

SMPG – Tax sub-group

Telephone Conference Minutes

28th March 2019

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**Attendees**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | **Country** |  | **First Name** | **Last Name** | **Institution** | **Participation** |
|  | AU | Mrs | Narelle | Rutter | ASX |  |
|  | 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 |  |
| 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 | Excused |
| 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 | Excused |
|  | US | Mrs | Elizabeth | Lanfear | BBH | Excused |
|  | US | Mr | Caleb | Lanfear | BBH | Excused |
|  | US | Mr | Ian | De Sacia | DTCC |  |
|  | US | Mr | Steven | Sloan | DTCC | Excused |
|  | XS | MR | Jean-Paul | Lambotte | Euroclear |  |
|  | XS | Mr | Eric | Marega | Euroclear | Excused |
|  | ZA | Mr | Sanjeev | Jayram | First National Bank |  |
|  | ZA | Mr | Dale | Van Rayne | First National Bank | Excused |
|  | ZA | Mr | Yusuf | Basha | First National Bank | Excused |

# Approval / comments on January 31st minutes call

Last minutes approved

# CA 392 - Foreign Dividend Indicator in South Africa

Comments during March 28th 2019 call:

CDFI seems to be good for the South African Market. Nevertheless, there is a need to change the definition to remove reference to Conduit in the short definition.

Regarding investigations on ETYP / ITYP, it has been put on hold due to the preference for CDFI.

|  |  |  |
| --- | --- | --- |
| CDFI | ~~Conduit~~ Foreign Income | Rate relating to a conduit foreign income type or foreign income. |

The group raised the fact that it maybe strange to have a long definition saying both ‘conduit foreign income type ‘ and ‘foreign income’ in the same definition: shouldn’t it be simpler ?

The proposal could be: rate relating to a foreign income (eg. Conduit foreign income)

To be documented for the Change Request in order to explain to the whole CA SMPG during April meeting.

Jacques indicates that the Change Request will have to include the definition change for field 90B where CDFI also exists.

Due to the fact that CDFI is a rate type code that needs to be used with the qualifiers GRSS and NETT, the South African Market will provide some examples to show usage of TAXR, WITL and CDFI.

*Information raised after the Tax sub-group call:
According to the above discussion on the long definition, Narelle suggested the following proposal for the long definition: “Rate relating to a ~~condu~~it foreign income type such as conduit foreign income”*

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 propose a draft Change Request related to CDFI definition change during the global April Corporate Actions SMPG. They will provide also some examples to illustrate usage of this rate type code

# Other topics

1. **Denmark Market**

Comment during March 2019 call:

No additional information regarding the Market implementation, it appears that the Ultimate Beneficial Owner (UBO) will be required for the certification process

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**

Comment during March 2019 call:

Mari explained that the subject is frozen for the moment in Spain.

The group raised the fact that the European Parliament should agree in a next future for an European FTT so it may be the reason why it has been put on hold in 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.

During the January call, it has been shared that there was no official calendar at that time.

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

Comments during March 28th 2019 call:

The US Market added some few bullets for this topic

- Specific trade transactions in a subset of markets are subject to certain taxes (e.g. Stamp, Transaction Tax, CGT).  Custodians and sub custodians are often times in the “middle” of the process to ultimately effect payment.
- Client behavior and sub custodian practices aren’t consistent and the process is bifurcated. There is lack of visibility regarding end-to-end oversight of transactions from sub to custodian and down to Beneficial owner for transactions that are subject to these taxes; Process historically has been isolated to cash debit and manual in most banks
- There is limited ability to track,  validate and ensure payments have been processed.  Multiple touch points within banks to determine if payments are processed

- BBH has proposed to the SMPG tax sub group to consider building a swift payment (Transaction tax debit) to allow for more transparency, controlled environment and streamlined process.
- Other participants in this call should engage internally to seek out what the current process is and consider if the new tax debit message would be helpful

Topic raised in January 2019 as follows:

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.

**Action**:

The topic will be raised to the Settlement – reconciliation (S/R) group for the SMPG in Frankfurt

Depending on the need, this subject might be jointly discussed between the two groups

Further discussion on this topic to see in Frankfurt

# Former CA 221 – Tax messaging flow (previously closed topic)

Even if no consensus had been found on the certification process and the way to use MT564, Mari raised an issue with BENODET for the tax breakdown: in the BENODET sequence there is no way to put the tax rate at which the sender of the MT565 is requesting the beneficial owner to be paid

The case is related to omnibus accounts with a tax pool :

Client 1: 50 shs rate 1

Client 2: 15 shs rate 2

These details need to be sent in the MT565

A change request may be necessary if we want to use MT565 for tax breakdown.
Consequentially, a change request may be required in the MT567 to report that the rate indicated is not acceptable

Discussion during the meeting:

First of all, need to see who uses the MT565 for tax breakdown?

Thomas is using MT565 … but to check how according to the rates indicated in the message.

In Italy, on DVCA Mandatory, there is an omnibus account structure so on the maximum rate.
But it is necessary to indicate afterwards the exact rate and position on which the client is entitled

For XS: it may depend also on the different certificate types

SE: not heard about MT565 used for breakdown

Due to regulatory constraints (eg GDPR), the spreadsheet is not recommend so usage of a SWIFT massage should answer also answer this need.

There will be also a need to add somewhere the ISO country code to apply the appropriate rate

Mari also raised the fact that there is a need to review the GMP1 document.

In fact, within SR2018, CR1294 remove the option to repeat TAXR and WITL in seq. E and E2 of MT564 and seq. D and D2 of MT566.

In light of this change, Mari thinks we need to change GMP1 where in section 3.14 we state:

*When multiple prices/fees and rates are announced for an option, each should be specified within its own movement sequence. An exception is use of ”Interest Rate Used For Payment”, ”Gross Dividend Rate”  and  “Net Dividend Rate”, and the applicable tax rates (for instance. ”Withholding Tax Rate”),* ***when several rates can be included in the same movement sequence.***

Instead, we should recommend to use different movements if we have different income and tax rates and maybe provide an example as the one in 13.3 is for a TEND and doesn’t really carry any tax information.

**Action**:

The different markets will investigate if MT565 is really used for the Tax breakdowns.

If possible, discussion to continue during the physical meeting in Frankfurt and / or GMP1 to review

# Next Conference Calls

Thursday 13th June

Calls from 2pm to 3:30pm CET

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