

3. The 6 May 2014 ECOFIN

« The Council discussed the situation concerning the introduction of a financial transaction tax (FTT) in 11 member states through the "enhanced cooperation" procedure. The presidency reported on work carried out so far.

The presidency took note **of a joint statement by ministers of 10 participating countries** and confirmed that all relevant issues would continue to be examined by national experts. It noted the intention of participating countries to work on a **progressive implementation of the FTT, focusing initially on the taxation of shares and certain derivatives**. The first steps would be implemented **at the latest on 1 January 2016.**»

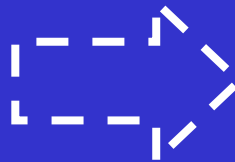
The agreement only reflects political aspects but does not address technical ones. They will now seek to find solutions to overcome remaining technical problems and reach a final agreement by the end of this year with an implementation phase starting in 2015 and entry into force on 1 January 2016

SOME PRELIMINARY COMMENTS

- *“step by step approach” - first step:* in scope “shares and certain derivatives”. This approach seems to open up the way to a final configuration similar to the tax already implemented in Italy
- *total lack of information* on what decisions will be taken with reference to other important aspects of application (e.g. issuance-residence-mix principle, applicability of netting , treatment of intra-group transactions , etc.)

Therefore, it is not possible to formulate an overall judgment

The issue remains
therefore
completely open



Future developments to
be monitored with
special attention

Thanks for your attention!

PRIMARY LEGISLATION:

- **Law No 228 of 24 December 2012** laying ("Legge di Stabilità 2013 – 2013 Stability Law), article 1 - paragraphs 491-500

Link:

<http://www.agenziaentrate.gov.it/wps/file/Nsilib/Nsi/Home/CosaDeviFare/Versare/Imposta+sulle+transazioni+finanziarie/Normativa+e+prassi+Imposta+transazioni+finanziarie/Articolo+1+Legge+di+stabilita+2013/finanziaria.pdf>

- **article 56 of the Decree of 21 June 2013 so called "Decreto del Fare"**, postponing the implementation date of the tax on derivatives until 1 September 2013 and the first payment date for the until 16 October 2013

SECONDARY LEGISLATION:

- **Fiscal Decree of the Minister of Economy and Finances of 21st February 2013:**

Link to English translation:

http://www.agenziaentrate.gov.it/wps/file/Nsilib/Nsi/Home/CosaDeviFare/Versare/Imposta+sulle+transazioni+finanziarie/Normativa+e+prassi+Imposta+transazioni+finanziarie/FTT+Decree/DecretoFTT_11_3_2013_EN.pdf

Link to the explanatory memorandum to the Decree:

http://www.agenziaentrate.gov.it/wps/file/Nsilib/Nsi/Home/CosaDeviFare/Versare/Imposta+sulle+transazioni+finanziarie/Normativa+e+prassi+Imposta+transazioni+finanziarie/Explanatory+memorandum/FTT_Decree_Explanatory_Memorandum.pdf

SECONDARY LEGISLATION:

The Decree has been modified:

- by the Decree of the Minister of Economy and Finances of 18th March 2013

Link: http://www.mef.gov.it/primo-piano/documenti/TOBIN_TAX.PDF

and

- by the Decree of the Minister of Economy and Finances of 16th September 2013

Link:

http://www.agenziaentrate.gov.it/wps/file/Nsilib/Nsi/Home/CosaDeviFare/Versare/Imposta+sulle+transazioni+finanziarie/Normativa+e+prassi+Imposta+transazioni+finanziarie/Decreto+ministero+Economia+e+Finanze+16+settembre+2013/Decreto_16_9_2013.pdf;

Link to the explanatory memorandum to the Decree:

http://www.agenziaentrate.gov.it/wps/file/Nsilib/Nsi/Home/CosaDeviFare/Versare/Imposta+sulle+transazioni+finanziarie/Normativa+e+prassi+Imposta+transazioni+finanziarie/Relazione+illustrativa+decreto+16+09+2103/relazione_illustrativa_definit_modifica_decreto_ftt16_9_2013.pdf

