Joint Committee on Finance, Public Expenditure and Reform
Sub-Committee on EU Scrutiny – 14 November 2012
Opening Statement by Brenda McVeigh, Department of Finance

European Commission proposals for

(1) *A COUNCIL DIRECTIVE on a common system of financial transaction tax and amending Directive 2008/7/EC - COM(2011) 594 final*

(2) *A COUNCIL DECISION authorising enhanced cooperation in the area of financial transaction tax COM(2012) 631 final/2*

I thank the Committee for the invitation to attend this meeting to discuss the details of the legislative proposals from the European Commission for a Financial Transactions Tax (FTT).

1. Background to the FTT

The EU Commission issued a press release in September 2011, presenting a proposal for a financial transaction tax. The tax would be levied on all transactions in financial instruments between financial institutions when at least one party to the transaction is located in the EU. The exchange of shares and bonds would be taxed at a rate of 0.1% and derivative contracts, at a rate of 0.01%. The Commission estimated the FTT could raise approximately €57 billion every year – this estimate was on the basis of an FTT throughout the EU, and Members will be aware that will now not be the case. The Commission proposed that the tax should come into effect from 1st January 2014.

The Commission decided to propose a new tax on financial transactions for two reasons.

- First, to ensure that the financial sector makes a fair contribution at a time of fiscal consolidation in the Member States. The financial sector played a role in the origins of the economic crisis. Governments and European citizens at large have borne the cost of massive taxpayer-funded bailouts to support the financial sector. Furthermore, the sector is currently under-taxed by comparison to other sectors. The proposal would generate significant additional tax revenue from the financial sector to contribute to public finances.

- Second, a coordinated framework at EU level would help to strengthen the EU single market. Today, several Member States have a form of a financial transaction tax in place. The proposal would introduce new minimum tax rates and harmonise different existing taxes on financial transactions in the EU. This will help to reduce competitive distortions in the single market, discourage risky trading activities and complement regulatory measures aimed at avoiding future crises. The financial transaction tax at EU level would strengthen the EU's position to promote common rules for the introduction of such a tax at global level, notably through the G20.

The revenues from the tax would be shared between the EU and the Member States. Part of the tax would be used as an EU own resource which would partly reduce national contributions. Member States might decide to increase their share of the amount collected by taxing financial transactions at a higher rate. Again, Members may be aware that the issue of how revenue from the tax will be allocated is still up for discussion.

At the ECOFIN meeting in June it became clear that an EU-wide FTT would not be agreed, and those countries who favour the tax will now try to introduce it by way of “enhanced co-operation”, under which at least nine countries must participate. This requires those countries to write to the Commission asking it to produce a formal proposal for such a directive. Eleven countries (Germany, France, Austria, Belgium, Portugal, Slovenia, Spain, Italy, Slovakia, Estonia and Greece) have written to this effect to the European Commission. On 23 October 2012 the Commission submitted its proposal for a Council Decision to authorise the enhanced cooperation in the area of financial transaction tax.

2. What would an FTT Involve?

The FTT under the terms of the Commission's original draft directive would have applied to financial transactions, which were carried out:

- by a financial institution that is established in the EU, or,
- by a financial institution that is not established in the EU but
  - transacts business with another EU financial institution or
  - is acting on behalf of a person who is established in the EU whether the institution is acting for itself or for a third party

The tax would have applied whether the transaction is undertaken on a regulated market, over the counter or is an inter-group transaction.

"Established in the EU" has a broad meaning and includes financial institutions from outside the EU but which transact business with an EU resident person (company or individual). This is a specific mitigating design feature in order to respond to the risk of relocation. The terms "financial instrument", "derivative" and "financial institution" are drafted very widely and cover the vast majority of transactions in financial instruments. However, many financial activities are not considered to be financial transactions in the context of the FTT, which follows the above-mentioned objectives. Share and bond issues and most day-to-day financial activities relevant for citizens and businesses remained outside the scope of FTT, as does insurance contracts, mortgage lending, consumer credits, payment services etc. (though the subsequent trading of these via structured products is included). Also, currency transactions on spot markets are outside the scope of the FTT, which preserves the free movement of capital. However, derivatives agreements based on currency transactions are covered by the FTT since they are not currency transactions as such. In addition the issue or redemption of shares/units in a UCIT or Alternative investment fund will be liable to the FTT.

We have not yet received a revised Commission proposal for the "enhanced co-operation" FTT. While the enhanced cooperation countries have requested the objectives and scope be based on the original Commission proposal, we understand the Commission is considering whether some adjustments are required to their original proposal to reflect the smaller number of Member States that would be applying it.

