Green light for EU Financial Transaction Tax

Global FS Tax Newsflash

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As expected, on 22 January 2013 the ECOFIN Council (EU Finance Ministers) adopted a decision by qualified majority authorising 11 of the 27 EU Member States to proceed with the introduction of a harmonised EU FTT through Enhanced Cooperation in their countries. The Commission will now present a "new" substantive draft proposal on the FTT within the next few weeks which is expected to be largely the same as its original proposal released in September 2011. Negotiations will then begin between Member States on the final shape of the EU FTT. This period represents an opportunity for lobbying.

Individual country positions

The 11 Member States that have opted for Enhancd Cooperation are Austria, Belgium, Estonia, France, Germany, Greece, Italy, Portugal, Slovakia, Slovenia and Spain.

The Czech Republic, Luxembourg, Malta and the United Kingdom abstained in the ECOFIN authorisation vote.

The Netherlands has recently reiterated its interest in joining Enhanced Cooperation. However, this is provided that the pension funds sector is exempted from the tax. An exemption for pension funds was supported by the European Parliament in its May 2012 opinion on the FTT, and there are indications that Germany and Italy might also be willing to agree to this. However, resistance remains from other countries in support of the EU FTT, for example France. Accordingly, the Dutch participation in the process remains uncertain.

Impact on local FTTs

There are indications that some countries which were considering implementing their own domestic FTT (e.g. Spain) appear to be pulling back from this in anticipation of the EU FTT now moving ahead within a relatively short timeframe. However, given the negotiations which will be required to reach agreement on the final shape of the EU FTT, the start date of 1 January 2014 proposed by the European Commission appears very challenging.

Next steps

The key steps from here are as follows:

- The European Commission will propose a "new" substantive FTT proposal in the next few weeks, which is expected to be largely the same as the draft EU FTT Directive released in September 2011.
- Firstly, the technical aspects of the new EU FTT proposal will be discussed in the normal Council Working Party on Taxation Issues Subgroup on Indirect Taxation.
- A first technical Council working group meeting on FTT is tentatively scheduled for the second half of February 2013.
- These technical meetings are chaired by the Irish EU Presidency, with all 27 EU Member States present at these meetings. These discussions will therefore be an open and transparent process.
- After the technical work has been completed, the proposal will move up within the Council to the political level. The timing of this next stage will depend on the Irish EU Presidency and, likely, Germany and France.
- Only the (now 11) Member States, which have formally requested to the Commission to join the Enhanced Cooperation on FTT, have the right to participate in the final vote at Council political level (i.e. in the COREPER and ECOFIN

meetings) on the final shape of the harmonised FTT.

- Throughout the Enhanced Cooperation Process, Member States can send a formal request to the Commission to join the core group of 11 Member States.
- We do not expect political agreement on the final shape of the EU wide FTT in the coming months. This increases the available time for financial institutions and companies to lobby to seek to refine the final shape of the EU FTT regime. However, potential developments in FTTs at local country level will also need to be watched carefully.

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:

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