Germany and France push for EU financial transactions tax

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In a highly symbolic gesture, on Friday 28 September, one year to the day after the European Commission released its draft proposal for an EU-wide financial transactions tax (FTT), German Finance Minister Wolfgang Schäuble and his French counterpart Pierre Moscovici informed the finance ministers of the other 25 EU Member States in a letter that they have signed and sent a bilateral request to the European Commission for enhanced cooperation to implement a FTT in a sub-set of countries in Europe. In their letter, France and Germany encourage and invite their colleagues to join them. This latest Franco-German initiative is a clear indication that the talks on enhanced cooperation for FTT have run into difficulties and that not much progress has been made since the June 2012 EU summit.

German/French initiative

In the letter addressed to the Ministers of Finance of the 27 EU Member States, Germany and France state they are strongly in favour of an EU FTT and they invite other Member States to support and join them in their request to the Commission. They remain very vague in the letter stating that the proposed FTT should still be "based on the European Commission's proposal for a Council Directive". The design of the FTT is therefore still a moving target and the scope and objectives remain unclear and unspecified as we understand it. If enhanced cooperation can indeed muster the necessary support from at least 9 Member States in the next months, an EU-FTT light version (UK-styled stamp duty model) might be introduced initially, covering a narrow range of instruments (e.g. shares and perhaps also bonds) which might subsequently be expanded to derivatives and HFT (high frequency trading) in order to incorporate the much broader scope of the Commission's initial proposal.

Through their letter, France and Germany wanted to convey a sense of urgency. In order to be able to achieve the objective of establishing enhanced cooperation by December 2012, as agreed on 28/29 June 2012 by EU leaders in their Compact for Growth and Jobs, the enhanced cooperation requests should be submitted to the Commission as soon as possible. This indicates that the momentum seems to be fading somewhat and that the negotiations on the FTT among the group of possibly interested Member States as we reported in June, now face difficulties. A wider European FTT was openly supported in February 2012 by Germany, France, Austria, Spain, Belgium, Portugal, Greece, Italy and Slovenia. According to sources in Brussels, Italy now holds the key to the introduction of FTT under enhanced cooperation. Mr. Monti's government has continued to express support for a European FTT in recent months but is now linking progress on FTT to concessions from other Member States on the so-called "Euro-files" (i.e. EU proposals for a banking union, euro rescue plan, banking recapitalisation, etc). It may be that through this latest initiative France and Germany want to show their continued official commitment to FTT and put the ball in the camp of the "fence-sitters", i.e. Italy and some other Member States to force further progress. Germany and France may have also felt this to be a timely and useful letter for domestic political purposes.

In the meantime, it appears that Finland, which used to be in the EU-wide FTT fanclub, is now definitely out. The Netherlands, where a new liberal-social-democratic government is in the making, is unlikely to support any wider FTT initiative in Europe without the UK participating in it.

Next Steps and Outlook

It remains to be seen whether at least 9 Member States will decide to sign up to enhanced cooperation on FTT by December 2012. Should this fail, then the alternative to enhanced cooperation may be a new (potentially uncoordinated) patchwork of unilateral FTTs implemented across Europe to extract some kind of "fair and substantial" contribution from the financial sector. (For further details on the enhanced cooperation procedure requirements we refer to our previous Newsflash of June 2012.)

Parallel unilateral national actions

With an effective date of 1 August 2012, the French government introduced a national version of the FTT covering the acquisition of French equities, certain high frequency trading and the acquisition of CDS on EU sovereign debt.

In September 2012, the Spanish government discussed a proposal for a national FTT similar to the French version.

Despite the national regulations, France and Spain have announced that they will support an EU FTT solution and adjust the national law accordingly.

Additionally, just yesterday, the Portuguese Minister of Finance announced that Portugal will introduce the FTT in 2013 "according to an efficient model". This is likely to mean that the Portugese FTT will take both the French and Spanish versions into consideration before adding to it a certain Portuegese flavour, particularly as the Portuegese tax authorities have had in their possession a lot of information on the French FTT for a few months now.

Lastly there are strong signals that Hungary will also be adopting some form of Hungarian FTT. However details are not currently available.

Our conclusion

It remains unclear whether the FTT will find the required support of the EU Council and what scope it will have.

In case no agreement for an EU-FTT, implemented in a subset of Member States could be reached, it can be assumed that other nations may follow the French/Spanish route and introduce national FTTs in the near future.

PwC contacts

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