



November 8, 2012

The Hon. Pierre Moscovici
Ministre de L'Economie, des Finances et de l'Industrie
Service de la Communication
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Dear Ministre Moscovici,

On behalf of our members and American investors in the United States, we, the Securities Industry and Financial Markets Association ("SIFMA") respectfully request and urge you to consider a postponement of the implementation date of December 1, 2012 to impose the newly enacted French Financial Transaction Tax (FFTT) on French American Depositary Receipts (ADRs). The postponement of the initial implementation date from August 1, 2012 to December 1, 2012 has been critical in allowing our member firms to analyze the FFTT requirements and work towards compliance with FFTT. Since July when the Finance Bill was amended to include ADRs within the scope of the FFTT, our members have been working to understand the finalized provisions of the Finance Bill and to introduce a process to ensure compliance with the tax obligations set forth therein. In this process, our member firms have uncovered issues that are described in Annex A, and they have begun to assess the scope of their tax compliance obligations. According to a survey of the 109 ADR programs that we believe to be covered by the tax, 405,207 trades of covered ADRs changed hands during the 5 day trading period from October 1, 2012 through October 5, 2012. Assuming this period is a representative sample of any 5 day trading period, the annual trading volume of covered ADRs exceeds 20 million trades.

The issues cover a wide range of topics from the prospect of double taxation on ADR creation and cancellation, to netting and FX conversion, to how a firm that is not a member of EuroClear France should declare and remit the tax. With ADR implementation less than a month away, we are still awaiting guidance on a number of these items which impact the ability of the U.S. market to comply with the obligations of the complex requirements of the FFTT. The Finance Bill was amended to include ADRs, which requires that U.S. brokers comply with its requirements, however, no guidance was issued to U.S. brokers to address U.S. market specific requirements. The French Finance Bill deputizes U.S. brokers to collect taxes on behalf of the French government, however, we have not been given the opportunity to comment on the requirements, nor have we had the opportunity to have any direct communication with

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you to address our concerns, market practices and infrastructure. The U.S. market place does not understand the requirements, which brokers are liable to collect and remit the tax or report the transactions in a chain of brokers and the French government has not addressed our prior requests for clarity. Even if the additional needed guidance was provided in the time remaining, U.S. brokers would need additional time to properly develop the changes required to our trading and withholding systems to comply with FFTT. We have informed our clients that effective December 1st some French ADRs will be subject to FFTT. We have received numerous inquiries from our clients, which we are unable to address given the lack of guidance on our own requirements and obligations. Given the unprecedented nature of this tax and the need for additional guidance, we urge you to engage in conversation with our market experts, to provide the required guidance the U.S. market needs and to consider delaying the implementation of the tax on ADRs until January 1, 2014.

A major point we want to highlight in this letter is the significant differences between the European market for ordinary shares (ORDs) and that of the U.S. market for ADRs. The participants, market structure, trading patterns and clearing and settlement processes between the two markets differ substantially, and this affects how the rules are implemented. For example, the U.S. settlement process for Delivery Versus Payment (DVP) and agency Cash on Delivery (COD) trades require real time trade confirmation and often involves numerous entities in the execution, clearance and settlement of a single transaction. The real time trade confirmation requirement prevents the netting process from being applied due to the inability to view all trade activity for an account on a specific trade date. System enhancements to apply netting to DVP/COD trades will require extensive coding and testing to properly apply the tax and would not be completed prior to the effective date. This will result in a manual, labor intensive rebate process with numerous brokers throughout the chain of a specific trade. Furthermore this lack of visibility will result in significant settlement issues as the interpretation and application of the tax varies amongst market participants. Given the annual estimated volume of ADR trading, and the potential involvement of multiple brokers for each trade, a manual adjustment and refund process would be impossible to manage.

We anticipate widespread confusion in the U.S. marketplace regarding who bears the tax liability if the tax on ADRs is implemented as currently scheduled. This uncertainty will impact the value of French ADRs in the short and long term as the ambiguity surrounding who is liable for the tax, when the tax may be incurred as well as cascading effects of multiple levels of taxation on the same stock transaction could cause a drop in trading that will work to lower the price and liquidity of French ADRs.

Even after these uncertainties are resolved, investors may turn away from French ADRs because they do not wish to bear the risk of a sudden change in the benefits of share ownership, such as a new tax or increased tax liability, or new rules about when the tax is applied. Therefore, we respectfully suggest that it would be in the interest of the French government not to compound the already negative market impact of the tax by denying U.S. brokers an adequate amount of time to develop and update appropriate trade management systems.

