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REPORT

on the proposal for a Council directive on a common system of financial transaction tax and amending Directive 2008/7/EC
(COM(2011)0594 – C7-0355/2011 – 2011/0261(CNS))

Committee on Economic and Monetary Affairs

Rapporteur: Anni Podimata

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Symbols for procedures

*	Consultation procedure
***	Consent procedure
***I	Ordinary legislative procedure (first reading)
***II	Ordinary legislative procedure (second reading)
***III	Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: **[...]**.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a Council directive on a common system of financial transaction tax and amending Directive 2008/7/EC
(COM(2011)0594 – C7-0355/2011 – 2011/0261(CNS))

(Special legislative procedure – consultation)

The European Parliament,

– having regard to the Commission proposal to the Council (COM(2011)0594),

– having regard to Article 113 of the Treaty on the Functioning of the European Union , pursuant to which the Council consulted Parliament (C7-0355/2011),

– having regard to the reasoned opinions submitted, within the framework of the Protocol (No 2) on the application of the principles of subsidiarity and proportionality, by the Cypriot Parliament, the Maltese Parliament and the Swedish Parliament, asserting that the draft legislative act does not comply with the principle of subsidiarity,

– having regard to Rule 55 of its Rules of Procedure,

– having regard to the report of the Committee on Economic and Monetary Affairs and the opinions of the Committee on Development, the Committee on Budgets and the Committee on the Internal Market and Consumer Protection (A7-0154/2012),

1. Approves the Commission proposal as amended;

2. Calls on the Commission to alter its proposal accordingly, in accordance with Article 293(2) of the Treaty on the Functioning of the European Union;

3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;

4. Asks the Council to consult Parliament again if it intends to substantially amend the Commission proposal;

5. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a directive
Recital 1

Text proposed by the Commission	*Amendment*
(1) The recent financial crisis has led to	(1) The recent financial crisis has led to

debates at all levels about a possible additional tax on the financial sector and in particular a financial transactions tax (FTT). This debate stems from the desire to ensure the financial sector contribute to covering the costs of the crisis and that it is taxed in a fair way vis-à-vis other sectors for the future; to dis-incentivise excessively risky activities by financial institutions; to complement regulatory measures aimed at avoiding future crises and to generate additional revenue for general budgets or specific policy purposes.	debates at all levels about a possible additional tax on the financial sector and in particular a financial transactions tax (FTT). This debate stems from the desire to ensure the financial sector contribute to covering the costs of the crisis and that it is taxed in a fair way vis-à-vis other sectors for the future; to dis-incentivise excessively risky activities by financial institutions; to complement regulatory measures aimed at avoiding future crises and to generate additional revenue for general budgets***, inter alia as a contribution to fiscal consolidation, in order to stimulate growth and create jobs,*** or ***for*** specific policy purposes***, such as development aid and fighting climate change***.

Amendment 2

Proposal for a directive
Recital 2

Text proposed by the Commission	*Amendment*
(2) In order to prevent distortions through measures taken unilaterally by Member States, bearing in mind the extremely high mobility of most of the relevant financial transactions, and thus to ensure the proper functioning of the internal market, it is important that the basic features of *a* FTT in the Member States are harmonised at Union level. Incentives for tax arbitrage in the Union and allocation distortions between financial markets in the Union, as well as possibilities for double or non taxation should thereby be avoided.	(2) In order to prevent distortions through measures taken unilaterally by Member States, bearing in mind the extremely high mobility of most of the relevant financial transactions, and thus to ensure the proper functioning of the internal market, it is important that the basic features of FTT in the Member States are harmonised***, and this Directive is implemented,*** at Union level. Incentives for tax arbitrage in the Union and allocation distortions between financial markets in the Union, as well as possibilities for double or non taxation should thereby be avoided. ***Bearing in mind the ultimate goal of a Union-wide application of FTT, should a group of Member States, including, but not limited to euro area Member States, choose to move faster by means of enhanced cooperation under Article 329 of the Treaty on the Functioning of the European Union, the model developed in***

	this Directive would seem suitable as a basis for implementation within that group of Member States. However, an introduction of FTT in a particularly limited number of Member States could lead to a significant distortion of competition in the internal market and comprehensive measures should be taken in order to ensure that such a move does not negatively affect the functioning of the internal market.

Amendment 3

Proposal for a directive
Recital 2 a (new)

Text proposed by the Commission	*Amendment*
	(2a) In line with the European Council conclusions of 17 June 2010 and taking into account that FTT will truly achieve its objectives if it is introduced at a global level, the Union should lead efforts to reach agreement on FTT at global level. By means of setting an example for the introduction of FTT, the Union must push resolutely for a global agreement in the relevant international arena, in particular the G20, to establish a common ground for introducing a global FTT. Concrete actions in this direction should be part of the report of the Commission in the framework of the first review of this Directive.

Amendment 4

Proposal for a directive
Recital 3

Text proposed by the Commission	*Amendment*
(3) ***For the internal market*** to ***function properly***, FTT should apply to trade in a wide range of financial instruments, including structured products, both in the	(3) ***In order*** to ***reduce the scope for tax avoidance***, ***relocation risk and regulatory arbitrage,*** FTT should apply to trade in a wide range of financial instruments,

organised markets and 'over-the-counter', as well as to the conclusion and modification of all derivative contracts. For the same reason, it should apply to a broadly determined range of financial institutions.	including structured products, both in the organised markets and 'over-the-counter', as well as to the conclusion and modification of all derivative contracts. For the same reason, it should apply to a broadly determined range of financial institutions. ***Including the widest possible range of financial instruments and actors should also ensure that the tax burden is equally spread among all actors but relatively higher on more speculative and more disruptive financial transactions. The same result could not be achieved if the scope of FTT were more limited, e.g. if it took the form of a stamp duty, which would place the full tax burden on a much more limited group of instruments traded on regulated markets without fulfilling the aim of curbing excessive and harmful speculation.***

Justification

Only by means of ensuring the scope of the FTT is as wide as possible can the "double function" of the tax be wholly ensured, that of securing additional revenue while at the same time curbing the excessive, short-term speculative transactions. Limited form of an FTT, such as a stamp duty, would be counterproductive in this respect, as the whole tax burden would fall on a very limited number of instruments and regulated markets only.

Amendment 5

Proposal for a directive
Recital 11 a (new)

Text proposed by the Commission	*Amendment*
	(11a) With a view to strengthening the position of stock exchange trading, which is strictly regulated, controlled and transparent, against unregulated, uncontrolled and less transparent off-exchange trading, Member States should apply lower tax rates to financial transactions on stock exchanges than to off-exchange transactions. This will make it possible to effect a shift in trading from markets with little or no regulation to

	stock exchanges that are subject to strict regulation and control.

Amendment 6

Proposal for a directive
Recital 12

Text proposed by the Commission	*Amendment*
(12) In order to concentrate the taxation on the financial sector as such rather than on citizens and because financial institutions execute the vast majority of transactions on financial markets, the tax should apply to those institutions, whether they trade in their own name, in the name of other persons, for their on own account or for the account of other persons.	(12) In order to concentrate the taxation on the financial sector as such rather than on citizens and because financial institutions execute the vast majority of transactions on financial markets, the tax should apply ***only*** to those institutions, whether they trade in their own name, in the name of other persons, for their on own account or for the account of other persons.

Amendment 7

Proposal for a directive
Recital 13

Text proposed by the Commission	*Amendment*
(13) Because of the high mobility of financial transactions and in order to help mitigating potential tax avoidance, ***the*** FTT should be applied on the basis of ***the*** residence principle.	(13) Because of the high mobility of financial transactions and in order to help mitigating potential tax avoidance ***and in order to ensure the widest possible coverage of actors and transactions***, FTT should be applied on the basis of ***a very broadly defined*** residence principle, ***supplemented by elements of the issuance principle. In addition, for better enforcement of FTT, the ownership principle should apply.***

Amendment 8

Proposal for a directive
Recital 14

Text proposed by the Commission	*Amendment*
(14) The minimum tax rates should be set at a level sufficiently high for the harmonisation objective of this Directive to be achieved. At the same time, *they* have to be low enough so that delocalisation risks are minimised.	(14) The minimum tax rates should be set at a level sufficiently high for the harmonisation objective of this Directive to be achieved***, so that the financial sector should make an appropriate contribution towards the costs of the economic crisis, thus boosting the real economy.*** At the same time, ***until the implementation of a uniform global FTT regime,*** *those rates* have to be low enough so that delocalisation risks are minimised.

