

SMPG – Tax sub-group

Telephone Conference Minutes

19th December 2013

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**Attendees**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | **Country** |  | **First Name** | **Last Name** | **Institution** | **Participation** |
|  | BE | Ms. | Véronique | Peeters | BNY Mellon | Excused |
| Facilitator | 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 |
| Co-chair | FR | Mr | Jean-Pierre | Klak | State Street |  |
|  | IT | Mrs | Paola | Deantoni | Societe Generale | Excused |
|  | LU | Mr. | Bernard | Lenelle | Clearstream |  |
|  | LU | Mr | Ludovic | Schwindt | Clearstream | Excused |
|  | LU | Mr | Charles | Boniver | RBC IS | Excused |
| Co-chair | 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 |  |
|  | ZA | Mr. | Sanjeev | Jayram | First National Bank |  |
|  | ZA | Mr | Dale | Van Rayne | First National Bank | Excused |
|  | ZA | Mr | Yusuf | Basha | First National Bank |  |

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

# Approval / comments of November 7th call minutes

Comment on Point 3 related to the South African presentation.
The original comment in the minutes was referring to a “non-reclaimable” tax but it is not necessarily the case.
Below, the original comment provided in minutes of 7th November 2013.

*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.*

South Africa explains that in their case, it is not reclaimable but for a better understanding we should rather say ‘and reclaimable under DTA when applicable’ rather than ‘not reclaimable’.

Taken into account the above amendment, the minutes are approved.

# Tax Table

No update received on the table.



# WITF/WITL/TAXR MP

**Presentation of Jyi Chen’s document**

****

The group discussed on the different recommendations proposed in the document.

* Recommendation 1: agreed by the group with a new proposed definition.

*Percentage of a cash distribution that will be withheld by a tax authority* ***of the country of issuance / tax incorporation of the security,******for which a relief at source and/or reclaim may be possible***

* Recommendation 2:

- review of the initial proposal

Agree to replace “country of issuance” into “country of listing”. i.e. “other than the local country of listing.”

All agree that TAXR should always be the taxation of the “home” (Issuer) market.

Euroclear uses only TAXR.

Also the addition of a country code to TAXR could be proposed as a new additional
format option that could be proposed at a service level (see option B in the recommendation 2).

The alternative in option A is that WITF is to be used only when more than one Tax applicable.

For ZA however, the solution could be TAXR for the issuer taxation + WITL for local
(below an extract of the TAXR WITF ZA table)



A question has been raised about ADR / GDR : what is the country of issuance ? should be the underlying but to be checked. Country of incorporation ?

Proposal of a new usage rule : WITL only to reflect additional tax taken by a local tax authority in addition to TAXR

Recommendation 3: WITL long definition to review as follows : *Rate at which the income will be withheld by the jurisdiction ~~in which the account owner is located~~,* *other than the authority of the country of issuance for which a relief at source and/or reclaim may be possible*

Short definition to be reviewed also.
But local will still be an issue because local will change at any time.

|  |  |  |
| --- | --- | --- |
|  | *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. Jyi-Chen and Jean-Pierre to update the document further to the discussion and make it ready to be reviewed by the CA WG.

# Tax processing flow / certification process



**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

Some feedbacks received. See attached file



**Action:**,

* NMPGs to review the table to identify if they have some exceptions / discrepancies.
1. FR Tax announcement with multiple options.

Presentation by Jean-Pierre of the ‘FR scenario’. See attached



**Action:**,

* NMPGs to review for potential questions and afterwards the subject will be closed : not a goal of the tax sub-group to enter this scenario

# Other topics

* Jyi-Chen pointed out a potential impact of a Change Request (SR2014 CR000613) 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.

* Question from APAC WG :

For subsequence E2 Cash Movement Field 92a: Rate, FLRR is defined twice:

* defined as a ‘Qualifier’ along with ‘GRSS’.
* Defined as a ‘rate type code’ in the qualifier GRSS

What is the use of FLFR as ‘qualifier’ when it is more commonly used under ‘rate type code’? Any reasons for its existence as a ‘qualifier’ in addition to as a ‘rate type code’ – if yes, how is to be interpreted and used?



Statistics from SWIFT are giving 50 /50 between direct code and sub-type code usage.

**Action** : Tax sub-group members to think about the appropriate scenario in order to propose an ad hoc Maintenance request to remove one of the two possibilities

# Next Conference Calls

Scheduled on: 13th Feb – 20th Mar – (April ?) – 15th May – 26th Jun from 2pm to 4pm

* 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 -----------------**