- **list of companies** having their registered office in Italy whose shares are listed in an Italian regulated market or Italian multilateral trading facility (MTF), with an average market capitalization in November of the previous year of less than EUR 500 million

Link: http://www.mef.gov.it/documenti-allegati/Sezione_A_societa.pdf

- **list of companies** having their registered office in Italy whose shares are listed in a **foreign** regulated market or Italian multilateral trading facility (MTF) with an average market capitalization in November of the previous year of less than EUR 500 million

Link: http://www.mef.gov.it/primo-piano/documenti/lista_sottocapitalizzate_Sezione_B.pdf

- **Measure of the Commissioner of Italy Revenue Agency of 1st march 2013:** identification of the States or territories with which Italy has no agreements in force for the purposes of the exchange of information and the assistance in the collection of tax credits

Link: <http://www.agenziaentrate.gov.it/wps/wcm/connect/72d4d7004ebbaeb89d98fd21c1e4f95b/2566+b+provvedimento.pdf?MOD=AJPERES&CACHEID=72d4d7004ebbaeb89d98fd21c1e4f95b>

- **Modified by the Measure of the Commissioner of Italy Revenue Agency of 29th march 2013**

Link: <http://www.agenziaentrate.gov.it/wps/wcm/connect/19fffb804f11173d862796d87da9c474/PROVV+EDIMENTO+NORM.pdf?MOD=AJPERES&CACHEID=19fffb804f11173d862796d87da9c474>

- **Measure of the Commissioner of Italy Revenue Agency of 18th July 2013: Definition of filing obligations, terms of payment, instrumental requirements and methods of refund:**

Link: http://www.agenziaentrate.gov.it/wps/file/Nsilib/Nsi/Documentazione/Provvedimenti+circolari+e+risoluzioni/Provvedimenti/2013/Luglio+2013+Provvedimenti/Provvedimento+18+luglio+2013+transazioni+finanziarie+versione+inglese/2013+02+08_Provvedimento+FTT+ING+Total.pdf

- **Measure of the Commissioner of Italy Revenue Agency of 27th December 2013: Approval of the FTT return (form to be used to provide the Revenue Agency with information relating to the FTT, together with the instructions and 9 Annexes)**

Link: <http://www.agenziaentrate.gov.it/wps/content/nsilib/nsi/home/cosadevifare/versare/imposta+sulle+transazioni+finanziarie/modello+e+prospetti+imposta+transazioni+finanziarie/indice+modello+e+istruzioni+imposta++transazioni+finanziarie>

The Italian Ministry of Economy and Finance issued two Frequently asked questions documents (FAQ):

FAQ on equities

http://www.finanze.it/export/download/novita2013/FAQ_azioni_FTT_8_8_2013_EN.pdf

FAQ on Derivatives

http://www.finanze.it/export/download/novita2013/FAQ_FTT_Derivati_23_8_2013_clean__ENG_sent.pdf

Bilateral Meeting IFA ***Italy and France***

French Financial Transaction Tax

Venice, June 6-7, 2014

Speaker : Gauthier Blanluet
(Sullivan & Cromwell LLP / Université Paris II)

Chair : Antonella Magliocco
Banca d'Italia



- **FTT as a response to the financial crisis**
- **Risks associated with mobility of capital**
 - **Need for tax at European level**
- **Nevertheless, French FTT was introduced in August 2012**

- **Three components to French FTT**
 - **Purchase of listed equity instruments and DRs : 0,2%**
 - **High-frequency trading :0,01%**
 - **Credit default instruments on bonds issued by a European State : 0,01 %**