Amendment 9

Proposal for a directive
Recital 15 a (new)

Text proposed by the Commission	*Amendment*
	(15a) Since avoidance, evasion and abuse rates will partly depend on the capability of Member States to verify taxable transactions carried out on a trading venue in a third country, Member States and, where applicable, the Commission should make full use of instruments for cooperation on tax matters established by the OECD, the Council of Europe and other international organisations. If necessary, new bilateral and multilateral cooperative initiatives should be taken in this regard.

Amendment 10

Proposal for a directive
Recital 16

Text proposed by the Commission	*Amendment*
(16) In order to allow the adoption of more detailed rules for determining whether certain financial activities constitute a	(16) In order to allow the adoption of more detailed rules for determining whether certain financial activities constitute a

significant part of an undertaking's activity, so that the undertaking can be considered a financial institution for the purposes of this Directive, as well as more detailed rules regarding protection against tax evasion, avoidance and abuse, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of specifying the measures necessary to this effect. It is of particular importance that the Commission *carries* out appropriate consultations during its preparatory work, ***including at expert level***. The Commission, when preparing and drawing-up delegated acts, should ensure a timely and appropriate transmission of relevant documents to the Council.	significant part of an undertaking's activity, so that the undertaking can be considered a financial institution for the purposes of this Directive, as well as more detailed rules regarding protection against tax evasion, avoidance and abuse, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of specifying the measures necessary to this effect. It is of particular importance that the Commission *carry* out appropriate consultations during its preparatory work, ***particularly with experts, non-governmental organisations (NGOs) and other stakeholders***. The Commission, when preparing and drawing-up delegated acts, should ensure a timely and appropriate transmission of relevant documents to ***the European Parliament and*** the Council.

Amendment 11

Proposal for a directive
Recital 17 a (new)

Text proposed by the Commission	*Amendment*
	(17a) This Directive does not address the management of revenue from the FTT. However, having regard to the Commission proposal for a Council regulation laying down the multiannual financial framework for the years 2014 to 2020 and in particular concerning the provisions on the Union's own resources, part of the revenue from FTT could be managed at Union level, either as a part of Union own resources or directly linked to specific Union policies and public goods. The use of part of revenue from FTT as Union own resources would reduce national contributions to the Union budget and would therefore release funds from the national budgets for other

	uses.

Amendment 12

Proposal for a directive
Recital 17 b (new)

Text proposed by the Commission	*Amendment*
	(17b) Only Member States are competent to raise tax.

Amendment 13

Proposal for a directive
Article 1 – paragraph 2

Text proposed by the Commission	*Amendment*
2. This Directive shall apply to all financial transactions, ***on condition that*** at least one party to the transaction is established in a Member State and ***that*** a financial institution established in the territory of a 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.	2. This Directive shall apply***, in accordance with Article 3,*** to all financial transactions, ***subject to one of the following conditions:***
	(a) at least one party to the transaction is established in a Member State and a financial institution established in the territory of a 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***; or***
	(b) the transaction involves a financial instrument issued by legal entities registered in the Union.

Justification

confirms that the Podimata report makes crucial improvements to the directive to minimise evasion possibilities.

Amendment 14

Proposal for a directive
Article 2 – paragraph 1 – subparagraph 1 – point c a (new)

Text proposed by the Commission	*Amendment*
	(ca) currency spot transactions except where they are directly related to the commercial activities of a non-financial counterparty that is an end user.

Amendment 15

Proposal for a directive
Article 2 – paragraph 1 – subparagraph 7 – point f

Text proposed by the Commission	*Amendment*
(f) A pension fund or an institution for occupational retirement provision as defined in Article 6(a) of Directive 2003/41/EC of the European Parliament and the Council, an investment manager of such fund or institution;	(f) A pension fund or an institution for occupational retirement provision as defined in Article 6(a) of Directive 2003/41/EC of the European Parliament and the Council ***on the activities and supervision of institutions for occupational retirement provision***, an investment manager of such fund or institution***, and an entity set up for the purpose of investment of such funds or institutions acting solely and exclusively in the interest of such funds or institutions, shall not be considered a financial institution for the purposes of this Directive until the review of this Directive pursuant to Article 16***;

Amendment 16

Proposal for a directive
Article 3 – paragraph 1 – point e a (new)

Text proposed by the Commission	*Amendment*
	(ea) it is party, 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 in relation to a

	financial instrument issued within the territory of a Member State or of the Union.

Justification

This additional criterion would ensure that the FTT can also be collected on the basis of the issuance principle.

Amendment 17

Proposal for a directive
Article 3 – paragraph 2 a (new)

Text proposed by the Commission	*Amendment*
	2a. For the purpose of applying paragraph 1 in a consistent manner, Member States' competent authorities shall closely cooperate with each other and with ESMA for the supervision of financial markets.

Amendment 18

Proposal for a directive
Article 3 a (new)

Text proposed by the Commission	*Amendment*
	Article 3a
	Issuance
	1. For the purposes of this Directive, a financial instrument is deemed to be issued within the territory of a Member State or of the Union where it is issued by a legal entity that is registered in a Member State.
	2. In the case of a derivatives agreement the condition of issuance within the territory of a Member State or of the Union is fulfilled where the reference or underlying instrument is issued by a legal entity that is registered in a Member State.

3. In the case of a structured instrument, the condition of issuance within the territory of a Member State or of the Union is fulfilled where the structured instrument is based on or backed by a significant proportion of assets or financial instruments and derivatives agreement with reference to financial instruments issued by a legal entity that is registered in a Member State.

Justification

This new article defines the concept of issuance for financial instruments, derivatives and structured instruments.

Amendment 19

Proposal for a directive
Article 3 b (new)

Text proposed by the Commission	*Amendment*
	Article 3b
	Transfer of legal title
	1. A financial transaction in relation to which no FTT has been levied shall be deemed legally unenforceable and shall not result in a transfer of legal title of the underlying instrument.
	2. A financial transaction as referred to in paragraph 1 shall be deemed not to fulfil the requirements for central clearing under Regulation (EU) No .../2012 of the European Parliament and the Council of ... on OTC derivatives, central counterparties and trade repositories [EMIR] or the capital adequacy requirements under Regulation (EU) No .../2012 of the European Parliament and the Council of ... on prudential requirements for credit institutions and investment firms [CRD IV].
	3. In the case of automatic electronic payment schemes with or without the

participation of payment settlement agents, revenue authorities of a Member State may establish a system of automatic electronic collection of FTT and certificates for transferring legal title.

Justification

In order to reduce the risk of avoidance, the FTT should involve a system ensuring that if the tax is not paid the contracts to buy or sell an instrument are ruled unenforceable. According to this system, an untaxed instrument would be ineligible for central clearing, which would cost the evader several times more than the tax.

Amendment 20

Proposal for a directive
Article 8 – paragraph 3

Text proposed by the Commission	*Amendment*
3. Member States shall apply the same rate to all financial transactions that fall under the same category pursuant to paragraph 2 (a) and (b).	3. ***In order to avoid tax arbitrage,*** Member States shall apply the same rate to all financial transactions that fall under the same category pursuant to paragraph 2 (a) and (b).

Amendment 21

Proposal for a directive
Article 8 – paragraph 3 a (new)

Text proposed by the Commission	*Amendment*
	3a. Member States shall apply a lower rate of tax to financial transactions on stock exchanges than to those in off-exchange trading. This shall apply to the financial transactions referred to in Articles 5 and 6.

Justification

This will make it possible to effect a shift in trading from markets with little or no regulation to stock exchanges that are subject to strict regulation and control.

Amendment 22

Proposal for a directive
Article 9 – paragraph 2

Text proposed by the Commission	*Amendment*
2. Where a financial institution acts in the name ***or*** for the account of another financial institution only that other financial institution shall be liable to pay FTT.	2. Where a financial institution acts in the name**,** for the account ***or by order*** of another financial institution**,** only that other financial institution shall be liable to pay FTT. ***Where several financial institutions are involved in such a process only the original institution listed as a trader shall be liable to pay FTT.***

Justification

In order to avoid the cascading effect, it should be made clear that, in case a financial institution acts in the name, for the account or by order of another financial institution, the taxable event occurs only once.

Amendment 23

Proposal for a directive
Article 10 – paragraph 1

Text proposed by the Commission	*Amendment*
1. Member States shall lay down ***registration,*** accounting**,** reporting obligations and other obligations intended to ensure that FTT due to the tax authorities is effectively paid.	1. Member States shall lay down accounting ***and*** reporting obligations and other obligations intended to ensure that FTT due to the tax authorities is effectively paid.

