

Post-trading: Commission expert group presents solutions to improve, simplify and modernise EU fiscal compliance procedures

The European Commission's Fiscal Compliance expert group ("FISCO") has issued a report setting out solutions to fiscal compliance barriers related to clearing and settlement of cross-border securities transactions, also known as 'post-trading'. The proposed solutions are expected to lead to improved, simplified and modernised procedures adapted to the way EU financial markets operate today.

Internal Market and Services Commissioner Charlie McCreevy said: *"Fiscal compliance barriers hinder the functioning of capital markets, are a burden for industry and investors alike and increase the costs of cross-border trading. They also lead to a misallocation of resources that could be used in a more efficient way. I welcome this report, which puts forward concrete proposals for improving and speeding up the way these transactions are settled. Member States, industry, investors, tax payers and the Single Market as a whole all stand to benefit."*

Taxation and Customs Union Commissioner László Kovács added: *"As it becomes more and more common to hold shares cross-border, EU citizens are increasingly faced with remaining fiscal barriers relating to withholding tax collection and tax relief procedures. The reality of a single European securities market is not compatible with a fragmented European post-trading sector. It is my intention to use the FISCO findings and proposed solutions as a basis for further discussion with Member States on future EU initiatives to simplify and modernize tax procedures applied to financial assets. This is an area where I am convinced that a better co-ordination of the widely differing national procedures will help reducing compliance costs, removing discrimination and double taxation. "*

Main conclusions of the FISCO Report

1) Withholding tax procedures

Many of the current administrative and efficiency problems can be resolved by eliminating the need to pass on detailed information on beneficial owners through the custody chain up to the local withholding agents. This can be best achieved by allowing any intermediary in the chain to either assume full withholding responsibilities or to take responsibility for granting withholding tax relief by sending pooled withholding rate information to the upstream intermediary.

This possibility would be enhanced by the abolishing of the requirement of paper-form certification and the permission to allow intermediaries to make use of modern technology to pass on beneficial owner information to the local withholding agent in electronic format and to allow the use of pooling of assets into tax-rate pools.

An EU Tax Relief Procedure is proposed in order to facilitate the clearing and settlement of securities within the Member States by simplifying and harmonising the tax relief procedures. The EU Tax Relief Procedure should be built on a model allowing for the appropriate tax relief to be applied at source without excessive documentation requirements and without exposing issuers, intermediaries and investors to unnecessary risks and costs.

2) Transaction tax procedures

In general, any regime requiring transaction tax to be collected by settlement service providers will constitute a significant obstacle, dissuading or preventing foreign Central Securities Depositories (CSDs) from accepting securities subject to such transaction tax. The only logical recommendation which can ultimately be made to address this would be not to impose the tax-collection responsibilities on local settlement service providers. However, the FISCO Group could not identify another tax collection mechanism that would give comparable audit and enforcement powers to tax authorities and would ensure a level playing-field and compatibility with various business models.

About post-trading

Post-trading takes place after two parties have agreed a securities transaction, in order to allow the transfer of ownership and of the corresponding payment. Systems in the EU have developed nationally, as cross-border trading activity has been limited. Cross-border post-trading in the EU is therefore still much more costly and complex than within a single Member State or in the United States, to the detriment of the EU's financial markets.

About the FISCO Group

FISCO, created in 2005 ([IP/05/434](#)), gives advice on the removal of fiscal compliance barriers to the post-trading of EU cross-border securities transactions. The key issues considered by the Group are 'Giovannini Barriers' 11 and 12 on withholding and transaction tax procedures respectively.

FISCO is composed of 15 high-level experts, mainly from private bodies and academia. The Group has produced two reports. The Report on solutions to fiscal compliance barriers related to post-trading within the EU, presented at the conference 23 October 2007 and a Fact Finding Study examining EU Member States' fiscal compliance procedures in 2006. The Commission will now promptly consider concrete actions including a timeframe on the basis of the work of the advisory group.

The report is available at:

http://europa.eu.int/comm/internal_market/financial-markets/clearing/compliance_en.htm