

INDIRECT TAX TREATMENT OF FINANCIAL SERVICES AND INSTRUMENTS

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Appendices

- I Glossary of financial services

- II Notes to the table on the VAT treatment of financial services and instruments

1. PURPOSE OF THE REPORT

This report presents the findings of the OECD study into the indirect taxation of financial services across all OECD Member countries. The report considers:

- definitions of financial instruments and services;
- the liability of financial services in OECD Member countries;
- the methods of calculating the recovery of VAT incurred by financial institutions;
- the treatment of foreign exchange transactions; and
- presentation of the data provided by Member countries of the major differences across the systems considered.

Member countries have confirmed the data presented in this report is correct as at 30 September 1997. However, the information contained in this report should not be relied on for the purpose of accounting for the indirect tax liability in any country. The OECD and KPMG disclaim responsibility for any liability arising from action taken based on information contained in this report.

2. BACKGROUND

2.1 Indirect Tax and Financial Services

The taxation of financial services is a complex and technically difficult subject; both in terms of the products themselves and the context in which financial transactions are undertaken. Historically, many financial services have been exempted from consumption taxes. The reasons for this are both theoretical and pragmatic. For example, it is the view of a number of commentators that to tax the use of capital may be damaging to an economy.¹ Whilst on a practical level, it has often proved difficult, if not impossible, to establish the tax base for certain intermediation services. In recent years, a number of proposals have been made for the taxation of financial services, including solutions for the valuation of intermediation services. The European Commission has undertaken a study to test the practical application of one of these proposals, popularly referred to as the “Cashflow Method”. This has resulted in increased debate concerning the merits of applying indirect taxation to financial services.

In 1995, the intensification of interest in this topic from both fiscal authorities and financial institutions led the OECD to undertake a study of the current application of indirect tax (i.e. Value Added Tax and Goods and Services Tax) to financial services in Member countries. The purpose of the study was to obtain a better understanding of how services are taxed under countries existing regimes and so to identify differences of treatment between Member countries. To this end, Member countries agreed to share information concerning their treatment of financial services².

A further aim was to consider to what extent any differences identified could be extinguished. This would improve the consistency of treatment between countries and avoid the potential for distortions. Member countries also considered possibilities for broadening the scope of taxation within the existing regime.

There is no clear and widely agreed definition of a “Financial Institution” nor of “Financial Services”. For the purposes of National accounting, the International Standard Industrial Classification of All Economic Activities (ISIC Rev 3) uses 3 main categories which broadly contain the financial sector. These are as follows:

- 65 - Financial Intermediation, Except Insurance and Pension Funding (this includes lending, deposit taking etc.);
- 66 - Insurance and Pension Funding, except compulsory social security; and
- 67 - Activities auxiliary to Financial Intermediation (for example, Trustees, fund managers).

In general, Member countries control providers of financial services by regulation and for this purpose financial services are defined. However, there is no generic definition of financial services for indirect tax purposes. A country’s indirect tax legislation often defines those financial services which are exempted from taxation. Certain other financial activities are considered to be outside the scope of the tax and the remaining financial services are taxed. Appendix I gives a brief description of the financial services considered in this study. This is by no means an exhaustive list, but with a few exceptions, these services are recognised as being financial in nature by most Member countries.

¹ Harry Grubert and James Mackie, An unnecessary complication: Must financial services be taxed under a consumption tax? 1996

² The answers for Germany were provided by the German Bankers’ Association

3. INTRODUCTION

3.1 *Objectives of the Study*

This report sets out the indirect tax treatment of a wide range of financial services in each Member country. It identifies the main differences between countries and considers the potential distortions of competition arising as a result of them.

This report is a *first step* towards identification of distortions of competition. The distortive impact of differences in the taxation of financial services should be considered in the context of the wider range of other potentially distortive influences including regulatory constraints, market developments, time zones and country location. These issues are not addressed in this report nor has any attempt been made to quantify the economic effect of any potential distortion identified.

The report goes some way towards identifying the main differences between Member countries' systems in the scope/liability of financial services and instruments, and the recovery of input VAT incurred by financial institutions.

It was not possible to obtain reliable information on the basis of *valuation* of financial services used by, or acceptable to, Member countries.

The following areas have also been excluded from this study:-

- The effect of the VAT grouping provisions allowed by some Member countries.
- The treatment of international financial services.

3.2 *Collation of Information*

The information contained in this report has been collated from the responses to a series of questionnaires. The information was provided by the relevant fiscal authority of each Member country³ and has been validated, by each Member country as correct at 30 September 1997.

In order to maximise the accuracy of responses received from Member countries, each financial service has been separately defined for the purpose of this report. These definitions can be found in the Glossary at Appendix I. This was done to allow valid comparisons to be made between Member countries. The definitions may, therefore, vary from those used in an individual Member country's legislation or official literature.

³ The answers for Germany were provided by the German Bankers' Association

4. VAT TREATMENT OF FINANCIAL SERVICES AND INSTRUMENTS

The information gained from Member Countries on the liability of financial services and instruments is detailed in the table overleaf. Notes to this Table are set out in Appendix II. The commentary which follows the table highlights the differences in treatment between Member countries.

