



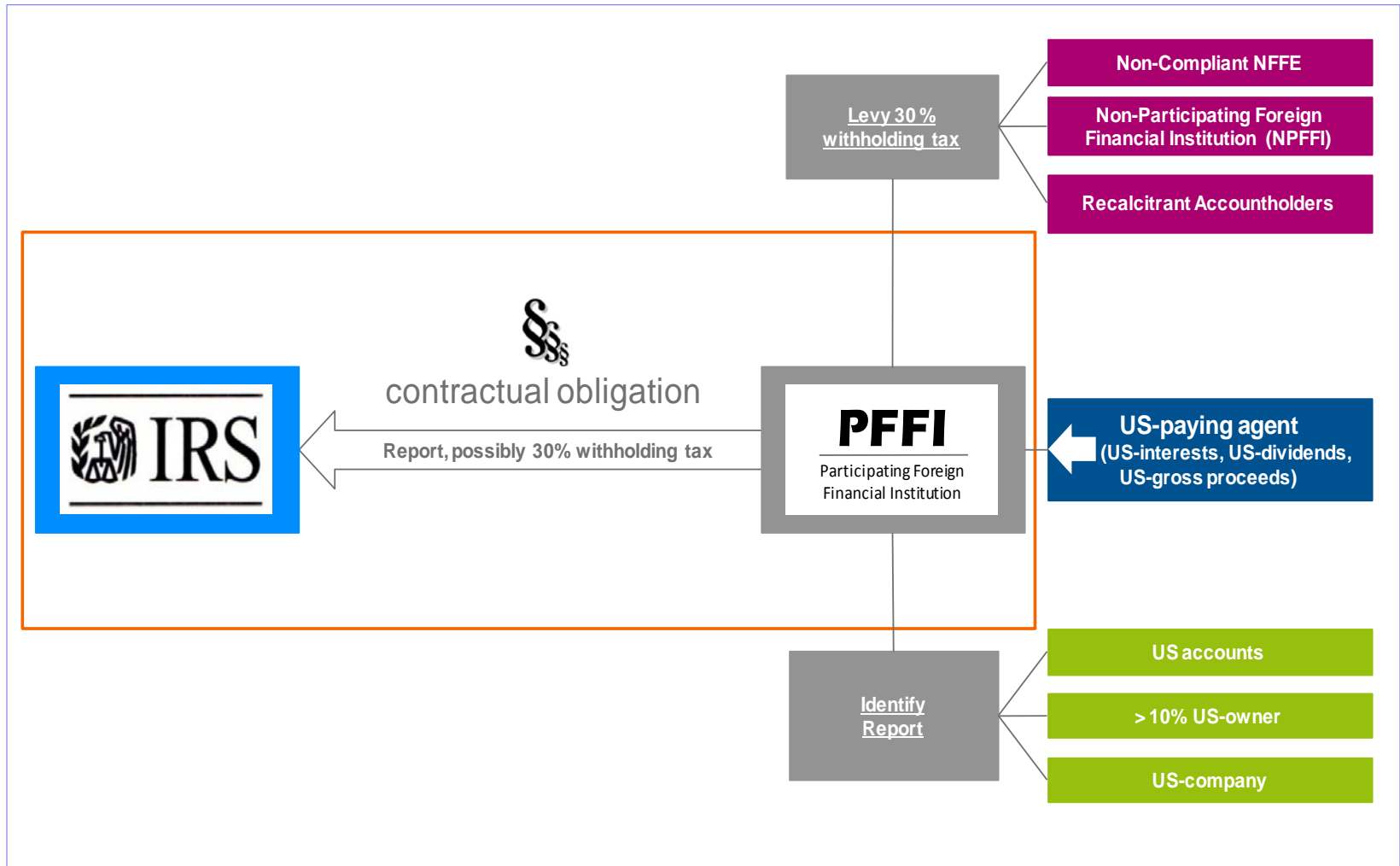
SECURITIES MARKET PRACTICE GROUP

SMPG

New Financial Transaction Taxes:
Operational Challenges from an
SMPG Perspective

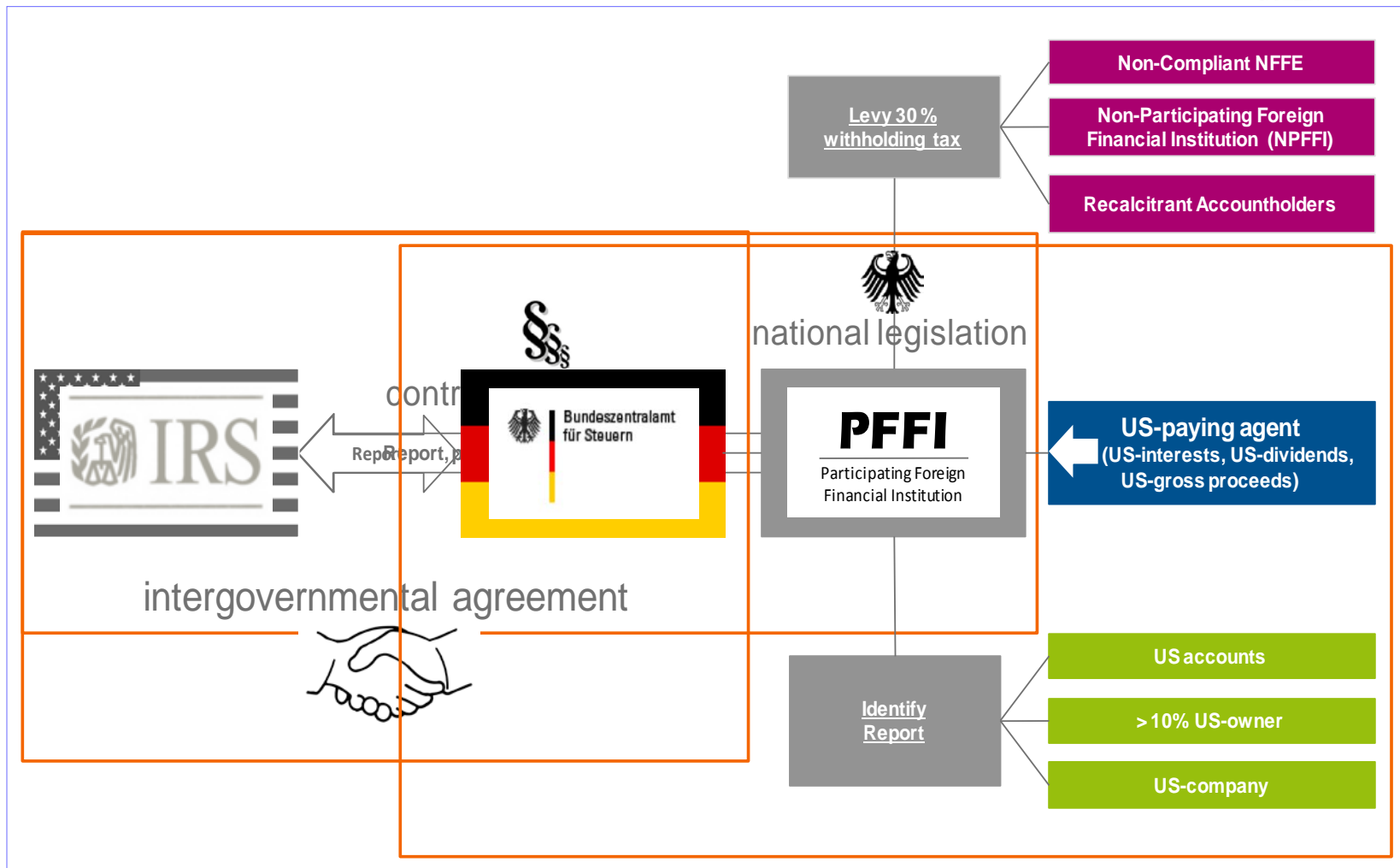
Cross-border Taxes: FATCA

Basic Design: Financial Institution Reporting



Cross-border Taxes: FATCA

Modified Design: Intergovernmental Reporting



Cross-border Taxes: EU Financial Transaction Tax

(11 Countries = FTT Zone) (1)



Category	Financial instruments (MiFID)	Derivatives
When	From 2014	
On what	Transactions with securities (purchase and sale before netting)	Conclusion of derivatives contract before netting
Foreign elements	<ul style="list-style-type: none"> ▪ Residence and nationality of parties <u>irrelevant</u>, if security is issued in FTT-zone; or ▪ At least one party to transaction is financial institution and established in FTT-zone 	At least one party to transaction is financial institution established in FTT-zone
Rate	0.1%	0.01%
Tax payer	Financial institution as party of transaction	
Tax basis	Purchase price	Notional amount
Exceptions	e.g. issuance of fund units	