Should you decide to proceed with the scheduled implementation of the FFTT on French ADRs, we urge you to waive penalties and filing requirements until January 1, 2014. Given the urgent need for guidance on these matters, we are submitting this letter in English, with a French translation to follow. We would be happy to discuss the issues further at your convenience.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ken Bentsen", with a stylized flourish at the end.

Kenneth E. Bentsen, Jr.
Executive Vice President, Public Policy and Advocacy
Securities Industry and Financial Markets Association

cc:

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Annex A

The list below was created through the interaction of the Securities Industry and Financial Markets Association (“SIFMA”) with its members as we investigate ways in which the member firms can operationalize and implement the FTT rules. This is presented in connection with a letter to request a delay in the implementation date of the rule and is not meant to include all the issues that have been uncovered or questions that have been raised by our member firms and investors. Our goal is to highlight a few major issues that have been uncovered and highlight the complexity of properly applying, accounting for and declaring this tax in association with French ADR trading. We would be pleased to provide a more complete list of operational issues at your request.

ADR Issuance and Cancellations: The current rules are unclear regarding whether or not the tax should be applied to the issuance and cancellation of ADRs. A clear process must be outlined to prevent double taxation. We understand that the Depositary Banks are seeking clarification on this matter, however, the Depositary Banks have not received any guidance that they could provide to us as to how issuances and cancellations will be taxed. A lack of guidance along with time necessary for U.S. brokers to understand how ADRs’ issuance and cancellations are taxed risks a disruption to the market.

Netting: The rules state that all taxes should be paid based on the net balance of purchases at the end of the trading day for the client. Applying the netting rules in the U.S. market is very difficult since the majority of equity transactions are settled as Delivery Versus Payment and Receive Versus Payment (DVP/RVP) procedure with real time confirmation. In addition, for clients that will be paying the tax on the transaction, the industry lacks the ability to aggregate activity across broker dealers in order to determine the true net daily activity for a specific client or legal entity. In the absence of such information, our member firms have indicated that they are likely to charge their client on the gross of all purchase transactions and implement a manual, post settlement process to cancel and correct confirmations in order to determine the correct tax liability and rebate the additional tax assessed from each client. Due to the higher trading volume of ADRs vs. ORDs, firms in the United States will have difficulty scaling the process and will be exposed to operational risks.

Foreign Currency Conversion: Published guidance appears to provide that all taxes are payable in Euros and that the exchange rate to be used is the closing rate on the day prior to acquisition date. For clients and firms that trade in U.S. dollars, this rule creates exposure to currency exchange fluctuations as firms will apply the tax in USD

on trade date (T) and then will be exposed until settlement (T+3) when the conversion into Euros per the rule is calculated using the rate on the day prior to settlement (T+2). For this reason, we request the option to remit the tax in U.S. Dollars instead of in Euros or to convert the aggregate payment on the date prior to remittance.

Responsible Party for Payment: Although the French government has promulgated rules that clarify the application of the tax in Europe, these rules are extremely difficult to apply in the secondary market for ADR transactions in the United States. Liability for the tax is not always clear. For example, in a chain of orders between clients, ISPs and exchanges it is not always clear to market participants during the transaction where an individual ISP sits within the chain so the requirement as to who is liable to collect and remit the tax, or report the transaction is not clear. If the tax is assessed as of December 1st, the lack of clear information about who is liable is likely to result in cascading effects as multiple firms seek to collect the tax to address the risk that they might be held liable. Our sister trade association AFME has developed a voluntary private-sector protocol in an effort to minimize cascading multiple-taxation of the same transaction, but even this protocol would be inoperable in the absence of clear rules governing liability in the U.S. market.

Corporate Actions: There is a lack of guidance in the rules as to how corporate actions such as tax free reorganizations will be handled in order to prevent the double taxation of clients as some corporate actions result in the transfer of shares between counterparties but are not voluntary purchases initiated by a client. This lack of clarity also makes it difficult for firms to create a set of rules to properly process these transactions systematically and ensure they are not unknowingly exposed to a tax liability. This is another example of many where the rules lack specific clarity at a product and event level as a financial instrument goes through its lifecycle.

Reporting and Payment if Not a Member of EuroClear France: In the United States we have many broker dealers (i.e. ISPs) that are not members for EuroClear France, the organization that has been tasked with the collection of all declarations and the payment of all taxes by EuroClear France members. We would like more guidance on how a non-member would report or pay the taxes that are being collected or a process whereby a firm could request a refund due to the likely event of overpayment per the manner in which the netting rules are structured.