Amendment 24

Proposal for a directive
Article 10 – paragraph 1 a (new)

Text proposed by the Commission	*Amendment*
	1a. A financial institution shall, within six months from the entry into force of this Directive, register at the tax authorities of the Member State where it is deemed to be

	established in accordance with Article 3(1).

Justification

In order to avoid conflict situations whereby two or more Member States have a disagreement where a certain financial institution is deemed to be established, a formal registration requirement is added.

Amendment 25

Proposal for a directive
Article 10 – paragraph 1 b (new)

Text proposed by the Commission	*Amendment*
	1b. A Member State shall inform other Member States of the financial institutions registered at their territory.

Amendment 26

Proposal for a directive
Article 10 – paragraph 5 a (new)

Text proposed by the Commission	*Amendment*
	5 a. Member states shall disclose annually to the Commission and to Eurostat transaction volumes against which revenues have been collected.

Justification

The Commission could check this against data stored at trade repository.

Amendment 27

Proposal for a directive
Article 11 – title

Text proposed by the Commission	*Amendment*
Specific provisions relating to the prevention of evasion, avoidance and abuse	Specific provisions relating to ***transparency and*** the prevention of ***tax***

	evasion, avoidance and abuse

Amendment 28

Proposal for a directive
Article 11 – paragraph 1

Text proposed by the Commission	*Amendment*
1. ***Member States*** shall ***adopt measures*** to prevent tax evasion, avoidance and abuse.	1. ***Union rules*** shall ***be adopted*** to prevent tax evasion, avoidance and abuse.

Justification

Special provisions might be necessary at EU level in order to prevent avoidance, evasion and abuse of the tax. Note that tax avoidance would by itself decrease the impact on the increase of cost of capital for investment. Distortions on tax collection would however increase.

Amendment 29

Proposal for a directive
Article 11 – paragraph 1 a (new)

Text proposed by the Commission	*Amendment*
	1a. The Commission shall establish an expert working group (FTT Committee) comprising representatives from the Member States that supervises the application of this Directive. Member States shall appoint bodies with sufficient competence to take immediate action in the case of abuse. ***The FTT Committee shall supervise financial transactions in order to detect avoidance schemes, to propose countermeasures and to coordinate the implementation of such countermeasures at national level where appropriate.***

Amendment 30

Proposal for a directive
Article 11 – paragraph 3 a (new)

Text proposed by the Commission	*Amendment*
	3a. The administrative burden imposed on tax authorities through the introduction of FTT shall be kept to a minimum and, to this end, the Commission shall encourage cooperation between national tax authorities.

Amendment 31

Proposal for a directive
Article 11 – paragraph 3 b (new)

Text proposed by the Commission	*Amendment*
	3b. Eurostat shall collect and publish annually the financial flows subject to FTT within the Union.

Justification

In order to enhance the transparency of the financial flows and the FTT collected, statistics should be collected and published

Amendment 32

Proposal for a directive
Article 11 – paragraph 3 c (new)

Text proposed by the Commission	*Amendment*
	3c. In order to verify taxable transactions carried out on a trading venue in a third country, Member States and, where applicable, the Commission shall make full use of instruments for cooperation on tax matters established by relevant international organisations.

Justification

The smooth functioning of an EU FTT regime based on the residence principle will to a certain extent depend on efficient cooperation on tax matters with non-EU jurisdictions across the globe. Existing instruments should be fully used and additional initiatives might *need to be taken in this regard.*

Amendment 33

Proposal for a directive
Article 11 – paragraph 3 d (new)

Text proposed by the Commission	*Amendment*
	3d. In order to adapt Member States' tax administrations to the provisions of this Directive and, in particular, in relation to administrative cooperation referred to in paragraph 3, Member States shall provide them with necessary and adequate human resources and technical equipment. Particular attention shall be focused on providing training for officials.

Justification

In order to cope with these new requirements, tax authorities would need to be endowed with adequate staff and technological resources.

Amendment 34

Proposal for a directive
Article 11 – paragraph 3 e (new)

Text proposed by the Commission	*Amendment*
	3e. The Commission shall conduct a thorough examination to analyse the administrative costs for regional and local authorities arising from the implementation of this Directive.

Amendment 35

Proposal for a directive
Article 16

Text proposed by the Commission	*Amendment*
Every five years and for the first time by 31 December 2016, the Commission shall	Every five years and for the first time by 31 December 2016, the Commission shall

submit to the Council a report on the application of this Directive and, where appropriate, a proposal for its modification.	submit to ***the European Parliament and*** the Council a report on the application of this Directive and, where appropriate, a proposal for its modification.
In that report the Commission shall, at least, examine the impact of the FTT on the proper functioning of the internal market, the financial markets and the real economy ***and*** it shall ***take into account the progress on taxation of the financial sector in the international context.***	In that report the Commission shall, at least, examine the impact of the FTT on the proper functioning of the internal market, the financial markets and the real economy. It shall ***also assess the impact of certain provisions such as the appropriate scope of FTT, the possibility to distinguish different categories of financial products and assets with a view to charging higher rates after a certain ratio of cancelled orders, the rate of taxation and the exemption of institutions for occupational retirement provision under Article 1(2). Where the Commission finds that distortion or abuse has taken place, it shall propose appropriate remedies.***
	In addition, the Commission shall analyse and report on national FTT tax revenue collection based on the residency of financial institutions and to what extent that collection differs from tax distribution based on the underlying customer residency, namely to what extent financial consolidation centralises tax revenues in financial centres.
	In its reports, the Commission shall take into account different forms of taxation of the financial sector, under discussion or already in place, and progress regarding the introduction of a wider FTT. Where appropriate, the Commission shall put forward proposals or undertake action in order to facilitate convergence and promote the introduction of a global FTT.

EXPLANATORY STATEMENT

The momentum concerning the Commission's proposal for a common system of financial transaction tax

The global financial crisis of 2008 has spread in the real economies in a rapid and sharp way resulting in deep recession of the global economy and having a large scale impact on employment. The necessity for bailout schemes through public funds for the rescue of too big to fail financial institutions has significantly deteriorated public finances and led to further economic recession at a global and European level.

In this context, the following points are highlighted:
- The financial sector, being one of the main denominators of the financial crisis and having received important public subventions to overcome the crisis effects, is not contributing in a fair way to the cost of this crisis. At a time when EU citizens are faced with important increases in direct and indirect taxation and severe cuts in wages and pensions, the financial sector is still largely exempted from taxation in its activities and transactions;
- The enormous rise of financial transactions the last decade and the turn from long term investments to short termism and highly speculative and risk taking transactions, in particular in activities such as the High Frequency Trade (HFT), are clearly demonstrating a switch of the main role of the financial sector from financing the needs of the real economy to operations which have no productive impact and can severely disturb market prices and the function of national economies.
- The current severe fiscal difficulties in the majority of EU member states are significantly impeding Member States and EU to address major challenges ahead such as financing growth, sustainable and social development, tackling climate change and funding development aid. Increasing the rates and the scope of tradition taxation tools and further cuts in public expenditure can be neither a sufficient nor a sustainable solution to address these challenges. Therefore progressive taxation tools are needed that can shift the taxation burden from labour and productive investments to sectors with important negative externalities to the real economy.

In that view, the debate on the introduction of a Financial Transaction Tax (FTT) has become more relevant than ever. In comparison with other traditional taxation tools and different economic policies FTT has the advantage of a multiple function:
- It can generate important new revenues (according to recent estimations, up to 57 billion euros if implemented at EU level);
- It can shift the burden to activities with negative externalities, such as HFT and extremely speculative financial transactions, ensuring thus a more fair distribution of the tax burden;
- It can become a disincentive for extremely leveraged and harmful speculative transactions and thus contribute along with appropriate regulation and supervision regime to stabilize markets and reorientate the sector towards productive long term investments.

According to a recent study ("Financial Transaction Taxes" by Stephany Griffith Jones and Avinash Persaud) and the revised impact assessment of the European Commission, the FTT impact on EU growth is estimated to reach a positive level of 0.25%., by:

- reducing systemic risks and the level of "noise" trading along with HFT, the FTT can significantly contribute to reducing the probability of future crisis. The real costs of the crisis on growth being massive, the FTT can therefore absorb that cost and have a positive impact on the long term growth of the EU;
- becoming a new funding source for fiscal consolidation and key investments on growth and employment;
- shifting the tax burden to other activities. In that way, the FTT could lead to reduction or less increases of income and labour taxation, thus stimulating consumption and aggregating demand.

