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26 November 2012

FTT newsletter

A round-up of FTT developments across Europe

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This is the first in a series of regular Financial Transaction Tax (“FTT”) newsletters. We will provide key updates and developments in respect of both the European Commission proposal for an EU FTT under the EU Enhanced Co-operation Procedure (“ECP”) in addition to the EU country specific, or “unilateral” FTTs.

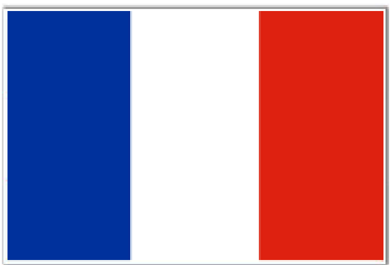
To discuss any aspect of FTT please contact your usual Deloitte contact or **Martin Walker** on +44 20 7303 7644.

The EU FTT

It was decided that at the ECOFIN meeting on 13 November 2012 that for the ECP to implement the FTT in at least 11 EU member states would be delayed due to objections by the UK, Ireland, Luxembourg and Sweden. The UK in particular is requesting additional detail on the FTT proposal and its economic impact.

As a result of these objections, the European Commission is expected to publish the substance of its proposal to be released sometime later this month. It is expected to follow the blueprint proposed in September 2011, which proposed a 0.1% tax on all share and bond trades with a 0.01% tax on all derivative trades.

UNILATERAL FTTs



France

The French FTT ("FFTT") entered into force on 1 August 2012. The first reporting deadline for accountable parties to pay the FFTT and report in scope transactions was on 9 November 2012, with Euroclear having until the end of November 2012 to pay the French Government. Reporting will now take place on a monthly basis and it is anticipated some practical questions may be answered by the emergence of a market practice.

The next big step for the French FTT is the inclusion of American Depositary Receipts ("ADRs") within the regime and the increase in reporting requirements regarding stock-lending and corporate actions.

ADRs will be in scope as of 1 December 2012, and securities lending or repo transactions, along with corporate actions will be reportable from 1 January 2013.

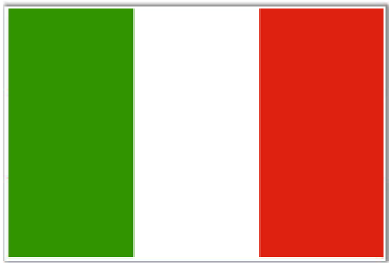
Despite these fast approaching deadlines, significant grey areas remain in relation to the practical aspects for the reporting (and taxation,) in particular for the ADRs.

The French Government anticipated a FFTT revenue stream of €1.1bn per year. However a more modest sum (perhaps in the region of €300m) is expected if market rumours are to be believed. Depending on the final amount of FFTT received on 30 November 2012 (and further monthly payments), this may lead to changes in the design of the tax to increase the cash collection needed to reach the €1.1bn target. It is not unrealistic to expect this to take effect through an increase in the number of in-scope companies by lowering the market capitalization threshold, by restricting the applicability of the exemptions or potentially broadening the tax base to include derivatives. This is of course also dependent on any interaction with the possible introduction of a wider EU FTT.

France is expected to vote in favour of an EU FTT.

To discuss, please contact **Helene Alston** on +33 1 55 6160 32

Italy



The Italian Parliament is discussing a law which, if introduced, imposes a new FTT applicable with effect from 1 January 2013.

The draft Italian FTT ("IFTT") would apply at the rate of 0.05% on transactions involving the transfer of shares or other participating instruments and derivatives.

In the case of transfers of shares and participating instruments issued by Italian resident entities, IFTT would be levied if the transfer occurs within the territory of Italy or, where the transaction takes place outside Italy, if at least one of the parties to the transaction is resident in Italy. Derivatives will be subject to the IFTT only where one of the parties to the transaction is resident in Italy. The taxable basis would be transaction value or, for derivatives, the notional amount.

Concerns have been already raised by industry about territoriality rules, taxation of derivatives and high frequency trading.

Italy is expected to vote in favour of an EU FTT.

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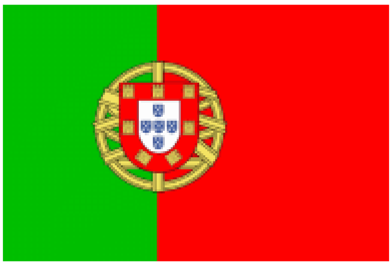
Netherlands

The recently elected coalition Dutch government is in favour of the EU FTT but has expressed concern as to the impact this would have on pension funds. The Dutch Government's coalition agreement had explicitly stated that an EU FTT would only be supported if pension funds were excluded from the FTT and the revenue generated by a country is retained for that jurisdiction as opposed to forming part of EU budgetary contributions. This remains an area to watch closely.

To discuss, please contact **Paul Bruin** on +31 882 881 537

Portugal



The Draft Budget Law for 2013 includes authorization for the government to introduce a FTT. If accepted, legislation will need to be published in 2013. No details are yet available as to the precise shape of the Portuguese FTT.

Even though this authorization does not make any reference to the EU FTT, the Budget Law Report for 2013 mentions that the introduction of the Portuguese FTT is in line with the implementation of an EU FTT. Therefore, at this stage it is unclear whether Portugal will introduce a unilateral FTT or alternatively simply proceed with the EU FTT

Portugal is expected to vote in favour of an EU FTT.

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Spain

The situation is presently unclear in Spain. There are two separate matters to consider following the ECOFIN meeting earlier this month: the first of these is the unilateral Spanish FTT ("SFTT") leaked in September and the second is the EU FTT which we understand Spain has verbally agreed to support under the ECP.

Spain are likely to consider the success and impact of the FFTT before deciding on whether to introduce a SFTT.

Spain is expected to vote in favour of an EU FTT.

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