

**Shares Working Together Steering Group  
3 November 2017, 10:30 am,  
100 Parliament Street, London**

**Present: For HMRC, Stamp Taxes:**

Pete Downing (PD), Simon English (SE), Rob Read (RR), Neil Parkes (NP), Ken Glover (KG), Steve Roberts (SR)

**External Members:**

Clare Bouwer (CB) – CIOT  
Michael Quinlan (MQ) – Law Society,  
Michael Phillips (MP) - HSBC  
Peter Stewart (PS) – BBA,  
Craig Leslie (CL) – STPG,  
Fiona Cole (FC) – STPG  
Andrew Tall (AT) – ICAEW Tax Facility  
Adam Willman (AW) - AFME

**Apologies –**

Morris Graham - HMRC  
Robert Van-Geffen – AFME  
Sarah Ghaffari – ICAEW  
Andy Thompson – Wealth Management Assoc.  
Pete Miller – ICAEW Tax Facility  
Michael McCormick – BBA  
Adam Parry – CIOT,

**1. Welcome & Introductions**

PD (standing in for Morris Graham) welcomed everyone to the meeting and attendees introduced themselves.

**2. Minutes of the last meeting**

**Action point 1** – related to the proposal for Adam Shooter to produce a guidance note to address common errors on stock transfer forms sent to Stamps. Adam has moved on to another role so NP was taking this forward. A note on the common issues had been produced and would be circulated to the group for comment (**New AP1**). NP would contact GOV.UK to explore publication once the note had been agreed. AT asked if HMRC could be more explicit upfront as to what further information was required so as to minimise to-ing and fro-ing. NP said that the note was focussed on completion of the form but this point would be taken on board. KG said that the stamps team were always keen to help people to self-serve and would take forward as a new action point (**New AP2**).

**Action Point 2** – related to requests by group members for clarification in respect of the share for share FB 2016 legislation in relation to (1) a drafting point and (2) the treatment of members voluntary liquidation. SR confirmed that he had sent an email to the group on 5 August 2016 but had agreed to recirculate to new members. SR agreed to recirculate the email to the group. (**New AP3**).

**Action Point 3** – related to RR liaising with Birmingham colleagues to clarify the procedure involved if a reclaim request received can't be matched to a CREST record. RR said this was a rare issue. When it comes back as not found HMRC suggest that customers go back to EUI. Where the customer reference isn't found it is often due to

split transactions. Customers should go back to the chain to see when tax was paid. Previously HMRC weren't receiving STPs which had been zero-ed but now receive these STPs from CREST. HMRC get downloads every day.

**Action Point 4** – related to SR publishing share for share guidance after speaking to PM about particular further examples and arrange a meeting with CIOT, Stamps Practitioners Group and ICAEW representatives to discuss their feedback on the legislation. Done.

**Action Point 5** – SE to circulate OTS contact details to enable the WTSG to comment on the SD process review. Done.

**Action Point 6** – RR gave an update on engagement with HMRC's IT partners about CREST performance and enhancement. This is a project to upgrade data links between HMRC and Euroclear UK and Ireland (EUI). Intermediate solution is in place prior to full solution. The project to improve the HMRC database is at an early stage.

**Action point 7** – RR to circulate his draft guidance on non-UK OEICS. Earlier circulation was prevented by election purdah (**New AP4**).

**Action Point 8** – WTSG to provide any further comment to SE and MQ about their thoughts on depositary interests in depositary receipts. This was to be discussed later in the meeting (item 5).

### 3. SD Performance

KG advised that 24,000 documents had been stamped within the 5 day target window during the period but some section 42 and section 77 cases have not met target with some claims taking over 20 days. There have been issues in respect of resourcing/loss of stamp taxes personnel and there has been a re-alignment of the working processes. At present there are 2 people who deal with enquiries but HMRC are looking at extending capability.

### 4. SDRT Performance update

There was discussion about the SDRT mailbox. CL said that the key was to get EUI to give out the mailbox. CB asked whether the mailbox was just for SDRT. HMRC answered that it was.

### 5. Updates on s77A FA1986 and CDIS over ADRS.

SR mentioned the meeting that had taken place to discuss s77A which had been introduced during Finance Bill 2016.

SE discussed the position in respect of CDIs in ADRs. HMRC has received no feedback since the last SWTSG meeting. At that meeting SE asked if there were any further comments on the issue and whether the issue continued to be a concern to the Market. MQ mentioned that the query regarding CDI/DI over ADRs and whether they are chargeable to SDRT initially began in 2015. Since that date the issue has changed from "are they chargeable" to "are they automatically chargeable". Various organisations had been canvassed and they wanted to know whether prospects were certain. However, views were polarised. If anyone wishes to take this forward they could but the CIP no longer seemed appropriate. CL said that CIP was a good shout in 2015 as US

inversions were common at that time. Since then however, SE agreed that the issue has somewhat diminished as we now have few inversion issues. SE/PD said that HMRC have expressed their view and the matter now needs to be brought to a close. Unless HMRC receive any further feedback or representations that the issue remains active in the next month they will assume that HMRC's position is clear.