3. ESRI/Central Bank of Ireland report on the Commission's FTT proposal

The Economic and Social Research Institute (ESRI) and the Central Bank were requested to prepare an assessment of the FTT. This report was circulated to Oireachtas Members and published in July[1]. Given the wide variation in the estimated revenue yield from a FTT when different factors are taken into account and the uncertainty as to the form the tax would take, the report states that more detail would be needed on the final shape and scope of the tax before a definitive conclusion could be reached about its impact on the Irish financial system and taxation revenue.

The report indicates that the "net revenue gain for Ireland from the introduction of an FTT … is likely to be modest". Based on assumptions used by the Commission, the report estimates the potential yield from the FTT to be between €490m and €730m. Under the Commission's proposal, 2/3rd of this yield would have gone directly to the EU to fund its Budget. If the EU retained two-thirds of the yield from an FTT, on the basis of the yield estimates in the ESRI/Central Bank report, the net yield to Ireland would be in the region of €163 m to €243m – not dissimilar to the current yield from Stamp Duty on share transfers, which was €195 m in 2011, which Ireland would have had to abolish if it introduced an FTT.

The report identified the following downsides and potential downsides to the introduction of an FTT:

[1] http://taxpolicy.gov.ie/wp-content/uploads/2012/07/FTT_Report_2012-040712.pdf

- *Financial sector impact*: An FTT could displace financial sector activity, especially when alternative locations are readily available – in this case the UK. This would pose a real risk to Ireland given the financial services sector accounts for 10% of GDP and some 33,000 jobs.[2]

- *Macro-economic impact*: An FTT would likely lead to a lower level of economic activity in the financial sector, which might also result in lower receipts from income tax and corporation tax.[3]

- *Exchequer impact:* A 1% stamp duty applies on transfers of shares in Irish companies. The Commission's proposal would involve the abolition of this tax and the loss of existing Stamp Duty revenue, c. €180 m in 2010 and €195m in 2011.

4. Ireland's Position

Ireland will not be among those countries participating in an FTT by enhanced co-operation. Ireland's position is that an FTT would be best applied on a wide international basis to include the major financial centres. If it cannot be introduced on a global basis, it would be better if it were introduced on at least an EU-wide basis, rather than only in the Eurozone, to prevent any distortion of activity within the Union. [The 11 "enhanced co-operation" countries are all in the Eurozone.] This is in line with the Commission's desire that the tax should be applied on a global basis. Such an approach would avoid the danger of activities gravitating to jurisdictions where taxes are not levied on financial transactions.

[2] http://taxpolicy.gov.ie/wp-content/uploads/2012/07/FTT_Report_2012-040712.pdf - *The EU financial transactions tax proposal: a preliminary evaluation* "Gross value added in financial services and insurance activities increased from around 4 per cent of GDP in 2000 to almost 9.9 per cent in 2010 (11 per cent of 2010 GNP)." p38

[3] 2011 receipts in €000: Income Tax – 13,797,532, Corporation Tax – 3,520,193

An FTT could have affected the financial services industry, especially in the IFSC, and lead to some activities moving abroad, particularly if it was not introduced on an EU wide basis.

An FTT could affect transactions in Irish Government bonds, particularly in the secondary market, and may also affect the ECB's ability to give effect to its own monetary policy via the repurchase ("repo") market. A number of countries such as Sweden and the UK have also raised this point in respect of their own debt management. We are also concerned that the Commission's own projections are that an FTT could reduce EU growth and raise the cost to ordinary, non-financial companies for their use of financial products. Both these aspects would be harmful to EU recovery.[4]

As previously indicated, the introduction of the FTT would have required Ireland to abolish its current tax on financial transactions, a Stamp Duty on transfers of shares in Irish incorporated companies, which currently stands at 1%.

As stated earlier, one of the Commission's aims in introducing an FTT was to ensure that the financial sector makes a fair contribution to the cost of the crisis. Ireland is committed to the principle that the banks will contribute to the cost of State's support – the banks have been charged for the Government's guarantee of their liabilities and the NAMA Act provides for a surcharge on the banks should NAMA result in a loss for the taxpayer. The Central Bank and Credit Institutions (Resolution) Act 2011 provides for the introduction of such a levy on authorised credit institutions, to be paid into a bank resolution fund.

The Minister for Finance has stated that Ireland is not in favour of FTT as an own resource measure - Ireland has traditionally opposed the concept of an EU-wide tax and

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[4] The model used to analyse the macroeconomic impacts suggests that at 0.1%, a transaction tax on securities could, without the application of mitigating effects, reduce future GDP growth in the long run by 1.76% of GDP and of 0.17% at a rate of 0.01%,. However, these results should be interpreted with caution given certain limitations of the underlying models. Under the assumption that all mitigating effects play in full, the output losses of the scenario without mitigating effects could be reduced from 1.76% to 0.53% of future GDP growth.
http://ec.europa.eu/taxation_customs/resources/documents/taxation/other_taxes/financial_sector/summ_impact_assesmt_en.pdf p10

believes that the financing of the EU Budget should continue to be mainly based on gross national income.

