



EUROPEAN COMMISSION

## MEMO

Brussels, 23 October 2012

# Enhanced Cooperation on Financial Transaction Tax – Questions and Answers

*In September 2011, the European Commission tabled a proposal for a Directive on a financial transaction tax (see [IP/11/1085](#)). The essence of this proposal was that a low-rate, wide-base tax would be applied on all financial transactions with any economic link to the EU. The estimated revenue yield was €57 billion.*

*Following intense discussions for 9 months on this proposal, Member States concluded that they would not be able to agree upon it unanimously within a reasonable period. Nonetheless, a significant number of Member States were still eager to have a common FTT. Therefore, 11 Member States<sup>1</sup> formally requested to proceed through enhanced cooperation. They wrote to the Commission, asking for a Decision to be submitted to ECOFIN to enable them to move ahead as a smaller group. Today's Commission proposal for a Decision authorising enhanced cooperation for a financial transaction tax responds to this request.*

### **What is enhanced cooperation?**

Enhanced cooperation is when a group of at least 9 Member States decide that they will move ahead with an initiative proposed by the Commission when it proves impossible to reach unanimous agreement on it. It is only relevant to policy areas which require unanimity, and it aims to overcome the situation whereby certain Member States are prevented from advancing with a common approach due to the reluctance and non-agreement of others.

Clear provisions and conditions for enhanced cooperation are set out in Article 20 of the TEU and Articles 326 to 334 (TFEU).

### **What are the steps in the enhanced cooperation procedure, and how do they apply for the FTT?**

There is a clearly defined process which must be followed in order for Member States to proceed with a Commission initiative through enhanced cooperation. This takes the form of 6 steps:

**1.** *It must be agreed by all Member States that unanimity cannot be achieved on the proposal in question within a reasonable time period*

FTT – This was step concluded at the ECOFIN in June 2012

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<sup>1</sup> Austria, Belgium, Estonia, France, Germany, Greece, Italy, Portugal, Slovakia, Slovenia, Spain

**2.** *There must be minimum number of 9 Member States that want to proceed through enhanced cooperation before it can be considered. These Member States must send an official request to the Commission, setting out the scope and objectives of what they want to move forward with.*

FTT – So far, 11 Member States have made their official request to the Commission, asking to be allowed to proceed with an EU FTT, on the basis of what the Commission proposed last year.

**3.** *The Commission analyses the Member States' request against a number of conditions set out in the Treaties (see next question). If all the conditions are met, the Commission submits a draft Decision to Council to enable this smaller group of Member States to move ahead through enhanced cooperation.*

FTT – That is what the draft Decision adopted by the Commission today is about

**4.** *A qualified majority of Member States must agree to the Decision to authorise enhanced cooperation. The European Parliament must also give its consent.*

FTT – The Commission will submit today's draft Decision to the Council for discussion at the November ECOFIN. It is for the Council Presidency and the European Parliament to decide when they will take their respective votes on the issue.

**5.** *If the Council votes favourably on enhanced cooperation, the Commission tables the proposal to be discussed and agreed amongst the smaller group of Member States.*

FTT – The Commission has already indicated that it is ready to table this detailed proposal for an FTT quickly, once the green light is given for enhanced cooperation. The proposal will be substantially based on the one already put forward by the Commission in September 2011, although the Commission may decide to adjust some elements to reflect the fact that the FTT will be implemented by less than 27 Member States.

**6.** *The group of Member States taking part in the enhanced cooperation procedure must agree on the proposal unanimously (or by qualified majority, if they decide beforehand to do so).*

#### **What factors did the Commission examine before proposing a Decision to allow enhanced cooperation on FTT?**

The Treaties set out certain requirements if enhanced cooperation is to be allowed. In addition to those conditions already outlined above (no possibility of unanimity, minimum of 9 Member States, open to others joining at any stage etc) the Commission must also assess such questions as:

- Would enhanced cooperation in this area further EU objectives?

Today's proposal concludes that enhanced cooperation on an FTT would support the EU's objectives and reinforce the integration process, particularly when it comes to establishing a strong internal market. A common FTT system, shared by 11(+) Member States, would reduce the number of divergent national approaches to financial sector taxation. In doing so, it would lead to less competitive distortions, fewer tax avoidance opportunities, more transparency and information exchange amongst those taking part, and less compliance costs for businesses and operators across the EU.

- Would enhanced cooperation have any negative effect the Internal Market, pose a barrier to trade or distort competition within the EU?

Today's proposal states that enhanced cooperation on FTT would contribute to a stronger Single Market, with less barriers and competitive distortions. A common system of taxing the financial sector, even if not applied by all Member States, is preferable to the fragmentation that would result from 27 different national systems. Financial operators throughout the EU would benefit from the simplification that a harmonised approach brings. Moreover, the risks of double-taxation and double non-taxation are reduced, because the fewer divergent tax systems there are, the fewer the overlaps and loopholes between them.

- Would enhanced cooperation respect the rights, competences and obligations of non-participating Member States?

Today's proposal states that the rights, competences and obligations of non-participating Member States would be fully respected with enhanced cooperation on FTT. For example, non-participating Member States would not be precluded from having their own national FTT if they wanted to, outside the harmonised system.

#### **Are there still benefits to an FTT if it is not applied by all Member States?**

Absolutely. The Commission would have liked to see the FTT applied throughout the entire EU. However, as this proved impossible, enhanced cooperation is the right way to proceed. The objectives set by the Commission are still valid and achievable. A common FTT will ensure a fairer contribution to public finances from the financial sector, which is currently under-taxed by about €18 billion a year in Europe. And it will reduce the fragmentation of the Single Market, by having a single system for taxing financial transactions which covers 11(+) Member States.

Importantly, those that partake in enhanced cooperation on the FTT will also have a significant new source of revenue without placing further burden on the ordinary citizen. The Commission has proposed that a portion of the revenue could be used as an own resource for the EU budget, resulting in a corresponding reduction of the national GNI contributions of participating Member States. The portion of the FTT revenue that remains in the national budgets could be used to help consolidate public finances, invest in growth-promoting activity or meet development aid commitments. Ultimately, it will be for participating Member States to decide how the revenues of the FTT should be used.

#### **Are there any revenue estimates for the FTT implemented through enhanced cooperation?**

If the FTT which the Commission proposed had been implemented by all Member States, an estimated €57 billion a year could have been collected.

This amount will obviously be less if all 27 Member States are not party to the FTT. It is difficult to make precise estimates on how much revenue the FTT will generate under enhanced cooperation until the final details are known as to which Member States will take part, and what exactly they will apply.

Nonetheless, the 11 Member States that have so far signed up for enhanced cooperation constitute 2/3 of the EU economy. So while it is impossible to make precise revenue estimates at the moment, it is safe to assume that the FTT should deliver tens of billions of euros to the public purse.

**When has enhanced cooperation been used before?**

Currently, enhanced cooperation is applied in the field of divorce law (see [IP/10/347](#)) and the EU Patent (see [IP/11/470](#)).

See also [IP/12/1138](#)