## 6. MiFID II

NP said that MiFID II was not expected to have much effect from an SDRT perspective except for "unbundling", under which it will no longer be permissible for charges for research made to clients to be bundled with other commission charges – there will need to be a separate charge made for research. NP agreed to invite any further comments regarding the potential implications of MiFID II from an SDRT perspective, so that HMRC could consider these before issuing Guidance (**NEW AP 5**).

SE said that unbundling was primarily a principal broker issue. At present SDRT is due on the consideration inclusive of commission/turn, which will include any bundled charges for research. CL said that the services are bundled up for most of the contract notes he sees. When the broker re-jiggs to show separate consideration, that is like the agency arrangement i.e. not regarded as part of the share consideration for stamp purposes. It will come down to what is done under the contractual arrangement. CL's view was that if houses become compliant with MiFID II they will not fall within stamp (in respect of research) and that it was just a transparency and regulatory point.

PD asked whether research fees are caught for VAT as people won't want to attract 20% VAT in order to avoid 0.5%. PD said that it would be worth speaking to VAT colleagues. AW asked if there was a plan to publish guidance and if so when? FC said that some sort of guidance needs to go out sooner rather than later. SE said that this depended on the discussions. CL said that the position would need to be monitored as it might develop, for example if there was a different VAT position in different jurisdictions. PD asked whether HMRC has enough information from the industry to put out meaningful guidance? Could we get some practical examples? NP said that there was no one size fits all approach. CL agreed that across Europe there are many approaches and the commission are trying to get uniformity. It was not really a tax issue, the tax consequences are secondary to regulation. NP asked if there were any draft contract notes out there which HMRC could see. CL and MQ said that they wouldn't expect there to be as people aren't doing trading yet but would look out for what could be provided.

SE raised an associated point in respect of regulatory terms and abbreviations. There had been initial conversation with EUI and it should not impact on CREST or SDRT. SE said that all should consider whether there were any issues. CL said that he did not think that there was an issue and that most people should be aware of the distinction between US and UK.

## 7. Brexit

MQ mentioned the consequences if brokers lose passporting rights when the UK leaves the EU. Intermediaries would want to establish new firms in Europe to deal with Europe (London intermediaries would be expected to continue to deal with the rest of the world). It would be useful for HMRC to be aware of this, for Birmingham to be properly resourced for increased workload and appropriate guidance produced. MQ said that European law is embedded in stock lending/intermediaries relief. If the legislation was changed as a result of EU withdrawal stakeholders would expect to be consulted on this if possible. MQ said that anything other than a soft Brexit will mean that people will have to reapply. CL said that people don't want a cliff-edge for day one. Even if a deal is done on

equivalence this will not stop the applications. Can HMRC and stakeholders help each other on this? MQ suggested that if there was a piece of information missing in an application, HMRC could approve in principle. CL said that addressing just through Guidance was a non-starter and there are 2 steps needed: (1) all the regulatory requirements are approved ahead; then (2) further information provided. FC mentioned that a template might be useful. PD said that this was useful feedback on the resources side.

## **8. Stamp Treatment of overseas OEICs**

RR gave an overview of the position. An OEIC is deemed a company in the UK so 91(B) applies to redemptions. Policy intention is to see equitable treatment between UK and non UK OEICs. What happens when funds are moved or when they pull out? Are non-UK OEICs in a comparable legal and regulatory position. HMRC would be interested to hear views.

SE said that HMRC are looking to apply consistent treatment. Either, under local authorities you must operate a single umbrella OEIC entity with no separate subfund individuality, or the authorities permit sub-fund structures with separate segregated liabilities.

CL said that in respect of non-UK corporate funds there is another analysis i.e. that there is no stamp. This is similar to UK life companies. Many overseas corporate funds do not (nor do they want to) prejudice the local jurisdiction treatment. This would need to be put out for wider consideration. In most cases, umbrella funds tend to be one legal entity. Life companies are single entities but may be treated under different legal rules. If HMRC publish something without consultation it might cause difficulties. MQ said that if HMRC agreed that the transfer out was for no consideration there is no problem. RR agreed to send out the draft guidance (**New AP 4**). Stakeholders asked if the guidance could be sent out before purdah.

## **9. AOB**

KG spoke about correspondence by email with the stamps office. KG has looked into this but it is not looking likely that we will be able to allow this. NP mentioned that the answer might be different depending on whether the customer was a large business and might therefore be party to existing communication protocols.

### **Action Points:**

- 1. NP to circulate a guidance note to address common errors on stock transfer forms sent to Stamps.**
- 2. KG to investigate potential improvements to procedures to avoid to-in and fro-in between HMRC and taxpayers prior to stamping.**
- 3. SR to recirculate the email to the group in relation to (1) a drafting point and (2) the treatment of members voluntary liquidation.**
- 4. RR to circulate his draft guidance on non-UK OEICs.**

5. NP to invite any further comments regarding the potential implications of MiFID II from an SDRT perspective.

**Steve Roberts**  
**HMRC Stamp Taxes**