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FTT Newsletter

A Round-Up of FTT developments across Europe

The 1 January 2014 proposed FTT implementation date has now been and gone. The scope of the FTT continues to be discussed by Member States and the European Commission, with the Commission hinting that it may be prepared to compromise and accept a watered down FTT. We provide further details of this below, along with indications of further movement on proposed changes focusing on utilizing current regulatory reporting and market infrastructure in the collection and enforcement mechanism.

Further, we inform about the official list of companies whose shares are in scope for French FTT during 2014 and about the reduction of the Italian FTT rates 2014.

EU FTT

It has been reported Algirdas Šemeta, the EU Commissioner for Customs & Taxation, has said that the EU may accept a “watered down” version of the FTT from the current proposed directive. Šemeta is quoted as saying:

"We would support a compromise with a more limited remit... the only red line for us is that any loopholes which would jeopardise the main principle of the tax be avoided."

Šemeta has stated that the key points presently being discussed are exemptions for sovereign bonds, repos, market makers and pension funds and is hoping that a compromise could be reached by May 2014.

Interestingly, Šemeta has not commented on article 4(1)(f) of the proposed FTT directive. Article 4(1)(f) contains the deemed “counterparty residence” principle which is presently subject to a legal challenge by the UK Government and is the subject of differing legal opinions issued by the Council Legal Service and the Commission. It is therefore uncertain whether a revised FTT containing further exemptions but without any limitation on territorial scope would be acceptable to all parties.

Collection and Reporting

It has been reported that the Presidency of the EU Council, currently Greece, has suggested amendments to the draft FTT directive relating to the collection and enforcement mechanism. The current draft of the FTT Directive delegates this to participating member states. The reported proposal would, if adopted, make three changes to this by:

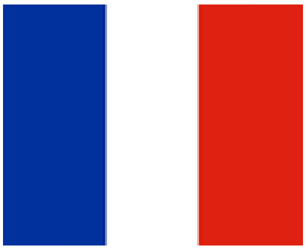
1. Allowing the Commission to specify elements of the registration, accounting, reporting and enforcement obligations that participating member states are required to take account of when producing their local collection mechanisms;

2. Requiring participating member states to ensure legislation is in place to allow Competent Authorities (such as regulatory bodies) and market infrastructure (such as stock exchanges) to share reported transaction data with local tax authorities; and

3. Requiring Participating Member States, when designing their individual collection mechanisms, to take into account current obligations under the Market in Financial Instruments Directive ("MiFID") and European Market Infrastructure Regulation ("EMIR").

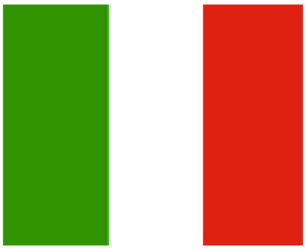
It appears that these changes are intended to utilize current regulatory reporting requirements and market infrastructure as part of the collection and enforcement mechanism.

France



The updated official list of companies whose shares are in scope for French FTT ("FFTT") in 2014 has now been released. Please note that the changes are effective from 1 January 2014. There are 14 new additions to the list.

Italy

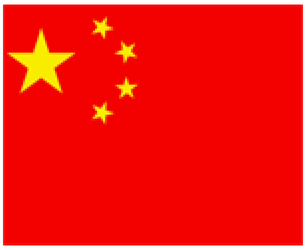


From 1 January 2014, the Italian FTT ("IFTT") rates have, as planned, been reduced. The IFTT now applies to in scope securities at the following rates:

0.1% for trades executed on a regulated financial market or multi-lateral trading facility (MTF); and 0.2% for other trades

Those responsible for paying and reporting the IFTT should ensure that systems are appropriately updated.

China



The head of China's foreign exchange regulator has said that a number of measures, including a financial transaction tax, should be considered as a means of curbing currency speculation. Although there is no indication yet that a FTT would be introduced by China, it is interesting to see that the Chinese Government is not wholly opposed to the idea of a transaction based tax and is looking to study its merits "in depth".