Given the globalised nature of the financial sector and its services, for a FTT to fully assume its multiple function it should be implemented at the broadest possible scale. The absence however of an international agreement makes it necessary for the leading economic partners of the world to assume a more enhanced role. EU represents today the world's largest financial market and as such has the responsibility to make the first step by coordinating the establishment of a well designed and easily implementable FTT that will create a stronger momentum in the process towards concluding an international agreement.

With its resolution on Innovative Financing at global and EU level (P7_TA-PROV (2011)0080), the European Parliament stated that "EU should promote the introduction of an FTT at global level, failing which, the EU should implement an FTT at European level as a first step" and called on the Commission to "swiftly produce a feasibility study, taking into account the need for a global level playing field, and to come forward with concrete legislative proposals".
In response to that, the European Commission had presented its impact assessment which opted in favour of the feasibility of introducing an EU wide FTT, along with its legislative proposal.

<u>A well designed and easily implementable FTT</u>

The main challenges concerning the introduction of an EU based FTT are
- avoiding the transfer of transactions towards non EU jurisdictions,
- preventing tax avoidance
- avoiding the transfer of the cost to consumers and citizens.

As in every taxation tool, the way to minimize tax avoidance and evasion is turning undesired activity from a high return and low risk venture to a low return and high risk one. In the case of FTT, this means a light tax rate to make avoidance a low-return venture, and enforcing heavy consequences of non compliance to make it risky.

There are several FTT- type tools implemented in different jurisdictions around the world, but in particular the case of stamp duties (deemed to be paid by any counterparty of a transaction on the transfer of ownership of a resident security) is the biggest "success story" so far as they are proved to be very difficult to avoid and are raising significant revenues in the jurisdictions where they are in force.

The main aspects of the Commission's Proposal

The European Parliaments welcomes the decision of the Commission to present a legislative proposal introducing a tax on financial transactions, fully embracing the main argumentation put forward by the European Parliament in its resolution on Innovative Financing at global and EU level (P7_TA-PROV (2011)0080).

- **The scope of the Directive**

The Commission's proposal covers transactions covering all different types of securities (shares, equity, bonds and derivatives related to them) as well as all kind of trades in regulated or non regulated platforms. The exclusion of the primary markets on bonds and shares (but not on derivatives based on them) makes it possible to leave the capital raising needs of the real world intact.
The scope of the tax is limited to financial institutions, either acting for their own account or for the account of another person. National central banks, the European Central Bank and bodies set up by the EU are the only financial institutions excluded and rightly so, as to avoid unwanted externalities on monetary policies or refinancing possibilities of the financial sector. However, it should be made clear that this exception stands as long as the transactions of those entities correspond to their main public function.

- **The residence principle**

The Commission's Proposal makes use of the residence of the counterparty of a transaction being in the territory of a Member State in order for the tax to be chargeable.
This covers all transactions by EU resident financial institutions but not the all financial instruments of EU origin. This way a transaction by an EU financial institution on non EU financial instruments will be taxed, with the positive effects this can have for the market of the non EU instrument, but the transactions by non EU institutions on EU instruments will not, creating thus a competitive disadvantage for EU institutions.

- **The issuance principle**

The best way to avoid legal loopholes and create competitive disadvantages would be to follow the example of the stamp duties and impose the tax on every transaction on a financial instrument issued by an entity in the territory of a Member State or the EU. However and although this is fully applicable in the case of bonds and shares, this can create some problems in the case of derivatives such as swaps where it is difficult to define the issuance.
In order to fully address this problematic, the best option would be to combine both principles and propose an additional condition within article 3 related to the place of the issuance. In that way as long as one of the conditions of article 3 is met the tax is to be paid.
In order to make use of all of the advantages of the issuance principle, the connection of the tax payment with the legal enforceability of the contract should be also added as a legal consequence.

- **The tax rates**

In order for the tax to be easily implementable and avoid distortions within the internal market, the rates envisaged should be simple to implement and reflect the different characteristics of the financial instruments.
The proposal of the Commission to have a minimum rate of 0.1% for shares and bonds and of 0.01% for derivatives is indeed following these principles. Both rates being relatively low and at the same time minimum safeguard harmonisation in the least distortive way and allow for flexibility in case a Member State considers it appropriate to move beyond them.
The differentiation between asset categories is justified as shares and bonds have a more similar market behaviour comparing to derivatives.
In the case of derivatives the estimation of their value being much more difficult, the decision to opt for the notional value - which can be significantly higher than the real market value of a derivative - justifies the choice of a lower rate.

- **The geographic scope**

The adoption of the Directive via unanimity is the best way to implement the proposal in order to avoid distortions and to further integrate financial markets in EU.
Nevertheless, given that several FTT-type taxation tools either are already in place or in discussion in several Member States, EU should speed up the process to remove distortions in the relevant areas. Therefore, if the adoption of this Directive is not feasible through the unanimity rule, Member States can introduce the legal provisions of this Directive through the enhanced cooperation rules.

- **The management of the revenues**

The Commission's Proposal has no direct references to the management of the revenues. The report notes that a currently under discussion legislative proposal on the Multiannual Financial Framework 2014-2020 envisages part of the FTT revenues to become EU own resources. The FTT revenues could also be linked to specific EU policies and public goods, amongst them the financing of development aid goals, the fight against climate change, sustainable development and the social welfare state in EU or to the financing of national budgets, notably as a way to support efforts for fiscal consolidation.

30.3.2012

OPINION OF THE COMMITTEE ON DEVELOPMENT

for the Committee on Economic and Monetary Affairs

on the proposal for a Council directive on a common system of financial transaction tax and amending Directive 2008/7/EC
(COM(2011)0594 – C7-0355/2011 – 2011/0261(CNS))

Rapporteur: Ricardo Cortés Lastra

AMENDMENTS

The Committee on Development calls on the Committee on Economic and Monetary Affairs, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1

Proposal for a directive
Recital 1

Text proposed by the Commission	*Amendment*
(1) The recent financial crisis has led to debates at all levels about a possible additional tax on the financial sector and in particular a financial transactions tax (FTT). This debate stems from the desire to ensure the financial sector contribute to covering the costs of the crisis and that it is taxed in a fair way vis-à-vis other sectors for the future; to dis-incentivise excessively risky activities by financial institutions; to complement regulatory measures aimed at avoiding future crises and to generate additional revenue for general budgets or specific policy	(1) The recent financial crisis has led to debates at all levels about a possible additional tax on the financial sector and in particular a financial transactions tax (FTT). This debate stems from the desire to ensure the financial sector contribute to covering the costs of the crisis and that it is taxed in a fair way vis-à-vis other sectors for the future; to ***curb speculation, in particular on commodity markets, thus limiting food price volatility and its impacts on food security; to*** dis-incentivise excessively risky activities by financial institutions; to complement regulatory

purposes.	measures aimed at avoiding future crises and to generate additional revenue for general budgets or specific policy purposes, ***such as the financing of public goods and Union development policies especially towards the achievement of MDGs***.

Amendment 2

Proposal for a directive
Recital 1 a (new)

Text proposed by the Commission	*Amendment*
	(1a) The revenue of the FTT, the objective of which is a more social and fair redistribution of wealth, should provide developing countries with additional revenue to finance social programmes and should be additional to the national development aid commitments of 0,7% of GNI and allocated towards the financing of public goods such as Union development policies, poverty reduction and the fight against climate change in developing countries. These targets should remain an essential part of this new revenue.

Amendment 3

Proposal for a directive
Recital 12

Text proposed by the Commission	*Amendment*
(12) In order to concentrate the taxation on the financial sector as such rather than on citizens and because financial institutions execute the vast majority of transactions on financial markets, the tax should apply to those institutions, whether they trade in their own name, in the name of other persons, for their on own account or for the	(12) In order to concentrate the taxation on the financial sector as such rather than on citizens and because financial institutions execute the vast majority of transactions on financial markets, the tax should apply to those institutions, whether they trade in their own name, in the name of other persons, for their on own account or for the account of other persons. ***The Member***

account of other persons.	***States should ensure, in particular, that institutions do not indirectly pass on to their clients the cost constituted by their annual liability under the FTT.***

Amendment 4

Proposal for a directive
Recital 16

Text proposed by the Commission	*Amendment*
(16) In order to allow the adoption of more detailed rules for determining whether certain financial activities constitute a significant part of an undertaking's activity, so that the undertaking can be considered a financial institution for the purposes of this Directive, as well as more detailed rules regarding protection against tax evasion, avoidance and abuse, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of specifying the measures necessary to this effect. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, ***including at expert level***. The Commission, when preparing and drawing-up delegated acts, should ensure a timely and appropriate transmission of relevant documents to the Council.	(16) In order to allow the adoption of more detailed rules for determining whether certain financial activities constitute a significant part of an undertaking's activity, so that the undertaking can be considered a financial institution for the purposes of this Directive, as well as more detailed rules regarding protection against tax evasion, avoidance and abuse, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of specifying the measures necessary to this effect. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, ***particularly with experts, NGOs and other stakeholders***. The Commission, when preparing and drawing-up delegated acts, should ensure a timely and appropriate transmission of relevant documents to ***the European Parliament and*** the Council.

