

Corporate & Financial Weekly Digest

February 10, 2012 by Edward Black

France Proposes Financial Transaction Tax

Co-authored by Sam Tyfield.

On February 8, the French government released details of a proposed financial transaction tax (FTT). The proposal will be considered by the French parliament and, if passed, will impose taxes on certain transactions in shares and other financial instruments, as well as on high frequency trading (HFT).

The government has until the end of the current parliamentary session on March 22 to get legislative approval for the FTT. Given the tight legislative timeframe, it is possible that the bill will still be pending when the session ends, in which case it will be shelved until after France's presidential and parliamentary elections which will take place between April and June 2012.

France, supported by eight other European Union (EU) member states, has proposed that an FTT be implemented by the EU. This proposal will be considered at EU level later this year. These nine countries could, under the EU's "enhanced cooperation" rules, act collectively to impose an FTT across their economies, although they would not be able to impose an FTT on other EU member states.

The details of the French FTT proposal include:

- A tax of 0.1% on purchases of shares of listed companies headquartered in France which have a market capitalization of at least €1 billion (approximately \$1.32 billion) and whose shares are listed on a "regulated market." In practice, the tax will affect the shares of about 60 French blue chip corporates. The tax will be payable by the buyer's financial intermediary, regardless of where the intermediary is situated. Where no financial intermediary is involved, payment of the FTT will be the custodian's responsibility.
- A tax of 0.01% on French tax resident companies undertaking HFT for their own account, based on the ratio of canceled orders to completed orders. Market making activities by registered market makers and liquidity providers are

excluded from the ambit of the proposed tax.

- A tax of 0.01% on the notional value of sovereign bond credit default swap (CDS) short transactions entered into by a French tax-resident company. There are exceptions for market making activities or where the CDS is bought to hedge an existing long position.

Katten Muchin Rosenman LLP

Charlotte Chicago Irving London Los Angeles New York Washington, DC