (taxes withheld before payment is made to ZA investors).

In instances where a foreign tax has been withheld and not reclaimable the ZA DWT will be reduced by that rate. However it can never create a tax credit, e.g. foreign tax of 10% withheld and not reclaimable will reduce ZA DWT to 5%. However where a foreign non-reclaimable tax of 20% is withheld it will reduce ZA DWT to 0% (not -5%). It must further be noted that all tax obligations are calculated on the gross dividend as announced by the issuer.

In ZA market, the stock exchange (JSE) makes it mandatory for dual listed securities issuers to announce both TAXR and WITF. This is then passed to local custodians.

ZA Market confirms they have no need of WITL.

**Other Markets**

For the other markets, the participants provided the following comments:

Euroclear: Euroclear reports only TAXR of the primary Market, WITL is not used neither for the secondary Market (e.g. ZA).

GB: in the UK, no withholding tax as such. For IE dual listed securities in the UK, TAXR will be reported as a code for every kind of tax. Still some discrepancies exist between custodians so the UK&IE Market will follow the recommendation of the Tax sub-group regarding: TAXR and WITF even if majority are using TAXR.

Regarding securities negotiated both in UK and IE, they have the same ISIN and it is only a question of place of settlement so no impact on tax even if there are two different places of listing.

For Real Estate (REITS) scope: TAXR is used.

FR: French custodians should rather use WITL and WITF => FR Rules based on the short definition: Local = FR, Foreign = Tax outside France. Nevertheless, Jean-Pierre will do a survey to get the feedback of all participants in the French Market knowing that all qualifiers TAXR, WITL and WITF are used today (see above Tax Qualifier Analysis spreadsheet)

SG / Asia: not a lot of experience of dual listed securities. TAXR applied similarly to UK model. There is however a need of a country code and repeatable TAXR because WITF can also be confusing. Example: TAXR/NI and TAXR/ZA

The group points out again the issues due to inconsistency between short and long definitions of WITL / WITF. In particular with WITL: “local Tax” versus “jurisdiction of the account owner”

Concerning TAXR, a suggestion is made to enhance the current definition with “reclaim possible” in the definition. That is missing compare to the other current definitions of WITL and WITF.

|  |  |  |
| --- | --- | --- |
|  | *Short Def* | *Long Def* |
| *TAXR* | *Withholding Tax Rate* | *Percentage of a cash distribution that will be withheld by a tax authority.* |
| *WITF* | *Withholding of Foreign Tax* | *Rate at which the income will be withheld by the jurisdiction to which the income was originally paid, for which relief at source and/or reclaim may be possible.* |
| *WITL* | *Withholding of Local Tax* | *Rate at which the income will be withheld by the jurisdiction in which the account owner is located, for which a relief at source and/or reclaim may be possible.* |

The last point shared by participants is also to focus on **non-dual** listed securities.

**Action**:

1. Clearstream to provide their example on dual listed securities.
2. Co-chairs to prepare a summary of the different actions to be proposed to the group.

# Tax processing flow / certification process



Certification

Euroclear indicates that the Value Chain description is similar for them.

No other feedbacks. The action is confirmed for the next call.

**Action:** For next conference call, NMPGs to provide feedback on certification process in their country.

# FATCA

No updates

# CA 200.2 – Options for Tax Treatment

1. Information required on Tax breakdowns

Feedback received from South Africa and Asia.

Other comments:

Euroclear : depends on the country concerned

UK&IE

- for IE: the concept of the QI is applied so no breakdowns

- for UK: it is necessary to have segregated accounts so no breakdown applicable. Nevertheless, to be checked regarding omnibus accounts.

**Action:**,

* Jean-Pierre to consolidate information received from South Africa and Asia. Afterwards the spreadsheet will be shared with the group in order to identify any country exceptions.

1. FR Tax announcement with multiple options.

=> Specific FR Market Practice for optional dividends (DVOP) where each tax rate (3 different rates) represents a SECU and a CASH option in the message (i.e. 9 options in total; 3 for cash, 3 for SECU round down and 3 for SECU round up).

**Action:**,

* Jean-Pierre to document the above scenario for next conference call.

# CA 221 – SR2012 Follow up Items

South Africa indicates that any local Market Practice is necessary according to the definitions of SHPR and DVOP.

Furthermore, ZA Market confirms during the call that either for SHPR or DVOP it is not necessary to indicate any ZA Market specifics in the EIG Matrix

**Action:** This topic can be closed.

# Other topics

Jyi-Chen pointed out a potential impact of a Change Request that has been accepted for the SR 2014. The CR relates to the fact that for manufactured dividend, it will be possible to indicate different deadlines between the available position and the stock lending position.

So what about taxes in this scenario? There is no direct link with the CR but in 2014, for such a case, everybody will have the possibility to use only one MT564 and no longer the narrative part so what will happened if taxation is different and that the settled position and loan position are taxed differently?

CashMove to be used to distinguish?

**Action:** NMPGs to investigate for further discussion.

# Next Conference Calls

* The next conference calls will take place on Thursday 19 December 2:00 pm CET.
* A possible physical meeting and / or video conference is also proposed, maybe for next year. Bernard /Jacques will provide more details during the next calls.

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