Amendment 5

Proposal for a directive
Recital 18 a (new)

Text proposed by the Commission	*Amendment*
	(18a) In case no agreement amongst the EU 27 is found, Member States willing to implement the FTT should advance by

	formally requesting enhanced cooperation under TFEU article 329. The EP should give its consent speedily, under the condition that the Member States in question commit to invoking Article 333 paragraph 2 TFEU to adopt a decision stipulating that they will act under the ordinary legislative procedure.

Amendment 6

Proposal for a directive
Article 12 – paragraph 1 a (new)

Text proposed by the Commission	*Amendment*
	Enhanced Cooperation
	In the event that no agreement amongst the EU 27 is found, Member States willing to implement the FTT shall advance by formally requesting enhanced cooperation under Article 329 TFEU. The European Parliament shall give its consent speedily, under the condition that the Member States in question commit to invoking Article 333 paragraph 2 TFEU to adopt a decision stipulating that they will act under the ordinary legislative procedure.

Amendment 7

Proposal for a directive
Article 16 – paragraph 1

Text proposed by the Commission	*Amendment*
Every five years and for the first time by 31 December 2016, the Commission shall submit to the Council a report on the application of this Directive and, where appropriate, a proposal for its modification.	Every five years and for the first time by 31 December 2016, the Commission shall submit to ***the European Parliament and*** the Council a report on the application of this Directive and, where appropriate, a proposal for its modification.

Amendment 8

Proposal for a directive
Article 16 – paragraph 2

Text proposed by the Commission	*Amendment*
In that report the Commission shall, at least, examine the impact of the FTT on the proper functioning of the internal market, the financial markets and the real economy and it shall take into account the progress on taxation of the financial sector in the international context.	In that report the Commission shall, at least, examine the impact of the FTT on the proper functioning of the internal market, the financial markets and the real economy***, on speculation on commodities and foodstuffs and on the fight against tax havens***, and it shall take into account the progress on taxation of the financial sector in the international context.

Amendment 9

Proposal for a directive
Article 17 a (new)

Text proposed by the Commission	*Amendment*
	Article 17a ***Use of revenue as own resource for EU budget*** ***Part of the revenue arising from the FTT in the Union should be used as own resources for the EU Budget, of which a significant percentage should be invested in financing Union development cooperation policies and the fight against climate change in developing countries.***

PROCEDURE

Title	Common system for taxing financial transactions and amendment to Directive 2008/7/EC
References	COM(2011)0594 – C7-0355/2011 – 2011/0261(CNS)
Committee responsible Date announced in plenary	ECON 25.10.2011
Committee(s) asked for opinion(s) Date announced in plenary	DEVE 25.10.2011
Rapporteur(s) Date appointed	Ricardo Cortés Lastra 25.1.2012
Previous rapporteur(s)	Ricardo Cortés Lastra
Discussed in committee	9.2.2012
Date adopted	27.3.2012
Result of final vote	+: 23 –: 2 0: 0
Members present for the final vote	Michael Cashman, Ricardo Cortés Lastra, Corina Crețu, Leonidas Donskis, Charles Goerens, Catherine Grèze, Filip Kaczmarek, Franziska Keller, Gay Mitchell, Norbert Neuser, Bill Newton Dunn, Maurice Ponga, Birgit Schnieber-Jastram, Michèle Striffler, Alf Svensson, Eleni Theocharous, Patrice Tirolien, Ivo Vajgl, Anna Záborská, Iva Zanicchi, Gabriele Zimmer
Substitute(s) present for the final vote	Enrique Guerrero Salom, Edvard Kožušník, Cristian Dan Preda, Patrizia Toia

29.3.2012

OPINION OF THE COMMITTEE ON BUDGETS

for the Committee on Economic and Monetary Affairs

on the proposal for a Council directive on a common system of financial transaction tax and amending Directive 2008/7/EC
(COM(2011)0594 – C7-0355/2011 – 2011/0261(CNS))

Rapporteur: Anne E. Jensen

SHORT JUSTIFICATION

<u>Commission's proposal:</u>

The Commission has proposed the creation of a financial transaction tax (FTT) at the EU level, which could then be wholly or partially used as own resource for the EU budget.

The proposal sets out the minimum rates for the FTT as follows:

- 0.1% in respect to transaction other than those related to derivatives arrangements, and
- 0.01% in respect to transactions related to derivatives arrangements.

<u>Budgetary context and aspects:</u>

Today, approximately 85% of the Union's revenue stems from the national budgets and not from own resources. This contradicts not only with the provisions of the Treaty of Lisbon[1] but also with the letter and the spirit of the Treaty of Rome[2]. When the European Communities were established, in 1957, the GNI resources were supposed to be transitional. However, while replaced in the 70s by genuine own resources, national contributions were reintroduced in 1988 in order to complement a decrease of the own resources revenue. It is worth noting however that at that time the share of the GNI resource in the whole EU revenue was only 10%. This evolution has progressively put the "fair return" logic at the centre of any EU budgetary decision, giving birth to a long list of rebates and unjustified exceptions.

As a consequence, a reform of the current system of own resources is necessary to bring an end

[1] Article 311.1 of the TFEU: "without prejudice to other revenue, the budget shall be financed wholly from own resources".
[2] Article 201 of the the Treaty of Rome: "The Commission shall examine the conditions under which the financial contributions of member states provided for in article 200 could be replaced by the Community's own resources, i, particular by revenue accruing from the common customs tariff, when it has been finally introduced. To this end the Commission shall submit proposals to the Council ..."

to this "fair return" approach while providing the EU with a stable and sufficient source revenue and, at the same time, underpinning a move away from the current system of rebates and derogations on the revenue side of the EU budget.

In the context of economic hardship it is also worth recalling that the Parliament has in several Resolutions underlined the importance of own resources as a tool for ensuring sufficient finances for the EU to fulfil its commitments and meet its objectives without necessarily increasing the EU budget.[1]

Your Rapporteur would like to remind that in its Resolution on the Future of the European Union's Own Resources[2] the Parliament enlisted a number of criteria to be used when assessing the suitability of own resources candidates, and more precisely: sufficiency, stability, visibility and simplicity, low operating costs, efficient allocation of resources, vertical and horizontal equity and fair contributions.

The current proposal of the Commission for a FTT meets most of these criteria. Notably it could provide a source of revenue for the EU budget (approximately EUR 54.2 bln. a year could be used as own resource from FTT by 2020 according to the Commission proposal). Also, it is visible to investors and operators in the financial market, sufficiently simple, entails low operating costs and easy collection, ensures vertical and horizontal equity and fair contributions. Furthermore, the FTT should not impose any additional tax burden to citizens and would preserve the fiscal sovereignty of Member States.

It should be noted that the FTT enjoys the public support of EU citizens, confirmed by the results of the Eurobarometer poll of June 2011, which revealed that 61% of the population in Europe is in favour of such a levy, of which 81% would like to see it applied in the entire EU[3].

Using FTT as an own resource would require its application in all 27 Member States.

Your Rapporteur wants to stress that no agreement on the Multiannual Financial Framework for the period 2014 - 2020 can be finalised without reaching a political agreement on the reform of the system of own resources, due to the unity and interdependence of the revenue and expenditure sides of the Budget, and would like in this regard to remind, that adoption of the implementing measures for the system of own resources requires the consent of the European Parliament.

[1] Notably the following Resolutions:
P6_TA(2007)0098, adopted 29 March 2007
P7 TA (2011)0080, adopted on 8 March 2011
P7 TA (2010)0056, adopted on 10 March 2010
P7 TA (2010) 0089, adopted on 25 March 2010
P7_TA-PROV(2010)0433, adopted on 25 November 2010
P7_TA-PROV(2010)0475, adopted on 15 December 2010
P7_TA-PROV(2011) 0266, adopted 8 June 2011
P7_TA-PROV(2011)0327, adopted on 6 July 2011

[2] P6_TA(2007)0098, adopted 29 March 2007

[3] European Parliament Eurobarometer (EB Parlemeter 75.2); adopted on 22 June 2011: http://www.europarl.europa.eu/pdf/eurobarometre/2011/juin/22062011/eb752_financial_crisis_analytical_synthesis_en.pdf

AMENDMENTS

The Committee on Budgets calls on the Committee on Economic and Monetary Affairs, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1

Proposal for a directive
Recital 3 a (new)

Text proposed by the Commission	*Amendment*
	(3a) In order to better align Union policy objectives and the EU budget, funds collected from the FTT should be used fully or at least in part as revenue for the EU budget.