Cross-border Taxes: EU Financial Transaction Tax

(11 Countries = FTT Zone) (2)



Problem issues for funds:

- Cascading effect: Tax on fund and investor level (one transaction is taxed twice)
- Implementation in a limited number of EU member states will cause distortions to the single market, creating incentives to relocate asset management activities outside the FTT-zone
- Will lead to significant costs on savings and reduction in future pension levels

Cross-border Taxes: French FTT (1)



Category	Acquisition of shares of French listed companies
On what	<p>Purchase of shares</p> <ul style="list-style-type: none">■ Transactions related to listed shares of large companies established in France with a market cap over €1 Bn on 1 January of the year of taxation: between 110 and 150 companies should be within scope (a ministerial decree will be issued every year including all companies whose shares will be subject to FTT).■ Leading to a transfer of legal ownership, whose definition is large (exchange of shares, physical settlement of derivatives).
Foreign elements	Residence and nationality of the parties and places of execution of the trade are irrelevant.

Cross-border Taxes: French FTT (2)



Category	Acquisition of shares of French listed companies
Rate	0.2%
Tax basis	Acquisition of the listed shares or acquisition price determined by reference to the price of the listed shares the day before exchange.
Tax payer	Broker, dealer or custodian
Payment date	Payment and filing will have to be made by the 25 th day of the month following the acquisition by Euroclear, based on information provided by the tax payer on the 5 th of each month.
Exemptions (e.g.)	e.g. Shares of investment funds

Cross-border Taxes: Italian FTT (1)



Category	On shares and other equities	On equity derivatives
When	On transactions executed on or after 1 March 2013	On transactions executed on or after 1 July 2013
On what	Transfers of <ul style="list-style-type: none">▪ Shares and participating financial instruments <u>issued by Italian resident companies</u>; and▪ Other instruments representing the above (e.g. ADRs).	Derivatives, whether cash- or physically- settled, securitised or not, whose underlying is shares or value of Italian shares, including options, warrants, covered warrants, certificates. Physical transfer of taxable underlying is also taxed separately.
Foreign elements	Residence and nationality of the parties and place of execution of the trade are <u>irrelevant</u> .	

Cross-border Taxes: Italian FTT (2)



Category	On shares and other equities	On equity derivatives
Tax basis	On the net daily balance of transactions on the same security by the same person.	Fixed amount depending on transactions.
Rate	0.1% on transfers transacted on a qualified market (0.12% in 2013) 0.2% otherwise (0.22% in 2013) 0.02% on high frequency trading	
Tax payer	The ultimate transferee. Not on the intermediaries.	Both parties equally. Not on the intermediaries.
Who applies it	The financial intermediary intervening in the taxable transaction (may refuse to trade if the tax is not funded by the transferee).	

Cross-border Taxes: Italian FTT (3)

