



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 2 May 2014  
(OR. en)**

**9399/14**

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**Interinstitutional File:  
2013/0045 (CNS)**

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**LIMITE**

**FISC 79  
ECOFIN 445**

**PUBLIC**

**NOTE**

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<b>From:</b>	Presidency
<b>To:</b>	Council
<b>No. prev. doc.:</b>	8989/14 FISC 73 ECOFIN 397
<b>No. Cion doc.:</b>	6442/13 - COM(2013) 71 final
<b>Subject:</b>	Proposal for a Council Directive implementing enhanced cooperation in the area of financial transaction tax - State of play

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In view of the Council (ECOFIN) of 6 May 2014, delegations will find in Annex a Presidency note reflecting the state of play as regards the Commission proposal for a Financial Transaction Tax (FTT) after discussions in the Council High Level Working Party (Taxation) on 14 April 2014 and Coreper on 30 April 2014.

**PRESIDENCY NOTE**  
**REFLECTING THE STATE OF PLAY AS REGARDS**  
**THE COMMISSION PROPOSAL FOR A FINANCIAL TRANSACTION TAX (FTT)**

1. In September 2011 the Commission forwarded a proposal for a Council Directive on a common system of financial transaction tax for the EU 27.
2. In June/July 2012 (conclusions of the ECOFIN Council and of the European Council) it became clear that the required unanimity could not be achieved, but a number of Member States were willing to proceed under enhanced cooperation.
3. In Autumn 2012 eleven Member States (Germany, France, Spain, Italy, Belgium, Austria, Portugal, Greece, Estonia, Slovakia, Slovenia) introduced requests to the Commission to initiate enhanced cooperation.
4. Subsequently, the Commission made a proposal for authorisation of enhanced cooperation. The European Parliament gave its consent in December 2012, while the Council adopted a decision authorising enhanced cooperation in January 2013.
5. In February 2013, the Commission made a proposal for a Council Directive implementing enhanced cooperation in the area of FTT.

6. In April 2013, the UK took legal action in the European Court of Justice seeking annulment of the Council decision authorising enhanced cooperation for FTT, without this having a suspending effect on the Council's deliberations. The Court's judgment was issued on 30 April 2014<sup>1</sup>.
7. In December 2013, under the Lithuanian Presidency, the first technical reading of the proposal was completed. The Council Legal Service issued a Legal Opinion relating to Article 4(1) point f) of the Directive.
8. The Hellenic Presidency held two Council Working Party meetings in order to clarify important aspects of the imposition of the tax and progress the discussions, so that a compromise could be found, which would be acceptable to all participating Member States and would also take into account the concerns voiced by non-participating Member States.
9. First of all, the interaction of the Proposal for a Directive on FTT with the current reform on the regulatory legal framework of the financial sector was examined. In this context, a short overview of the legislative regulatory framework for financial instruments and infrastructure (regarding securities and derivatives markets, central clearing and central securities depositories) in force as well as the relevant proposals that are examined in the Council was given, in order to discuss options on the design and implementation of the FTT. Thus, it was noted that the reporting requirements for transactions, data keeping and verification of correct tax returns for the purposes of the FTT could build on the infrastructure and systems already put in place for the regulatory framework of the financial sector, in order to improve cost-effectiveness and ensure the effective application and collection of the tax. This is the case especially for over-the-counter derivatives.

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<sup>1</sup> Case C-209/13 and press statement No 65/14 on the rejection of the request for annulment of the Council decision authorising enhanced cooperation for FTT.

10. Moreover, clarifications on various aspects of the monetary policy of the Eurosystem and the possible interaction with the FTT were given by representatives of the European Central Bank, including on specific aspects of short-term financing instruments that could be taken into account in the final design of the tax.
11. In order to identify options and elaborate a compromise on the main elements of the design of the tax, the Presidency outlined, on the basis of a Presidency note, topics for further discussion. The note was aimed at exploring a progressive implementation of the tax and outlined the different options, as regards the scope and the territorial application of the tax. Different procedural aspects of a possible progressive implementation were examined and discussed, including from a legal point of view. The need for continuing the work in order to provide detailed and quantified information on the anticipated revenues against different options was acknowledged. Moreover, it was argued that, if individual Member States would like to impose taxation for other products that are not included from the beginning of a progressive implementation, as for example trading in fixed-income products, they would be allowed to do so. Furthermore, the inclusion of spot currency transactions within the scope of the Proposal was discussed. The Council Legal Service issued a Legal Opinion relating to this subject.
- The Presidency is aware that a number of other issues deserve further discussion at a later stage (including horizontal and legal issues such as references to other legal acts and delegated acts).
12. Finally, technical questions relating to the definitions and the scope of the Proposal of the Directive were discussed. Based on these discussions, the Hellenic Presidency put forward a compromise proposal as regards Article 2 on the definitions and Article 3 on the scope of the tax.

13. During these discussions held under the Hellenic Presidency, several non-participating Member States to the enhanced cooperation argued against the rationale behind a broad-based FTT. Moreover, concerns were expressed about potential economic consequences and legal issues relating to the imposition of the FTT as well as the potential collection costs that would burden the non-participating Member States. Furthermore, a number of non-participating Member States requested for many actors and types of transactions to be excluded from the scope of the tax.
14. The Presidency notes that in the light of discussions so far, the participating Member States reiterated their willingness to implement a harmonized FTT which should, as requested in their letters for authorisation for the enhanced cooperation, be based on the scope and objectives of the initial Commission proposal while avoiding evasive actions, distortions and transfers to other jurisdictions. At the same time, the Presidency considers that a possible way forward would be to continue working on the progressive implementation of the tax, in order to gain experience with the new harmonized framework and notably, as far as its economic impact is concerned, before broadening the scope. Within that context, it could be envisaged that the work on the progressive implementation could focus on the taxation of shares and derivatives.
15. Finally, the Presidency acknowledges the fact that more technical work on various aspects of the design of the tax, including its progressive implementation, is needed.
16. The state of play of work on the FTT was discussed at the Council High Level Working Party on Tax Policy issues on 14 April 2014 and Coreper on 30 April 2014.