Justification

An EU wide Financial Transaction Tax could serve as a tool to end the current system of rebates and derogations.

Amendment 2

Proposal for a directive
Article 10 – paragraph 5 a (new)

Text proposed by the Commission	*Amendment*
	5a. Member States shall ensure that the share of the FTT to be used as Union own resource is transferred to the EU budget in accordance with Council Regulation (EU) No .../2012 [on the methods and procedure for making available the own resource based on the financial transaction tax].

Justification

An EU wide Financial Transaction Tax could serve as a tool to end the current system of rebates and derogations.

Amendment 3

Proposal for a directive
Article 16 – paragraph 1

Text proposed by the Commission	*Amendment*
Every five years and for the first time by 31 December 2016, the Commission shall submit to the Council a report on the application of this Directive and, where appropriate, a proposal for its modification.	Every five years and for the first time by 31 December 2016, the Commission shall submit to the ***European Parliament and the*** Council a report on the application of this Directive and, where appropriate, a proposal for its modification.

PROCEDURE

Title	Common system for taxing financial transactions and amendment to Directive 2008/7/EC
References	COM(2011)0594 – C7-0355/2011 – 2011/0261(CNS)
Committee responsible Date announced in plenary	ECON 25.10.2011
Committee(s) asked for opinion(s) Date announced in plenary	BUDG 25.10.2011
Rapporteur(s) Date appointed	Anne E. Jensen 16.2.2012
Date adopted	29.3.2012
Result of final vote	+: 29 –: 3 0: 1
Members present for the final vote	Marta Andreasen, Francesca Balzani, Zuzana Brzobohatá, James Elles, Göran Färm, José Manuel Fernandes, Eider Gardiazábal Rubial, Salvador Garriga Polledo, Ivars Godmanis, Estelle Grelier, Carl Haglund, Lucas Hartong, Jutta Haug, Monika Hohlmeier, Sidonia Elżbieta Jędrzejewska, Ivailo Kalfin, Jan Kozłowski, Alain Lamassoure, Giovanni La Via, George Lyon, Barbara Matera, Claudio Morganti, Nadezhda Neynsky, Dominique Riquet, Potito Salatto, Derek Vaughan, Angelika Werthmann
Substitute(s) present for the final vote	Frédéric Daerden, Jan Mulder, Georgios Papastamkos, Paul Rübig, Georgios Stavrakakis
Substitute(s) under Rule 187(2) present for the final vote	Jens Rohde

20.3.2012

OPINION OF THE COMMITTEE ON THE INTERNAL MARKET AND CONSUMER PROTECTION

for the Committee on Economic and Monetary Affairs

on the proposal for a Council directive on a common system of financial transaction tax and amending Directive 2008/7/EC
(COM(2011)0594 – C7-0355/2011 – 2011/0261(CNS))

Rapporteur: Frank Engel

SHORT JUSTIFICATION

The Commission proposal for a financial transactions tax - a FTT - is the answer to repeated calls across the European Union to require a contribution of the financial sector towards meeting the costs of the ongoing crisis. The Rapporteur welcomes this proposal, which also follows the European Parliament's calls for action in this area.

A FTT is by definition a feature of the single market. A European legal framework for such a FTT pursues a dual objective: one of fairness, insofar as financial transactions remain largely untaxed contrary to all other economic transactions, and one of harmonisation, because there needs to be one single European approach towards the taxation of financial transactions, with rates that are if not identical across the EU, then at least comparable and established on the basis of a common minimum.

The FTT is also intimately linked to the objective of unleashing the full potential of the single market in order to regain growth in Europe and thus enable ourselves to reach the goals set out by the Europe 2020 Strategy. Investments in the single market are needed, and they should proceed from a European source of funding. Therefore, a FTT the revenue of which accrues to the general budget of the European Union contributes to raising the monies required for consistent European investments in its own economic progress.

It is evident, therefore, that a FTT must be applied on the territory of the whole EU. The EU has a single market, and it has a budget - the eurozone does not have these. A FTT which benefits the EU budget and is thus a tool for a dynamic single market cannot be anything but a FTT levied across the Union as a whole, and thus operational in all major European financial centres. Any exception to this principle would lead to unacceptable distortions in the functioning of the single market.

The FTT must raise sufficient revenue in order to fulfil its role as a political tool in overcoming the crisis, while at the same time its design should not lead to major delocalisations of such financial instruments and institutions which are hallmarks of the European financial industry, or which enshrine a particular development potential for European financial centres. Also, it must not dissuade the operation of such investment vehicles which the EU needs in order to ensure economic development and fair replacement earnings for retired citizens.

This is why the Rapporteur proposes that investment funds covered by UCITS legislation and pension funds should receive a differentiated treatment as far as the rate of taxation is concerned - the reduced rate of 0,01% being appropriate.

Structured financial products dramatically lacking transparency to all parties involved in transacting them, and their abuse, have contributed to unleashing the financial turmoil since the burst of the American real estate bubble. Trade in such instruments is intense, its volume enormous and the tax revenue which can be expected from their taxation consequently significant. Should taxation lead to delocalisation of certain elements of the derivatives trade, also in the category of high frequency trading, such delocalisation would not be detrimental to the development of the European single market for capital.

The basic taxation rate of 0,1% percent should therefore be applied to them, which is why the Rapporteur proposes to apply this rate to financial transactions related to derivates agreements.

The Commission's impact assessment has been complemented since its first presentation to the European Parliament, without either the Committee or the Internal Market and Consumer Protection or the Rapporteur being made aware of the substance of the additional or new findings of the Commission. The Rapporteur resents that the Committee has thus not been able to contemplate the substance of the most recent assessment. However, it must be assumed that both delocalisation risks and the expected impact of a FTT on the economic growth of the European Union have been reviewed so as to yield a picture clearly less negative as that contained in the published impact assessment. That being so, the relevance and significance of a FTT for the fulfilment of single market objectives becomes a focal element not only of this opinion, but of the opinion of the European Parliament as a whole.

AMENDMENTS

The Committee on the Internal Market and Consumer Protection calls on the Committee on Economic and Monetary Affairs, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1

Proposal for a directive
Recital 1

Text proposed by the Commission	Amendment
(1) The recent financial crisis has led to debates at all levels about a possible additional tax on the financial sector and in particular a financial transactions tax (FTT). This debate stems from the desire to ensure the financial sector contribute to covering the costs of the crisis and that it is taxed in a fair way vis-à-vis other sectors for the future; to dis-incentivise excessively risky activities by financial institutions; to complement regulatory measures aimed at avoiding future crises and to generate additional revenue for general budgets or specific policy purposes.	(1) The recent financial crisis has led to debates at all levels about a possible additional tax on the financial sector and in particular a financial transactions tax (FTT). This debate stems from the desire to ensure the financial sector contribute to covering the costs of the crisis and that it is taxed in a fair way vis-à-vis other sectors for the future; to dis-incentivise excessively risky activities by financial institutions; to complement regulatory measures aimed at avoiding future crises and to generate additional revenue for general budgets or specific policy purposes ***aiming economic growth***.

Amendment 2

Proposal for a directive
Recital 1 a (new)

Text proposed by the Commission	Amendment
	(1a) The introduction of a balanced and successful FTT in the European Union should strengthen international efforts to promote the adoption of similar instruments at the global level. Therefore, the Union should take a leadership role in this regard.

Amendment 3

Proposal for a directive
Recital 2

Text proposed by the Commission	Amendment
(2) In order to prevent distortions through measures taken unilaterally by Member States, bearing in mind the extremely high mobility of most of the relevant financial transactions, and thus to ensure the proper	(2) In order to prevent distortions through measures taken unilaterally by Member States, bearing in mind the extremely high mobility of most of the relevant financial transactions, and thus to ensure the proper

functioning of the internal market, it is important that the basic features of a FTT in the Member States are harmonised at Union level. Incentives for tax arbitrage in the Union and allocation distortions between financial markets in the Union, as well as possibilities for double or non taxation should thereby be avoided.	functioning of the internal market, ***as well as greater solidarity and justice, and to avoid distortions of competition,*** it is important that the basic features of a FTT in the Member States are harmonised at Union level. Incentives for tax arbitrage in the Union and allocation distortions between financial markets in the Union, as well as possibilities for double or non taxation should thereby be avoided.

