

CESAME 24 OCTOBER 2005

**PRESENTATION
THE CURRENT STATE OF PLAY**

-FISCO-

GIOVANNINI BARRIERS 11+12

THE AIM OF FISCO

- **TO GIVE ADVICE ON THE REMOVAL OF FISCAL COMPLIANCE BARRIERS TO THE C&S OF CROSS-BORDER SECURITIES TRANSACTIONS WITHIN THE EU**

GIOVANNINI BARRIERS 11 AND 12

- **ARE KEY TOPICS FOR THE FISCO GROUP!**

BARRIER 11

- **“ALL FINANCIAL INTERMEDIARIES ESTABLISHED WITHIN THE EU SHOULD BE ALLOWED TO OFFER WITHHOLDING AGENT SERVICES IN ALL OF THE MEMBER STATES” GR1**
- **TO ENSURE A LEVEL PLAYING FIELD BETWEEN LOCAL AND FOREIGN INTERMEDIARIES**

BARRIER 12

- **“ANY PROVISIONS REQUIRING THAT TAXES ON SECURITIES TRANSACTIONS SHOULD BE COLLECTED VIA LOCAL SYSTEMS SHOULD BE REMOVED” GR1**
- **TO ENSURE A LEVEL PLAYING FIELD BETWEEN DOMESTIC AND FOREIGN INVESTORS.**

FISCO REPORTS

- **FACT FINDING STUDY (2005)**
- **REPORT ON POSSIBLE SOLUTIONS
(2006)**

THE FACT FINDING STUDY WILL

- EXAMINE CURRENT RULES,
LEGISLATION AND PROCEDURES
WITHIN THE MS TO IDENTIFY C&S
CROSS BORDER OBSTACLES RELATED
TO GIOVANNINI BARRIERS 11 AND 12**

FFS:THE COMMUNITY LAW BACKGROUND

- **GIVE AN OVERVIEW OF THE EXISTING EU LEGISLATION**
- **DISCUSS THE MOST RELEVANT ARTICLES OF THE EC TREATY**
- **EXAMINE THE RELEVANT DECISIONS BY THE COURT OF JUSTICE**
- **EXAMINE THE POTENTIAL EFFECTS OF EU LAW ON NATIONAL PROCEDURES TO COLLECT, OR GRANT RELIEF FROM, WITHHOLDING AND TRANSACTION TAXES**

FFS: WITHHOLDING TAX PROCEDURES

- **WITHHOLDING TAX COLLECTION AND RELIEF PROCEDURES VARY CONSIDERABLY BETWEEN THE DIFFERENT MS**
- **OFTEN DIFFERENT PROCEDURES EVEN APPLY FOR DIFFERENT CLASSES OF SECURITIES WITHIN THE SAME MS!**
- **MANY MS RESTRICTS WITHHOLDING RESPONSIBILITIES TO ENTITIES ESTABLISHED WITHIN THEIR OWN JURISDICTION THUS PUTTING FOREIGN INTERMEDIARIES AT DISADVANTAGE**
- **SIGNIFICANT ADDITIONAL COST OF USING A LOCAL AGENT**
- **THE COMPLEXITY AND ADMINISTRATIVE COSTS WHICH FOLLOW FROM THE DIFFERENCES IN PROCEDURES MAY DISCOURAGE CROSS-BORDER INVESTMENTS!**

FFS: TRANSACTION TAX PROCEDURES

- **WHEN THE COLLECTION OF TRANSACTION TAXES IS INTEGRATED INTO A LOCAL SETTLEMENT SYSTEM, THE FOREIGN INVESTOR'S CHOICE OF PROVIDER IS REDUCED BECAUSE IT IS NECESSARY TO LINK UP WITH THE LOCAL SETTLEMENT SYSTEM THAT OPERATES THE TAX COLLECTION FUNCTIONALITY**
- **APPROXIMATELY 12 MS HAVE AT PRESENT TRANSACTION TAX PROCEDURES IN PLACE**
- **3 MS HAVE HAD TRANSACTION TAXES AND ABOLISHED THEM**
- **CONSEQUENTLY, NOT LESS THAN 15 OF THE MS HAVE EXPERIENCE OF TRT PROCEDURES**

FFS; TRANSACTION TAXES: EFFECTS ON LIQUIDITY

- **THE FIRST GIOVANNINI REPORT ACKNOWLEDGED THE EXISTENCE OF TAX RELATED BARRIERS IMPACTING MORE GENERALLY ON THE EFFICIENCY OF CROSS-BORDER SECURITIES**
- **AND THAT TRANSACTION TAXES CAN BE A BARRIER TO CROSS BORDER SECURITIES TRADING TO THE EXTENT THAT THEY REDUCE THE LIQUIDITY OF THE MARKETS**
- **THE FFS WILL EXPLORE THIS TOPIC FURTHER BY INVESTIGATION OF THE EXISTING LITERATURE ON THE TOPIC**

FACT FINDING STUDY (2005) AND REPORT ON SOLUTIONS (2006)

- **WILL BE USED AS A BASIS FOR DISCUSSION WITH THE MS IN ACCORDANCE WITH THE ESTABLISHED POLICY OF PRIOR CONSULTATION ON TAX ISSUES**
- **IF SUBSEQUENT ACTION AT EU LEVEL IS CONSIDERED APPROPRIATE, THE COMMISSION WILL BRING FORWARD PROPOSALS TO THE COMMISSION WORKING PARTY IV ON DIRECT TAXATION, WHERE ALL MS ARE REPRESENTED**

PROVISIONS/COMMENTS FROM CESAME MEMBERS IN TERMS OF;

- **EVIDENCE AND FACTS**
- **SOLUTIONS**

VERY WELCOME!