

Press release

LCQ7: Collection of financial transactions tax in Hong Kong for Italian authorities

Wednesday, June 5, 2013

Following is a question by the Hon Christopher Cheung and a written reply by the Secretary for Financial Services and the Treasury, Professor K C Chan, in the Legislative Council today (June 5):

Question:

According to the Financial Transactions Tax (FTT) Law of Italy, which came into force on January 1 this year, FTT is due by the persons to which financial instruments (such as shares) issued by Italian resident companies are transferred, regardless of their place of residence and the place where the contract is concluded. PRADA S.p.A., a company listed on The Stock Exchange of Hong Kong (SEHK), published an announcement on March 5 this year, pointing out that transfers of its shares would be affected by the provision, and financial intermediaries had to collect FTT from their clients and transfer it to the Italian Inland Revenue Office. Some members of the securities industry have relayed to me that neither the Securities and Futures Commission nor SEHK has given a clear account of the related arrangements so far, rendering it difficult for securities firms to explain to their clients and investors the procedures and details regarding the collection and handling of FTT. In this connection, will the Government inform this Council:

(a) whether the Italian authorities have any legal basis for requesting financial intermediaries in Hong Kong to collect the aforesaid tax for them; if they have, of the details and how it is to be executed; and

(b) whether the Government has assessed the impact, on Hong Kong's position as an international financial centre, of financial intermediaries assisting the Italian authorities in collecting the aforesaid tax in Hong Kong from investors; if it has, of the details; whether the Government has considered making reference to the practice of the Italian authorities to impose FTT on investors of companies which are registered in Hong Kong and listed overseas?

Reply:

President,

My consolidated reply to the two-part question is as follows:

The new Italian financial transactions tax (FTT) was introduced under the Budget Law promulgated by Italy on December 24, 2012. On February 28, 2013, the Ministry of Economy and Finance of Italy published the ministerial decree relating to the implementation of the FTT, i.e. the Italian Financial Transactions Tax Law (FTT Law). According to the FTT Law, the Italian FTT applies to all transactions involving the transfer of shares and related financial derivatives issued by companies domiciled in Italy, regardless of the place of execution and the domicile of the contracting parties.

Prada S.p.A. (Prada) is currently the only Italian company listed in Hong Kong, and its shares and derivative warrants are traded on the Hong Kong Exchanges and Clearing Limited (HKEx). In response to the request from the HKEx, Prada made two announcements on February 21 and March 4 this year respectively to provide information on the Italian FTT. Prada stated in those two announcements, which have been uploaded to the HKExnews Website for public viewing, that relevant instructions about FTT payment were expected to be set forth by an official provision to be issued by the Director of Italian Inland Revenue Office (IRO).

The HKEx understands that based on the Italian FTT Law, the ultimate transferees in the case of shares and other equities transactions, and both the ultimate transferors and transferees in the case of equity derivatives transactions, are liable for the FTT. The obligation to pay the FTT falls on the financial intermediaries which involve in the execution of the transactions. However, as far as the relevant transactions effected in Hong Kong are concerned, since there is uncertainty regarding the identities and obligations of the person(s) liable for the FTT and the person(s) to pay the FTT, the tax computation and the payment procedures, they are subject to clarification by the Italian authorities.

In early May this year, the HKEx wrote to the Ministry of Economy and Finance of Italy, seeking clarification on related issues such as the above-mentioned obligations, the tax computation and the payment procedures. In addition, the HKEx has commissioned tax consultants to advise it on the impact of the Italian FTT on the HKEx, local financial intermediaries and other market participants.

The Administration has also contacted the Italian authorities through various channels, including the Hong Kong Inland Revenue Department and our overseas Economic and Trade Office, to help the financial sector obtain further information. We learn that the Italian IRO has yet to announce the details of the FTT. The Italian IRO

plans to issue the relevant instructions on the details of the FTT, which will cover the payment procedures, in July this year.

We understand that some members of the local financial sector have queries about the new Italian FTT and are very concerned about its possible impact on them. We are working with the HKEx to clarify the details with the Italian authorities through various channels. We will continue to relay the views and concerns of the financial sector to the Italian authorities.

The question also asks whether the Government has considered making reference to the practice of the Italian authorities to impose FTT on investors. All along, Hong Kong adheres to a low, simple and predictable tax regime, and is committed to maintaining a favourable and competitive business environment. Given that it is not in line with our established tax policies, we do not intend to follow the Italian practice of introducing the FTT.

Ends