Amendment 4

Proposal for a directive
Recital 2 a (new)

Text proposed by the Commission	*Amendment*
	(2a) One of the main purposes of the FTT should be to discourage overly risky transactions and to bring back the financial services sector at the service of the productive economy.

Amendment 5

Proposal for a directive
Recital 2 b (new)

Text proposed by the Commission	*Amendment*
	(2b) The FTT should incorporate the following principles: ***- the denomination principle: all instruments denominated in euros or in the currency of any EU Member State are subject to the tax;*** ***- the trading principle: financial transactions deriving from any asset admitted to trading on a Union market are subject to the tax, and*** ***- the mediation principle: all financial transactions in respect of which a Union resident acts as mediator are subject to the***

tax.

Amendment 6
Proposal for a directive
Recital 4

Text proposed by the Commission	*Amendment*
(4) The definition of financial instruments in Annex I to the Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC (MiFID) covers units in collective investment undertakings. This implies that shares and units of undertakings for collective investment in transferable securities (UCITS) as defined in Article 1(2) of Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) and alternative investment funds (AIF) as defined in Article 4(1)(a) of Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 are financial instruments. Therefore, the subscription and redemption of these instruments are transactions that should be subject to the FTT.	(4) The definition of financial instruments in Annex I to the Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC (MiFID) covers units in collective investment undertakings. This implies that shares and units of undertakings for collective investment in transferable securities (UCITS) as defined in Article 1(2) of Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) and alternative investment funds (AIF) as defined in Article 4(1)(a) of Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 are financial instruments. Therefore, the subscription and redemption of these instruments are transactions that should be subject to the FTT. ***The specific nature of UCITS and their relevance to the full mobilisation of the potential of the internal market justify, however, that they be submitted to a specific lower rate of taxation. The same must be applied to pension funds or institutions for occupational retirement provision as***

	defined in Article 6(a) of Directive 2003/41/EC of the European Parliament and of the Council on the activities and supervision of institutions for occupational retirement provision[1].
	___________
	[1.] OJ L 235, 23.9.2003, p. 10.

Amendment 7

Proposal for a directive
Recital 11

Text proposed by the Commission	*Amendment*
(11) In the interest of ***equal treatment, a single*** tax rate should apply ***within each category of transactions, namely trade in financial instruments other than derivatives, on the one hand, and the purchase/sale, transfer, conclusion and modification of derivatives agreements***.	(11) In the interest of ***curbing excessively risky financial activities and thus preventing future crises, a higher*** tax rate should apply ***to specially high-risk financial products than to less speculative products.***

Amendment 8

Proposal for a directive
Recital 13

Text proposed by the Commission	*Amendment*
(13) Because of the high mobility of financial transactions and in order to help mitigating potential tax avoidance, the FTT should be applied on the basis of the residence principle**.**	(13) Because of the high mobility of financial transactions and in order to help mitigating potential tax avoidance, the FTT should be applied on the basis of the residence principle***, complemented by the issuance and ownership principles.***

Amendment 9

Proposal for a directive
Recital 14

Text proposed by the Commission | *Amendment*

Text proposed by the Commission	*Amendment*
(14) The minimum tax rates should be set at a level sufficiently high for the harmonisation objective of this Directive to be achieved. At the same time, *they* have to be low enough so that delocalisation risks are minimised.	(14) The minimum tax rates should be set at a level sufficiently high for the harmonisation objective of this Directive to be achieved***, so that the financial sector should make an appropriate contribution towards the costs of the economic crisis, thus boosting the real economy.*** At the same time, ***until the implementation of a uniform global FTT regime,*** *those rates* have to be low enough so that delocalisation risks are minimised.

Amendment 10
Proposal for a directive
Recital 17 a (new)

Text proposed by the Commission	*Amendment*
	(17a) On 29 June 2011 the Commission adopted a proposal for a Council Decision on the system of own resources of the European Union with a view to replacing the current system of financing for the Union budget with a new system making full use of the possibilities introduced by the Treaty on the Functioning of the European Union. The proposal identified a FTT as a possible new own resource to for the purposes of the Union's general budget. An FTT would allow additional budget revenues to be mobilised for growth-enhancing policies aimed at reaching the goals set out by the Europe 2020 Strategy and would boost the potential of the internal market. On 9 November 2011, the Commission adopted an amended proposal, which refined and completed the proposal made on 29 June, ensuring coherence with this Directive and setting out how the Commission proposes that the FTT will serve as a source for the general EU budget.

Justification

The revenue of a European FTT must accrue to the general budget of the EU, both as it constitutes a logical own resource and because the revenue generated can be used to foster the achievement of the single market and to reach the goals of the growth strategy Europe 2020 through the implementation of a targeted investment policy. The Commission intends to put forward a proposal which paves the way for such an arrangement. The Directive must therefore contain an explicit reference to the accrual of the FTT revenue to the general budget of the EU and the connection with the own resource proposal.

Amendment 11

Proposal for a directive
Recital 17 a (new)

Text proposed by the Commission	*Amendment*
	(17a) Accrual of tax revenue to the budget of the European Union. The Tax revenue of the FTT shall accrue to the general budget of the European Union in order to achieve its strategic objectives. The discussion on its affection within the general budget should be made in another context, in particular the proposal on the multiannual financial framework 2014-2020.

Amendment 12
Proposal for a directive
Recital 18 a (new)

Text proposed by the Commission	*Amendment*
	(18a) This Directive must come into effect very speedily in coordination with other efforts to regulate the financial markets**, **enhance the functioning of the internal market and create legal certainty. The transposition of this Directive should therefore be achieved by the end of 2012.

Justification

Considering that a FTT must be perceived as an element of the political effort to regulate financial markets, overcome the crisis and boost the single market in order to foster growth of the real economy, it is desirable that it be levied as soon as possible. This is also necessary in order to achieve legal security, especially since individual member states are contemplating *the introduction of similar instruments on a unilateral basis. The Directive should therefore be transposed until the end of 2012 and enter into force on 1st January 2013.*

Amendment 13
Proposal for a directive
Recital 18 b (new)

Text proposed by the Commission	*Amendment*
	(18b) The Commission should be able to review this Directive and propose replacing it with a regulation, in particular if it appears that a regulation would be more likely to achieve its objectives in relation to the internal market and harmonisation,

Amendment 14

Proposal for a directive
Article 1 – paragraph 2

Text proposed by the Commission	*Amendment*
2. This Directive shall apply to all financial transactions***, on condition that*** at least one party to the transaction is established in a Member State and ***that*** a financial institution established in the territory of a 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.	2. This Directive shall apply to all financial transactions, ***including spot currency transactions and life insurances, which fulfil any of the following conditions:***
	(a) at least one party to the transaction is established in a Member State and a financial institution established in the territory of a 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***;***
	(b) the instrument that is the target of the transaction has been issued by entities that are established in the Union.

Justification

This amendment aims to ensure that the proposal also covers the issuing of securities, thus preventing the possible flight of economic activities and avoiding a situation where European financial institutions are placed at a disadvantage by comparison with external institutions in relation to trading in instruments issued in the Union.

Amendment 15

Proposal for a directive
Article 1 – paragraph 4 – point d

Text proposed by the Commission	*Amendment*
(d) transactions with the central banks of Member States.	(d) transactions with the central banks of Member States***, regional or local authorities or other authorities***.

Amendment 16

Proposal for a directive
Article 3 – paragraph 1 – point e a (new)

Text proposed by the Commission	*Amendment*
	(ea) it is party to a financial transaction in relation to a financial instrument issued within the territory of a Member State or the Union.

Amendment 17

Proposal for a directive
Article 3 a (new)

Text proposed by the Commission	*Amendment*
	Article 3a
	Issuance Principle
	1. For the purposes of this Directive a financial instrument is deemed to be issued within the territory of a Member State or the Union where it is issued by a legal entity that is registered in a Member

State.

2. In the case of a derivatives agreement, the condition of issuance within the territory of a Member State or the Union is fulfilled where the reference or underlying instrument is issued by a legal entity which is registered in a Member State.

3. In the case of a structured instrument, the condition of issuance within the territory of a Member State or the Union is fulfilled when the structured instrument is based on or backed by a significant proportion of assets or financial instruments and derivatives with reference to financial instruments is issued by a legal entity which is registered in a Member State.

