

4 January 2013

FTT newsletter

A round-up of FTT developments across Europe



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Happy New Year from the Deloitte FTT team!

Over the festive season, the law containing the Italian Financial Transaction Tax (“IFTT”) completed its parliamentary approval procedure as was expected.

The IFTT largely resembles the French Financial Transaction Tax (“FFTT”) in that it focuses primarily on equity transactions with exemptions for certain market intermediaries, but with some notable differences particularly in relation to derivatives and pension funds.

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

UNILATERAL FTTs

France

There have been several updates to the list of companies whose securities are in scope for FFTT purposes for 2013.

Newly in scope

Teleperformance
Nexity
Ipsos
Plastic Omnium
Sartorius Sted Bio
Paris-Orleans
Fonciere Des Muirs

No longer in scope

APRR*
Somfy SA



*APRR was delisted on 18 December 2012

A complete list of companies whose securities are in scope for FFTT purposes is available on an indicative basis, please let us know if you would like to receive a copy.

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

Italy

Summary

Following the approval received by the Italian Senate on 20 December 2012, the financial stability law, which contains provision for the IFTT, was ratified by the Chamber of Deputies on 21 December 2012. Therefore the IFTT becomes effective from 1 March 2013 (and from 1 July 2013 in relation to derivatives and high frequency trading).



The IFTT largely resembles the FTT (and to a lesser extent UK stamp duty reserve tax) in that it focuses primarily on equity transactions with exemptions for certain market intermediaries, but with some notable differences particularly in relation to equity derivatives and pension funds.

As expected, the IFTT will apply to in scope securities at the following rates:

- 0.1% (0.12% in 2013) for trades executed on a regulated financial market or multi-lateral trading facility (MTF); and
- 0.2% (0.22% in 2013) for other trades

In scope securities are shares and other participating instruments issued by Italian resident companies, excluding listed shares issued by companies with a market capitalization lower than 500 million Euro (therefore it is expected that the largest 70 Italian listed companies will be included). American Depository Receipts ("ADRs") over underlying in scope Italian shares are expressly in scope.

Certain exemptions are available. These include market making activities, pension fund acquisitions, intra-group transactions, and the issuance and cancellation of in scope securities.

From 1 July 2013, the IFTT will apply to derivative transactions relating to in scope securities at a fixed rate (up to EUR 200 per transaction) depending on the value, type and place of execution of the transaction undertaken. This would apply irrespective of the residence of the parties to the derivative. Certain high frequency trading activities in relation to in scope securities will also be subject to the IFTT from 1 July 2013.

Shares and other participating instruments

The IFTT applies to transactions in shares and other participating instruments issued by Italian resident companies, at the rate of 0.2% of the transaction value. The tax rate is halved (i.e. 0.1%) if the transfer is executed on a regulated financial market or a multi-lateral trading facility (MTF). For fiscal year 2013, the tax rate is increased by 0.02% (i.e. to 0.22% and 0.12%).

For the purposes of the IFTT, the transaction value is:

- The net value realized in the same trading day (i.e. closed out within the day) by a single operator on the same financial instrument, or
- The price paid.

The tax is due by the purchaser of the shares or other participating instruments, regardless of where the transaction occurs and the residence of the contracting parties. The IFTT does not apply to entities intermediating in the relevant transactions, such as a central counterparty or settlement agent.

The IFFT also applies to transactions of rights representing shares of Italian companies and other financial ownership instruments regardless of the residence of the issuer, including ADRs and on the transfer of shares resulting from conversion of bonds.

Scope

The following transactions are not subject to the new IFFT:

- Issuance and cancellation of shares and in scope participating instruments;
- Transactions executed by market makers and financial intermediaries operating on behalf of security issuers in order to support liquidity;
- Transactions executed by social security entities and pension funds set up according to Legislative Decree 252/2005;
- Conversion of bonds into new shares;
- Transactions executed on financial markets or on MTFs of in scope financial instruments of companies with an average market capitalization under Euro 500 million;
- Transactions where the European Union, the Central European Bank, Central Banks of EU member States and international bodies are a party;
- Transactions occurring between group companies under common control or in connection with corporate reorganizations: and
- Transactions referring to products and services qualified as ethical or socially relevant.

Derivatives and high frequency trading

Transactions in derivatives with underlying in scope financial instruments are subject to the application of the new IFFT (e.g. futures, covered warrants, options, forward contracts, contracts for difference, etc.), regardless of the place where the relevant agreements are entered into and the residence of the parties involved. These derivatives are subject to fixed IFFT rates of up to Euro 200 depending on the type, value and place of execution of the derivatives (e.g. for derivatives executed on regulated financial markets or on MTFs, the applicable rate is reduced to 1/5).

The tax is due by each of the contracting parties. The IFFT does not apply to those parties that are merely interposed.

Transfer of in scope financial instruments occurring at the time of the settlement (if physical delivery is involved) is also subject to the IFFT.

Similar exemptions available for transactions in relation to shares and other participating instruments apply to derivative transactions.

High frequency trading of in scope financial instruments is subject to the new IFFT at the rate of 0.02%. The tax is due upon cancellation and/or modification of orders of in scope financial instruments and derivatives placed electronically in a short timeframe. Detailed rules will be provided by a Ministry of Finance decree.

Payment of the IFFT

The IFFT is payable by the sixteenth day of the month following the transfer by banks, trust companies, investing companies and other entities intervening in the transaction.

Application of the IFFT

The new IFTT is due from 1 March 2013 in respect of shares and other participating instruments and from 1 July 2013 for derivatives and high frequency trading.

Interaction with income taxes

For Italian corporate income tax purposes, the IFTT is not deductible and is not taken into account in establishing the value recognized for tax purposes of the relevant financial instrument.

To discuss, please contact **Mauro Lagnese** +39 028 332 4097 or **Luca Ferrari Trecate** on +39 028 332 4057



Martin Walker
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