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Market Operations Analysis

Financial transaction tax

OMCG meeting
Frankfurt am Main, 12 June 2013

Selected national financial transaction taxes in the EU

Feature	United Kingdom	France	Sweden	Germany
Name of tax	Stamp Duty and Stamp Duty Reserve Tax (SDRT)	FTT (Taxe sur les transactions financières)	Swedish financial transaction tax (Valpskatt)	Exchange turnover tax (Börsenumsatzsteuer)
Status	Stamp duty introduced in 1694 SDRT introduced in 1986	Introduced 1 August 2012	Introduced 1 January 1984 Abrogated 1 January 1992	Introduced in 19 th century Abrogated 1 January 1991
Taxed transactions	Equity shares in companies established in the UK	Equity shares in all publicly traded companies with a market value over 1 billion euro	Initially equity shares, later also fixed-income securities.	Debt certificates, bonds, equity shares, CDSs,
Geographic scope	All transactions of equity shares in companies established in the UK, no matter where the trade is agreed	All transactions of companies with a market value over 1 billion euro and registered seat in France	All equity security trades in Sweden using domestic brokerage services	All domestic transactions and transactions abroad if domestic institutions are involved
Price used for tax base	Transaction price	Transaction price	Transaction price	Transaction price minus fees (if not available, market price or highest possible valuation)
Tax debtor	London Stock Exchange and the UK Central Securities Depository	CSD	Brokerage services	Financial institutions
Exemptions	Primary transactions	CCPs and CSDs Primary transactions	Convertible debt securities	Primary placements, public sector bonds if used as means of payments for public tasks
Tax rate	0.5% for all transactions 1.5% for issues or transfers to a person or entity that operates a depositary receipt structure	0.1%	0.02% - 1% depending on the security with frequent changes over time	Public debt securities 0.1% Inv. fund shares: 0.2% Other securities: 0.25%
Tax collection	Exchange and clearing service	CSD	Brokerage services	Financial institutions

Notes: This schematic overview does not present the full details of the underlying legal texts.

Key features of the Commission proposal for *enhanced cooperation* in the area of FTT

Taxable transactions	Transactions of financial instruments if • at least one of the parties in the transaction is established in the FTT area, or • the issuer of the financial instrument is located in the FTT area.
Taxable institutions	Financial institutions broadly defined (e.g. investment firms, credit institutions, insurance undertakings, pension funds, AIFs, SPVs,...)
Tax base	Generally the price of the transaction but at least the market price of the instrument (notional for derivatives)
Minimum tax rate	0.1% (0.01% for derivatives) for each party involved in the transaction
Recipient	Member State where financial institution is deemed to be established

Taxable transactions I

FTT applies to a **financial transaction** if

- at least one party to the transaction is **established** in the territory of a participating Member State, and if
- a financial institution established in the territory of a participating Member State is party to the transaction (acting either for its own account or for the account of another Person) or is acting in the name of a party to the transaction.

Taxable transactions II

Notion of “establishment”

A financial institution shall be deemed to be established in the territory of a participating Member State if...

Residence principle

1. it has been authorised by authorities of that Member State to act as such, etc.
2. it has its registered seat within that Member State,
3. its permanent address or, if no permanent address can be ascertained, its usual residence is located in that Member State,
4. it has a branch within that Member State, in respect of transactions carried out by that branch, or
5. etc.

Issuance principle

a party is trading certain financial instruments whose issuer is located in a participating Member State. The transaction is linked to the participating Member State in which the issuer is located and the FTT becomes payable in that state.

Taxable transactions III

Financial transaction

- Purchase and sale of a **financial instrument** before netting or settlement,
- transfer between entities of a group of the right to dispose of a financial instrument as owner and any equivalent operation implying the transfer of the risk associated with the financial instrument,
- Conclusion of derivatives contracts before netting or settlement;
- An exchange of financial instruments, or
- A repurchase agreement, a reverse repurchase agreement, a securities lending and borrowing (purchase and repurchase count as one transaction)

Financial instrument

- Transferable securities,
- Money market instruments,
- Options, futures, swaps, FX derivatives, CFDs, etc.,
- Depositary receipts issued with the essential purpose of avoiding tax on transaction in the underlying (liable person must demonstrate otherwise), or
- etc.

Transactions exempted from the proposed FTT

Exemptions

- Primary transactions including the activity of underwriting;
- Transactions with the ECB and national central banks of Member States;
- Transactions with EFSF, ESM, EU, EIB and other EU bodies under conditions
- Transactions with other international organisations or bodies recognised as such by the public authorities of the host State, within the limits of international conventions or headquarter agreements

Implicit exemptions¹⁾

- Instruments of payment
- Spot currency transactions (while currency derivatives are taxable)
- Most day-to-day financial activities relevant for citizens and businesses (conclusion of insurance contracts, mortgage lending, consumer credits, enterprise loans, payment services etc.)