There have been suggestions (not from the Commission) that revenue from an FTT could be used for a particular policy goal, such as development or climate finance. Ireland has traditionally opposed the hypothecation of tax revenues – that is, dedicating all or part of the revenue from a specific tax to a specific purpose – as this may restrict the use of tax revenues for public policy purposes as the Government sees fit.

5. Next steps

Eleven countries (Germany, France, Austria, Belgium, Portugal, Slovenia, Spain, Italy, Slovakia, Estonia and Greece) have written to the European Commission requesting a proposal for an FTT by enhanced co-operation. On 23 October 2012 the Commission submitted its proposal for a Council Decision to authorise the enhanced cooperation in the area of financial transaction tax. The Council will have to decide after consent of the European Parliament. A subsequent Commission proposal for a Directive implementing the enhanced cooperation in the area of financial transaction tax should follow in due course, though the timing of this is not clear.

Ireland will not be among the participating countries but the Minister has said we will not stand in the way of those who want to introduce an FTT under this mechanism. Our non-participation in the new "enhanced co-operation" initiative is consistent with the position we have taken to date on the Commission's FTT proposal.

6. Enhanced Cooperation Procedure

The enhanced co-operation mechanism is relatively new. This will be only the third measure in the EU to proceed by way of "enhanced co-operation", and the first in taxation. We have concerns about the enhanced cooperation procedure, not only in principle (in terms of it applying in the area of tax), but also because this is the first time it will be used in tax due to lack of clarity on what this means in practice.

Department of Finance and Revenue officials held separate meetings with officials of the European Commission and the European Council recently to discuss the procedures for the introduction of an FTT through enhanced cooperation. The Commission is working on a revised proposal in advance of the Council vote to allow enhanced cooperation for FTT to proceed. However, at a recent COREPER meeting the Council Legal Services stated that the Commission cannot present a proposal until it has authorization from the Council that enhanced co-operation can proceed. Also, once consent to proceed with enhanced co-operation is given by the Council, the enhanced co-operation countries (11 to date) could change the scope of the FTT, so long as the revised proposal meets with the general principle of the original proposal, i.e., imposing levies on financial transactions. Therefore, the non-participating countries would be "upfront" agreeing to an FTT being introduced without knowing what shape it might finally take. Obviously Ireland and the other non-participating countries are seeking clarification about this procedure. This also has implications for Ireland in chairing meetings under the Presidency and acting as an "honest broker" for both participating and non-participating Member States.

7. Council Vote

The Council vote on whether or not to allow the participating member states to proceed with the introduction of an FTT by enhanced cooperation will be by way of Qualified Majority Voting (QMV). This requires at least 255 votes in favour (out of 345 votes) representing a majority of the members (14/27) where the proposal is from the Commission. [Ireland has seven votes in the Council.] Additionally a member of the European Council or the Council may request that, where an act is adopted by the European Council or the Council by a qualified majority, a check is made to ensure that the Member States comprising the qualified majority represent at least 62 % of the total population of the Union. The qualified majority is of all countries.

8. Conclusion

We will continue to monitor discussions on the FTT to ensure the compatibility of any proposed measure with the internal market and with existing taxes on financial transactions, including our Stamp Duty. We would be concerned to avoid double taxation of transactions – for example, a transfer of shares in an Irish registered company which involved a financial institution in an "enhanced co-operation" country could be subject both to Irish Stamp Duty and an FTT.

Ireland is likely to be chairing meetings on an enhanced co-operation FTT during our EU Presidency in January to June 2013. We will facilitate the discussions but we will also be seeking to ensure that the concerns of non participating Member States are addressed. In particular, we are concerned to get clarity about the procedure, particularly in the context of chairing meetings during our Presidency.

9. Update on ECOFIN meeting

Members may also be aware that there was a "state of play" discussion at yesterday's meeting of the European Economic Affairs Council ("ECOFIN"), which was attended by the Minister for Finance.

At the meeting, the Commission presented its authorising mandate for enhanced cooperation. The Commission indicated it is working quickly on the draft proposal. The recently appointed Netherlands Finance Minister indicated that his country would consider opting in to the enhanced co-operation procedure, subject to three conditions. The Council Legal Services advised the Commission to table the proposal, only after the vote had been taken.

The Presidency indicated it would proceed in a practical way and would first wait for the decision of the European Parliament (expected in December) before proceeding.

Thank you for your attention and I will be happy to respond to any questions or observations you may have.