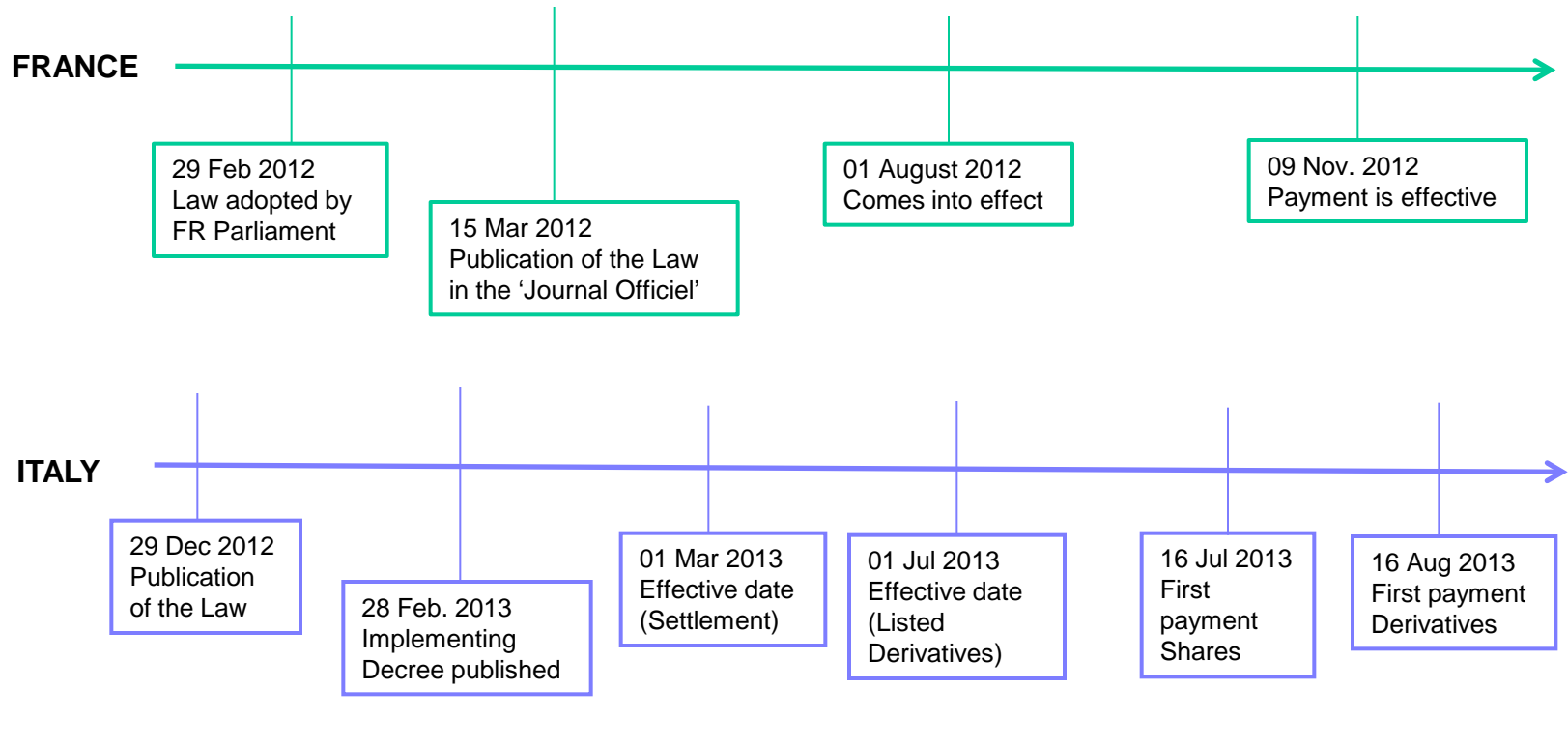


Category	On shares and other equities	On equity derivatives
Payment date	By the 16 th day of the month following the execution of the taxable transaction.	
Exceptions	<ul style="list-style-type: none"> ▪ New issuances of shares, including upon conversion of bonds ▪ Collateralised financing (e.g. repos, stock loans, sell-buy-backs) 	
Exemptions (e.g.)	<ul style="list-style-type: none"> ▪ Market making activities ▪ Pension funds and similar entities ▪ Transactions between related parties 	

Challenges for the Operational Teams (1)



- Difficult to meet FTT implementation timelines in the two existing situations:



Challenges for the Operational Teams (2)



- The Law(s) are complex, the communities ask for clarifications trying to get in depth understanding of the consequences (which scope ? Which underlying product ? Netting or not ? Declarable, exempted, both ? Who is liable ? Penalties ? ...)
 - Many amendments needed, some of them bringing a correction to the law
- The European Financial Transaction Tax (under definition) poses the same challenges
 - The envisaged agenda (date of publication January 2014) is still aggressive
 - The proposal for the Directive are raising new questions (the lobbyists are at work currently)
 - Same tools are proposed (i.e. products, exemptions, thresholds in capital, ...) but do not drive to the same text
 - **Re-usability of the work already done is not obvious**
 - **Even more complex to 'drop' the existing tax to move to the European Financial Tax**

What's next? Proposals to SMPG



- The French NMPG has written two Local Market Practices related to the FR FTT: one for MT56X and one for 54X messages (April 2013)
 - The Livre Blanc written (in French and in English) by two Financial Associations (AFTI – Association Française des services Titres and AMAFI – Association des Marchés Financiers) has been helpful (but not sufficient). The fact that Euroclear FR is officially the tax collector over-simplifies the formatting of the SWIFT messages ...
 - Also see the Explanatory Memorandum in Italy.
 - **FR NMPG proposes to write a (regional) or (global) Market Practice**
- The French NMPG considers that the TAX sub-group currently under the CA SMPG should definitely be enlarged by S&R experts, and possibly IF experts too, as several communities use many fields (also in MT54X) for tax(es) amounts ...
 - **Creation of a TAX SMPG sub-group ?**

Contacts



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