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FTT Newsletter

A Round-Up of FTT developments across Europe

France and Germany announced that they have reached a deal on the scope of an EU Financial Transaction Tax ("FTT").

Further, the official statement of practice regarding the French Financial Transaction Tax ("FFTT") was updated in January to clarify certain aspects, as explained below.

EU FTT

France and Germany are expected to push for what would be, initially at least, an issuer basis FTT applicable to equities issued in one of the adopting member states. This is significant as France and Germany are thought to be key drivers behind the FTT project.

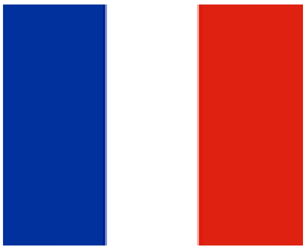
It is presently unclear whether depositary receipts and/or equity derivatives would also be in scope (as with existing unilateral FTTs). Debt instruments and non-equity derivatives could of course be included at a future point even if not initially subject to a revised FTT.

The residence principle is not expected to feature in this revised version of the FTT. The legal challenge raised by the UK against aspects of the residency principle, as well as objections raised by the European Council's legal service, may fall away. It is of course possible that the residency principle could be included at a future date.

Please note that any Franco-German agreement announced would only be between these two countries at this stage. The other 9 members of the FTT zone, and potentially all 28 members of the EU (if a new vote on FTT is needed as a consequence of any such changes to the scope of the FTT), would still need to discuss and/or vote on any such revised proposal.

The Deloitte FTT team will of course continue to keep you updated on any developments.

France



As reported in June 2013, the French authorities clarified certain aspects of the FFTT. These updates have now been adopted in the official French statement of practice. The key clarifications include the following:

Internal Fund re-organisations may in certain circumstances benefit from the intra-group exemption. The applicability of the intra-group exemption to fund re-organisations was generally not clear. We are aware that some market participants had taken a cautious view on this point. The French authorities have now confirmed the view, initially expressed in 2013, that an internal fund re-organisation (such as changes to master feeder structures and mergers) may benefit from the intra-group exemption under certain conditions. We would of course advise that each particular transaction be considered on its own merits taking into account all facts and circumstances.

The **accountable party** can delegate its FFTT obligations. While the accountable party (specifically the investment service provider or custodian) remains responsible in relation to FFTT, it can appoint third parties (including affiliates, if appropriate) to assist with meeting its FFTT obligations.

Pledges of in-scope equities are not subject to the FFTT. This is on the basis that pledges do not constitute “transfers of ownership”. We appreciate that many market participants have already been treating pledges as outside of the scope of FFTT, so the confirmation from the French authorities that they agree with this will be welcome.

Net Buying Position - Transactions undertaken for the same client by different ISPs cannot be aggregated / netted. Again, we appreciate that market participants have been following this approach in practice. However, in the event a different approach has been taken, we would recommend that accountable parties review their systems to ensure that they are in full compliance with this point.