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AmCham EU's position on enhanced cooperation for a European financial transaction tax

The American Chamber of Commerce to the European Union (AmCham EU) has closely followed the development of proposals for an EU Financial Transaction Tax (FTT) since the initial European Commission proposal in September 2011. Following discussion amongst EU Finance Ministers in the ECOFIN Council, and in turn by EU Heads of State and Government at the European Council, it is now clear that the unanimity that would be required to proceed with an FTT at the level of the EU 27 cannot be achieved, and a group of Member States has indicated that they wish to proceed with an FTT via enhanced cooperation. The purpose of this paper is to highlight the potential negative consequences of such an initiative, and of the use of enhanced cooperation in the realm of tax policy.

The economic impact on consumers and investors:

As we have previously indicated, AmCham EU believes that **an FTT would be a negative development for the European economy**, raising the cost of investing in Europe, increasing costs for retail consumers of financial services, and making it more costly for global corporations to use financial instruments to manage their risks (please see Annex). These concerns apply regardless of whether the tax is introduced at an EU level or amongst a subset of Member States.

Reconciling enhanced cooperation with the completion of the EU Single Market:

We also have reservations about the process by which enhanced cooperation in the field of taxation is being pursued. The use of enhanced cooperation in a policy area as critical as taxation is unprecedented, and is likely to influence the development of future tax policy initiatives. Despite the fact that when enhanced cooperation was designed as a framework for policy making, its use in the realm of tax policy was not initially intended. FTT negotiations will now play a formative role in the development of the enhanced cooperation tool, and we believe that this merits careful attention from EU policy makers.

We believe that in the development of proposals and forthcoming negotiations EU policy makers must ensure that the EU Treaty conditions are met through a credible and transparent process. **It is critical that the decision to proceed under enhanced cooperation is only taken once the form of the taxation, the full impact of the proposal for both participating and non-participating countries, and the implications for the EU Single Market are fully understood.**

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We understand the restrictions outlined by the Council's Legal Service mean that a detailed proposal cannot be formally presented, but we would urge that a pragmatic solution be reached. A comprehensive assessment is necessary for any taxation measure, including the FTT, to allow truly informed decisions as to whether to enhanced cooperation will meet the conditions prescribed for its use.

Avoiding negative externalities:

AmCham EU believes that **non-participating Member States should not suffer any negative externalities of the tax.** The FTT as proposed by the European Commission adopted the "residency principle". By applying this through enhanced cooperation, financial institutions in participating Member States doing business with residents of non-participating Member States will be subjected to the FTT. Furthermore, the FTT will be borne by end-users of financial products rather than financial institutions, as most recently demonstrated by the FTT adopted in France. Therefore, the cost of the FTT will also be borne by the residents of non-participating Members i.e. if approval is given, both participating *and* non-participating Member States will have effectively ceded their competency in the relevant tax matter. This scenario further emphasises the importance of due analysis of the proposal and its possible internal and external implications.

For these reasons we believe that any decision to proceed under enhanced cooperation should only be taken once the specific form of the tax is understood, and its implications on the economies of participating member states and beyond is fully considered.

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AmCham EU speaks for American companies committed to Europe on trade, investment and competitiveness issues. It aims to ensure a growth-orientated business and investment climate in Europe. AmCham EU facilitates the resolution of transatlantic issues that impact business and plays a role in creating better understanding of EU and US positions on business matters. Aggregate U.S. investment in Europe totaled \$2.2 trillion in 2010 and directly supports more than 4.2 million jobs in Europe.

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POSITION STATEMENT