1) Not explicitly stated in proposed Directive but emerges from used definitions and the Commission's explanatory memorandum
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Taxable institutions

- FTT shall be payable by each financial institution
 - that is party to the transaction, acting either for its own account or for the account of another person
 - that is acting in the name of a party to the transaction; or
 - on whose account the transaction has been carried out.
- When a financial institution acts in the name of for the account of another financial institution only that other financial institution shall be liable

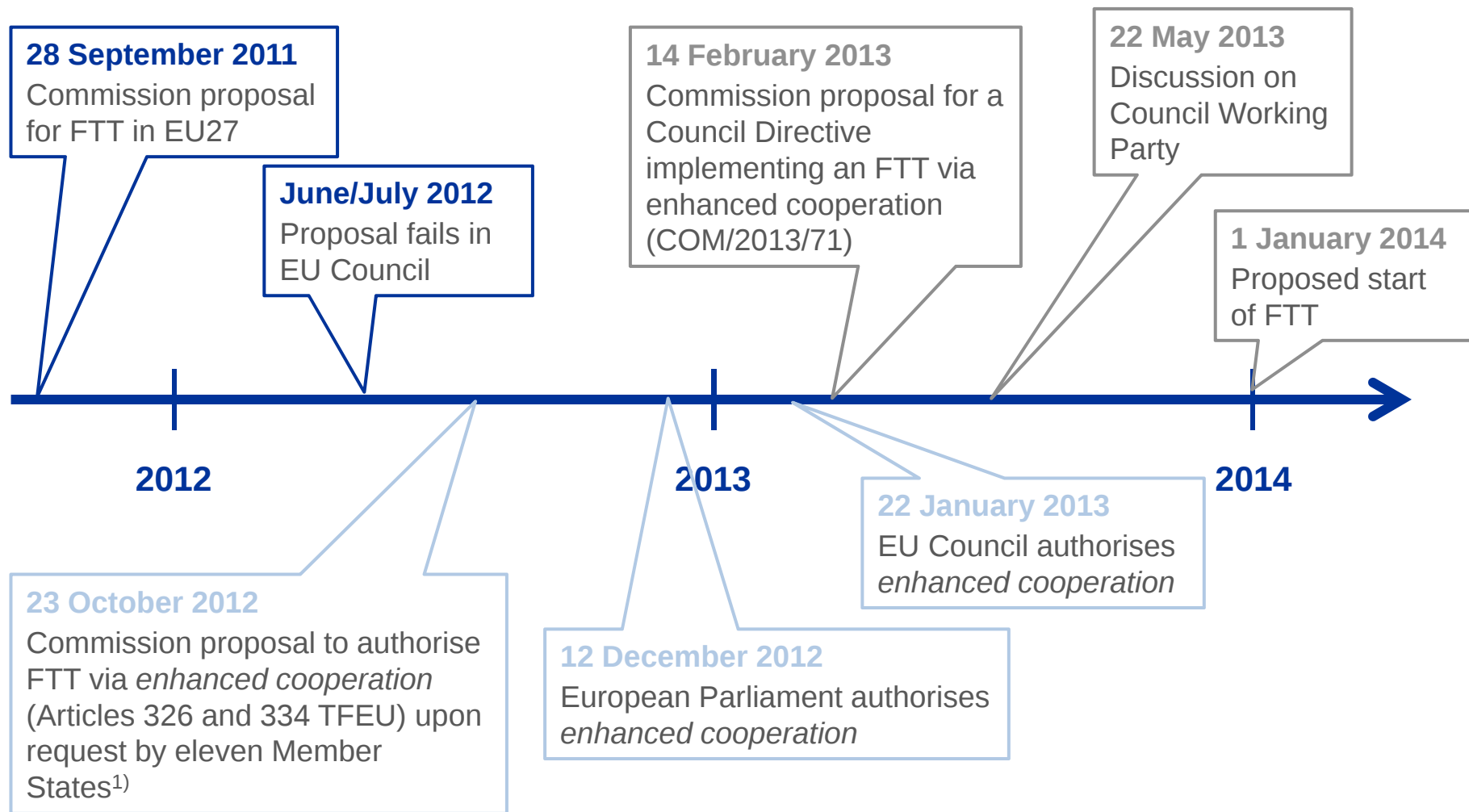
Exemptions

- Central Counter Parties (CCPs) where exercising the function of a CCP;
- Central Securities Depositories (CSDs) and International Central Securities Depositories (ICSDs) where exercising the function of a CSD or ICSD;
- Member States, including public bodies entrusted with the function of managing the public debt, when exercising that function.

Collection of the tax

- Proposed tax would be payable to the tax authorities of the participating Member State in the territory of which the financial institutions is deemed to be established
- The Member State can however decide that another person than those foreseen in the tax is to be held jointly and severally liable for the payment of the tax
- Collection on trading level and before netting (differently from stamp duties in FR and UK)
- Details about collection methods have not yet been announced
- Commission aims to define uniform collection method across Member States via implementing acts (Article 11.5 of proposal)

The timeline of the Commission proposal



1) BE, DE, EE, GR, ES, FR, IT, AT, PT, SI, SK; represented 89% of euro area GDP and 66% of EU GDP in 2011 (Eurostat); NL has stated it may join OMCG meeting

Thank you for your attention

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