FFTT and IFTT : market impact



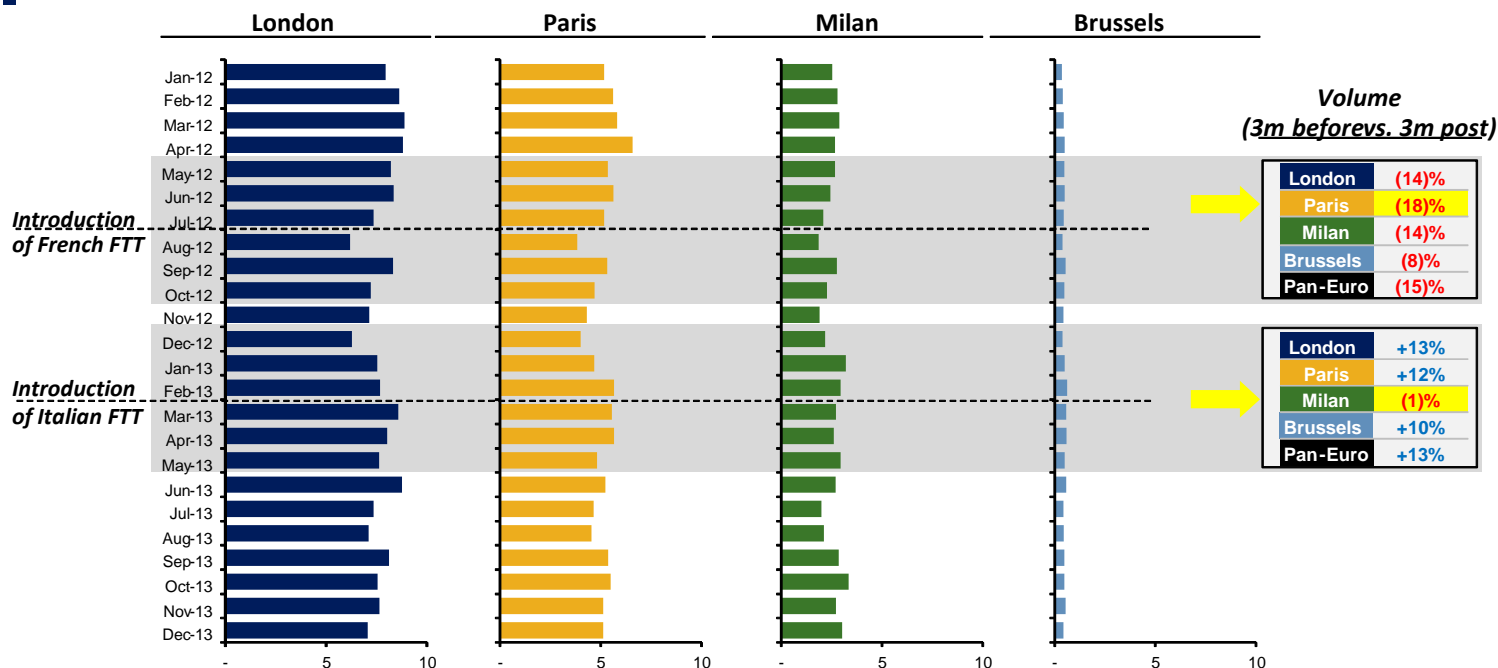
2014

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Market revenue trend (last 24 months)

Decrease in France and Italy, respectively, following the introduction of FFTT and IFTT; long-term effects are unknown

Daily average of pan-European revenues (daily average of transactions), € Bn



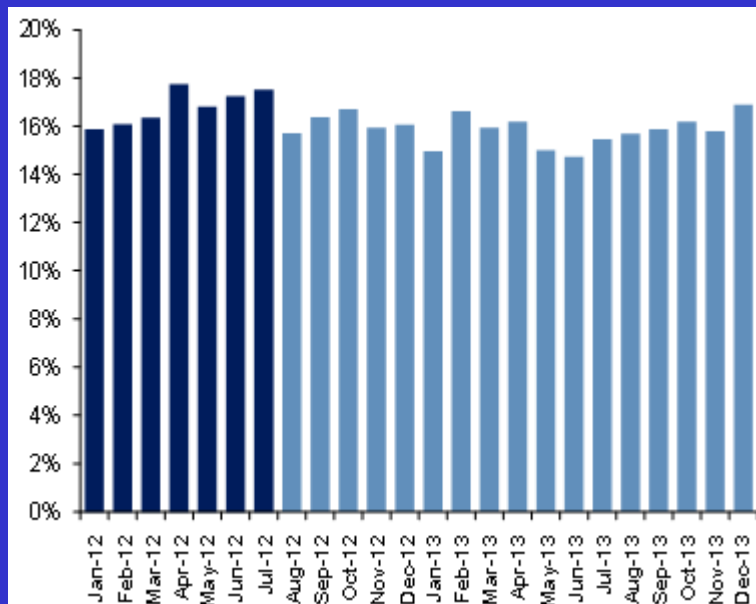
Source: BATIS Global Markets, BofAML analysis