Amendment 18
Proposal for a directive
Article 8 – paragraph 2 – subparagraph 2

Text proposed by the Commission	*Amendment*
Those rates shall not be lower than:	Those rates shall not be lower than:
(a) 0.1% in respect of the financial transactions referred to in Article 5;	(a) 0.1% in respect of the financial transactions referred to in Article 5;
	i. financial transactions ***related to shares and units of undertakings for collective investment in transferable securities (UCITS) as described in Article 1(2) of Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS)[1] which shall be submitted to a rate of no lower than 0,05%***;
	ii. financial transactions related to shares and unit of a pension fund or an institution for occupational retirement provision as defined in Article 6(a) of

	Directive 2003/41/EC shall be submitted to a rate of no lower than 0,05%.
(b) ***0.01***% in respect of financial transactions referred to in Article 6.	(b) ***0,05***% in respect of financial transactions referred to in Article 6.
	____________
	[1] OJ L 302, 17. 11.2009, p. 32.

Amendment 19

Proposal for a directive
Article 9 – paragraph 3

Text proposed by the Commission	*Amendment*
3. Each party to a transaction, ***including*** persons other than financial institutions shall become jointly and severally liable for the payment of the tax due by a financial institution on account of that transaction, in case that financial institution has not paid the tax due by it within the time limit set out in Article 10(4).	3. Each party to a transaction, ***with the exception of*** persons other than financial institutions**,** shall become jointly and severally liable for the payment of the tax due by a financial institution on account of that transaction, in case that financial institution has not paid the tax due by it within the time limit set out in Article 10(4).

Justification

The principle underlying the proposal is to exempt individuals and non-financial institutions from the payment and effects of the tax. Following that same principle, they should not be liable for the payment of tax in the event of irregularities on the part of the other party to the transaction.

Amendment 20

Proposal for a directive
Article 9 – paragraph 4 a (new)

Text proposed by the Commission	*Amendment*
	4a. A financial transaction in relation to which no FTT has been levied shall be deemed legally unenforceable and shall not result in the transfer of legal title of the underlying asset.

Amendment 21
Proposal for a directive
Article 11 a (new)

Text proposed by the Commission	*Amendment*
	Article 11 a
	Accrual of tax revenue to the budget of the European Union
	The tax revenue of the FTT shall accrue to the general budget of the European Union.

Justification

The revenue of a European FTT must accrue to the general budget of the EU, both as it constitutes a logical own resource and because the revenue generated can be used to foster the achievement of the single market and to reach the goals of the growth strategy Europe 2020 through the implementation of a targeted investment policy. The Commission intends to put forward a proposal which paves the way for such an arrangement. The Directive must therefore contain an explicit reference to the accrual of the FTT revenue to the general budget of the EU and the connection with the own resource proposal.

Amendment 22

Proposal for a directive
Article 16 – paragraph 1

Text proposed by the Commission	*Amendment*
Every five years and for the first time by 31 December 2016, the Commission shall submit to the Council a report on the application of this Directive and, where appropriate, a proposal for its modification.	Every five years and for the first time by 31 December 2016, the Commission shall submit to the ***European Parliament and the*** Council a report on the application of this Directive and, where appropriate, a proposal for its modification.

Amendment 23
Proposal for a directive
Article 16 – paragraph 2 a (new)

Text proposed by the Commission	*Amendment*
	The Commission's first report under the first paragraph shall also address the feasibility of replacing this Directive by a

	Regulation on a single system of FTT, including the introduction of a single set of fixed tax rates for each category of financial transaction throughout the Union.

Justification

Since the introduction of a European FTT pursues a clear harmonisation objective in the framework of the single market, the logical question of whether a Regulation would not be the appropriate legal instrument to introduce it, rather than a Directive. A Regulation could set a single rate of taxation for each category of financial transactions across the Union and establish the technical rules for the accrual of the revenue of a FTT to the general budget of the Union.

Amendment 24
Proposal for a directive
Article 17 – paragraph 1

Text proposed by the Commission	*Amendment*
1. Member States shall adopt and publish, by ***31 December 2013*** *at the latest*, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those *provisions and a correlation table between those provisions and this Directive*.	1. Member States shall adopt and publish, by ***31 December 2012***, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those *measures*.
They shall apply those *provisions* from ***1 January 2014***.	They shall apply those *measures* from ***1 January 2013***.
When Member States adopt those *provisions*, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.	When Member States adopt those *measures*, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

Justification

Considering that a FTT must be perceived as an element of the political effort to regulate financial markets, overcome the crisis and boost the single market in order to foster growth of the real economy, it is desirable that it be levied as soon as possible. This is also necessary in order to achieve legal security, especially since individual member states are contemplating the introduction of similar instruments on a unilateral basis. The Directive should therefore be transposed until the end of 2012 and enter into force on 1st January 2013. This amendment adapts the Commission proposal to the Joint Political Declaration of the

European Parliament, the Council and the Commission on Explanatory Documents which was endorsed in November 2011.

PROCEDURE

Title	Common system for taxing financial transactions and amendment to Directive 2008/7/EC
References	COM(2011)0594 – C7-0355/2011 – 2011/0261(CNS)
Committee responsible Date announced in plenary	ECON 25.10.2011
Committee(s) asked for opinion(s) Date announced in plenary	IMCO 25.10.2011
Rapporteur(s) Date appointed	Frank Engel 17.10.2011
Discussed in committee	24.1.2012 29.2.2012
Date adopted	20.3.2012
Result of final vote	+: 28 –: 8 0: 0
Members present for the final vote	Pablo Arias Echeverría, Adam Bielan, Cristian Silviu Buşoi, Jorgo Chatzimarkakis, Sergio Gaetano Cofferati, Lara Comi, Anna Maria Corazza Bildt, António Fernando Correia de Campos, Christian Engström, Vicente Miguel Garcés Ramón, Evelyne Gebhardt, Małgorzata Handzlik, Iliana Ivanova, Philippe Juvin, Edvard Kožušník, Toine Manders, Hans-Peter Mayer, Mitro Repo, Zuzana Roithová, Heide Rühle, Andreas Schwab, Catherine Stihler, Gino Trematerra, Emilie Turunen, Bernadette Vergnaud, Barbara Weiler
Substitute(s) present for the final vote	Raffaele Baldassarre, Simon Busuttil, Nessa Childers, Marielle Gallo, Morten Løkkegaard, Konstantinos Poupakis, Olle Schmidt, Ivo Strejček, Marc Tarabella, Sabine Verheyen

PROCEDURE

Title	Common system for taxing financial transactions and amendment to Directive 2008/7/EC			
References	COM(2011)0594 – C7-0355/2011 – 2011/0261(CNS)			
Date of consulting Parliament	19.10.2011			
Committee responsible Date announced in plenary	ECON 25.10.2011			
Committee(s) asked for opinion(s) Date announced in plenary	DEVE 25.10.2011	BUDG 25.10.2011	IMCO 25.10.2011	JURI 25.10.2011
Not delivering opinions Date of decision	JURI 21.11.2011			
Rapporteur(s) Date appointed	Anni Podimata 25.10.2011			
Discussed in committee	9.1.2012	29.2.2012	26.3.2012	
Date adopted	25.4.2012			
Result of final vote	+: –: 0:	32 10 0		
Members present for the final vote	Burkhard Balz, Elena Băsescu, Pascal Canfin, George Sabin Cutaş, Rachida Dati, Leonardo Domenici, Derk Jan Eppink, Diogo Feio, Markus Ferber, Elisa Ferreira, Ildikó Gáll-Pelcz, Jean-Paul Gauzès, Sylvie Goulard, Liem Hoang Ngoc, Othmar Karas, Jürgen Klute, Rodi Kratsa-Tsagaropoulou, Philippe Lamberts, Werner Langen, Astrid Lulling, Hans-Peter Martin, Arlene McCarthy, Ivari Padar, Anni Podimata, Antolín Sánchez Presedo, Olle Schmidt, Edward Scicluna, Peter Simon, Theodor Dumitru Stolojan, Ivo Strejček, Kay Swinburne, Marianne Thyssen, Ramon Tremosa i Balcells, Pablo Zalba Bidegain			
Substitute(s) present for the final vote	Pervenche Berès, Robert Goebbels, Thomas Händel, Sophia in 't Veld, Krišjānis Kariņš, Gay Mitchell, Sirpa Pietikäinen, Emilie Turunen			
Substitute(s) under Rule 187(2) present for the final vote	Christofer Fjellner, Jaroslav Paška			
Date tabled	3.5.2012			