Proposed Italian & Portuguese Financial Transaction Taxes

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Italy and Portugal have both pledged to support an EU-wide Financial Transaction Tax (FTT) via enhanced co-operation. In the interim however, both nations are forging ahead to introduce national legislation with the view of enforceability as early as Jan 2013 for Italy and sometime 2013/2014 for Portugal. A brief overview of both proposals is provided below. Whilst the final shape remains uncertain, this is a clear example of heightened political will around the EU for the introduction of some form of FTT. We expect many member states to follow suit if enhanced co-operation is not accelerated.

Italy

An Italian version of the FTT is currently being discussed as part of the latest budget package. Set out below are the expected provisions to be introduced. However, as no official provisions that are being discussed are presently available, amendments are therefore extremely likely.

Structure

The FTT should be structured as a stamp duty (imposta di bollo) with a 0.05% tax rate on the transaction value. Whilst the tax rate remains the same, tax will be applied on the transactional value for shares and on notional value for derivatives. This will result in the burden on the latter financial instruments being significantly disproportionate. In the EU proposal, the derivatives rate (0.01%) is one tenth of the normal rate (0.1%).

Objective scope

The FTT should essentially target two kinds of financial instruments:

(a) sale of shares and other participating instruments issued by Italian companies;
(b) transactions in derivatives, unless such derivatives involve EU or EEA white-listed Government bonds.

Territorial scope

The sale of shares and other participating instruments issued by Italian companies should be subject to the FTT in the following two scenarios:

(i) when the sale takes place in the territory of the State, irrespective of who the contracting parties are;
(ii) when the sale takes place outside of the territory of the State, provided that at least one of the contracting parties is Italian.

Transactions in derivatives, unless such derivatives involve EU or EEA white-listed Government bonds however, are likely to be subject to the FTT whenever at least one of the contracting parties is Italian.

Exemptions

Transactions with the following counterparties should be exempted: the European Union, the European Central Bank, central banks of EU Member States, central banks of other States, supra-national entities.

Implementing provisions

Further details of the FTT should be provided by a Ministry of Finance decree, to be issued within 60 days from the approval of the budget package. Under the proposals, the Italian FTT could come into force as early as 1 January 2013.

Portugal

Yesterday afternoon the Portuguese Government submitted to the Parliament the draft of the State Budget Law for 2013. Included was a proposal for the Parliament to authorise the Government to legislate on the introduction of the FTT, likely by way of inclusion into the already existing Stamp Duty Code. If accepted, legislation will need to be published in 2013. The main features of the draft proposal are set out below:-

Structure

Rates are yet to be determined by the Government when exercising Parliament's authorisation but proposed to be:

- up to 0.3% as general rate
- up to 0.1% for high frequency trading
- up to 0.3% for financial derivatives

Scope

The FTT is likely to be applicable to financial transactions in the secondary market, buy sell transactions of financial instruments, such as equities, bonds, money market instruments, units or shares in funds, structured products and derivatives and the conclusion or amendment of derivatives' contracts.

Exemptions

Exemptions will apply to the issue of securities, transactions with international institutions, Central Banks and other entities yet to be determined (e.g. market makers).

Implementation provisions

It is unclear at this stage whether the enforceability date is envisaged to be in 2013 or 2014.

Conclusion

These initiatives are at a minimum, a clear indication of political willingness to introduce an FTT in Italy and Portugal and leave little doubt that some form of FTT will be introduced sooner rather than later.

PwC contacts

If you would like further advice or information in relation to the issues outlined above, please call your local PwC contact or any of the individuals listed below:

David Newton
Global FS Tax Leader
T: +44 (0)207 804 2039
david.newton@uk.pwc.com

Hans-Ulrich Lauermann
Global Banking and Capital Markets Tax Leader
T: +49 69 9585 6174
hansulrich.lauermann@de.pwc.com

William Taggart
Global Asset Management Tax Leader
T: +1 646 471 2780
william.taggart@us.pwc.com

Peter Barrow
Global Insurance Tax Leader
T: +44 (0) 207 904 2062
peter.barrow@uk.pwc.com

Bob van der Made
EU Public Affairs Brussels
PwC Netherlands
T: +31 (0) 88 792 3696
bob.van.der.made@nl.pwc.com

Kenneth Shives
European Banking and Capital Markets Tax Leader
PwC France
T: +33 (1) 56578384
kenneth.shives@fr.landwellglobal.com

Matthew Barling
PwC UK
T: +44 (0) 207 212 5544
matthew.barling@uk.pwc.com

Philippe Vaysse
PwC France
T: +33 (0) 0156574036
philippe.vaysse@fr.landwellglobal.com

Miguel Blasco
Spain FS Tax Leader
T: +34 609323304
miguel.blasco@es.pwc.com

Fabrizio Acerbis
PwC Italy
T: +39 (0) 291605001
fabrizio.acerbis@it.pwc.com

Jorge Figueiredo
Portugal FS Tax Leader
T: + 351 213 599618
jorge. figueiredo@pt.pwc.com

Peter Yu
PwC China/HK
T: +852 2289 3122
peter.sh.yu@hk.pwc.com

Joseph Foy
PwC US
T: +1 (646) 471 8628
joseph.foy@us.pwc.com

PwC Singapore

Paul Lau
T: +65 6236 3733
paul.st.lau@sg.pwc.com

David Sandison
T: +65 6236 3675
david.sandison@sg.pwc.com

Gavin Helmer
T: +65 6236 7208
gavin.rh.helmer@sg.pwc.com

Tan Hui Cheng
T: +65 6236 7557
hui.cheng.tan@sg.pwc.com

Anuj Kagalwala
T: +65 6236 3822
anuj.kagalwala@sg.pwc.com

Tan Tay Lek
T: +65 6236 3768
tay.lek.tan@sg.pwc.com

Carrie Lim
T: +65 6236 3650
carrie.cl.lim@sg.pwc.com

Yip Yoke Har
T: +65 6236 3938
yoke.har.yip@sg.pwc.com

Lim Maan Huey
T: +65 6236 3702
maan.huey.lim@sg.pwc.com