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FTT newsletter

A round-up of FTT developments across Europe

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Following on from our previous newsletter, the enhanced co-operation procedure ("ECP") to implement an EU FTT was today approved by the EU Council (the "Council") in a major step forward for the EU FTT. 11 member states are participating in the EU FTT through the ECP process; the UK abstained.

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

The EU FTT

The ECP to implement an EU FTT in participating member states was approved by the Council this morning during the ECOFIN meeting. No formal qualified majority vote ("QMV") took place as, according to the newly appointed Irish EU President, Mr Noonan, there were "no objections" to the use of the ECP for an EU FTT and it was "clear that there was a majority approval for the ECP…with no indication that anyone wanted, or expected, a [QMV] vote to take place". Whilst widely anticipated, this is a major step forward for the EU FTT and could, upon introduction, expand significantly the scope of financial instruments subject to an FTT, which would in turn impact a wider range of financial markets participants than the current unilateral FTTs.

The 11 countries participating in ECP are Austria, Belgium, Estonia, France, Germany, Greece, Italy, Portugal, Slovakia, Slovenia and Spain. The Czech Republic, Luxembourg, Malta and the United Kingdom abstained.

The European Commission is now expected to issue a revised EU FTT proposal to be considered and adopted by participating member states. Despite the purpose of the ECOFIN meeting being to focus on "process rather than substance", Algirdas Semeta, the EU Commissioner for Taxes, stated that the public "should not expect any surprises and the EU FTT would be based on the original 2011 proposal with only a few minor changes". The rates of EU FTT in that proposal were (at a minimum) 0.1% in relation to the price paid for shares and bonds and 0.01% of the notional value in relation to derivatives. While the original EU FTT proposal was based upon residence of the parties, it is thought that the revised proposal may combine an issuer basis (if the issuer of securities is in a participating member states) with the residence basis (if one of the parties to a transaction is resident in a participating member state).

Mr Semeta continued to explain that part of the “beauty” of the ECP lies in its “sense of community”. All 27 member states are able to discuss, comment and negotiate on the shape of the EU FTT but only the participating 11 member states are able to take part in the all-important official ECP vote.

This is only the third time that ECP has been used to permit a number of EU member states to progress European legislation without unanimous approval, and the first in the tax arena
The Council spoke handsomely of the fact that the outcome of the ECP vote was not final; current non-participating member states should therefore be able to join the EU FTT in the future should they so wish. In this regard, it was reported that the Netherlands may wish to join this group in the future.

An ECOFIN impact assessment was also confirmed and despite being silent on timing is expected at the beginning of Q3 2013. Promised to be included in this impact assessment is a “substantive” description of the proposed tax and an estimate of the anticipated generated revenue. It is thought that the Commission is pressing ahead with the aim of introducing the EU FTT in participating member states on 1 January 2014.

The Commissioner for Taxes reminded his audience of the original September 2011 proposal revenue generation figure of €57bn. The Commissioner also noted that as the 11 participating member states made up two thirds of the EU economy and 90% of the Eurozone economy the expected EU FTT revenue under ECP was likely to be higher than a flat proportionate calculation.

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