FFTT and IFTT : market impact

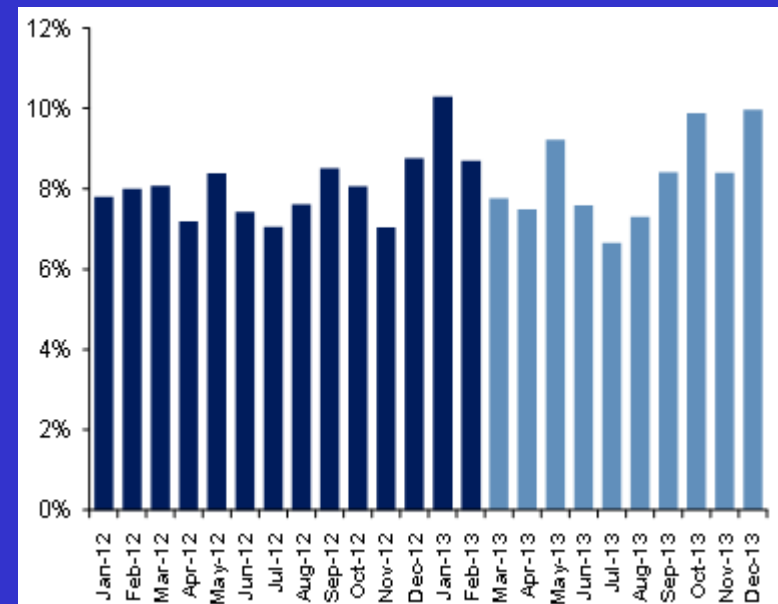
- Post introduction of FTT
- Prior to introduction of FTT

FTT initiatives in France and Italy *Decrease in market share 3 months after FTT vs prior to FTT*

- French revenue as a percentage of total Europe



- Italian revenue as a percentage of total Europe



- **Collection Goals**

<u>2012</u>	<u>2013</u>	<u>2014</u>
199 M€	640 M€	[700] M€

- Only shares: excluding bonds, units of UCITS, derivatives
- Only listed shares: excluding non-listed shares
- Only listed shares issued by French companies with market cap above €1 billion

Reasons for limited scope

- Practical difficulties to collect FTT on foreign shares
- Euroclear as main FTT's collection agent

- Acquisition for consideration
- Resulting in ownership transfer
- On-market or off-market

Specific Issues

- ADRs
- Redeemable/Convertibles Bonds
- Stock warrants

- Primary market
- Intragroup transactions
- Collateralized financing (e.g., repos, stock loans, sell buy-backs)
- Reorganizations
- Subjective exemptions
 - **Clearing house – central depository**
 - **Market making activities**
 - **Liquidity provider arrangements**
 - **Employee savings schemes**

- Only acquisitions are taxable, the FTT should be borne by the purchaser
 - **The payer is the broker of the purchaser**
 - **If several brokers are involved, the payer is the first broker who receives the purchase order**

- In most cases, tax recovered by central depositary (Euroclear France)
 - **broker transfers the relevant information to central depositary**
 - **The central depositary withdraws the amount from the broker's account**
 - **Central depositary pays the tax to the FTA**
 - **Broker charges the FTT to the purchaser with trading fees**