The following definitions have been used in the preparation of Table 1 and throughout the report:-

VAT	=	Value Added Tax and Goods and Services Taxes.
Taxable (T)	=	taxable at a positive rate
Exempt (E)	=	exempt from tax with no deduction of related input tax. The income from such supplies may be used in the calculation to establish recovery of VAT on expenditure.
Zero-rated (Z)	=	exempt from tax with the right to deduct related input tax. (In some countries this may be described as outside the scope with recovery.)
Outside the Scope (OS)	=	outside the scope of tax. This income is not included in the calculation to establish recovery of VAT on expenditure.

	1 Dealing in money	2 Operation of Bank Account	3 Documentary Credit	4 Provisions of	5 Credit card services	6 Financial Guarantee	7 Guarantee claims	8 Dealings in financial instruments and shares	9 Stock Lending	10 Share Dividends	11 Futures	12 Options
AUSTRIA	E ⁽¹⁾	E	E	E ⁽²⁾	E	E	OS	E	E	OS	E ⁽³⁾	E/T ⁽⁴⁾
BELGIUM	E ⁽¹⁾	E	E ⁽²⁾	E ⁽³⁾	E	E	E	E	E	OS	OS ⁽⁴⁾	OS ⁽⁵⁾
CANADA	E ⁽¹⁾	E ⁽¹⁾	E ⁽¹⁾	E ⁽¹⁾	E ⁽¹⁾	E ⁽¹⁾	E ⁽¹⁾	E ⁽²⁾	E ⁽¹⁾	E ⁽¹⁾	E ⁽¹⁾	E ⁽¹⁾
DENMARK	E ⁽¹⁾	E	E ⁽²⁾	E ⁽³⁾	E	E	E	E	E	OS	E	E
FINLAND	E ⁽¹⁾⁽²⁾	E ⁽²⁾	E ⁽²⁾	E ⁽²⁾⁽³⁾	E ⁽²⁾	E ⁽²⁾	E ⁽²⁾	E	E	OS	E/T ⁽²⁾⁽⁴⁾	E/T ⁽²⁾⁽⁴⁾
FRANCE	E ⁽¹⁾⁽²⁾	E ⁽¹⁾	E ⁽³⁾	E ⁽⁴⁾	E	E	E	E ⁽¹⁾	E	OS ⁽⁵⁾	E ⁽⁶⁾	E ⁽¹⁾
GERMANY	E ⁽¹⁾	E	E ⁽²⁾	E ⁽³⁾	E/T ⁽⁴⁾	E	OS	E	E	OS	OS	E/T ⁽⁵⁾
GREECE	E ⁽¹⁾⁽²⁾	E ⁽¹⁾	E ⁽¹⁾⁽³⁾	E ⁽¹⁾⁽⁴⁾	E ⁽¹⁾⁽⁵⁾	E ⁽¹⁾	E ⁽¹⁾	E ⁽¹⁾	E ⁽¹⁾	E ⁽¹⁾	E ⁽¹⁾	E ⁽¹⁾
HUNGARY	E ⁽¹⁾	E ⁽²⁾	E	E	E ⁽³⁾	E	E	E	E ⁽⁴⁾	OS	E ⁽⁵⁾	E ⁽⁶⁾
IRELAND	E ⁽¹⁾	E	E ⁽²⁾	E	E	E	OS	E	E	OS ⁽³⁾	E ⁽⁴⁾	E
ITALY	E ⁽¹⁾	E	E ⁽²⁾	E ⁽³⁾	E	E	OS	E ⁽⁴⁾	OS	OS	E ⁽⁵⁾	E/T ⁽⁶⁾
JAPAN	T ⁽¹⁾	T ⁽²⁾	E	E/T ⁽³⁾	T/E ⁽⁴⁾	E	OS	E ⁽⁵⁾	E ⁽⁶⁾	OS	OS ⁽⁷⁾	OS
LUXEMBOURG	E ⁽¹⁾	E	E ⁽²⁾	E ⁽³⁾	E ⁽⁴⁾	E	OS	E	E	OS	E	E
MEXICO	E ⁽¹⁾	T	E ⁽²⁾	T/E ⁽³⁾	T ⁽⁴⁾	OS ⁽⁵⁾	OS	T ⁽⁶⁾	T	OS	E	E
NETHERLANDS	E ⁽¹⁾	E	E ⁽²⁾	E ⁽³⁾	E	E	E	E	E	E	E	E
NEW ZEALAND	E ⁽¹⁾⁽²⁾⁽³⁾	E ⁽¹⁾⁽³⁾	E ⁽¹⁾⁽³⁾	E ⁽¹⁾⁽³⁾	E ⁽¹⁾	E ⁽¹⁾⁽³⁾	E ⁽¹⁾	E ⁽¹⁾⁽³⁾⁽⁴⁾	E ⁽¹⁾	OS ⁽¹⁾⁽⁵⁾	E ⁽¹⁾⁽³⁾⁽⁶⁾	E ⁽¹⁾⁽³⁾⁽⁷⁾
NORWAY	OS	OS	OS	OS	OS	OS	OS	OS	OS	OS	OS	OS
PORTUGAL	E ⁽¹⁾	E	E ⁽²⁾	E ⁽²⁾⁽³⁾⁽⁴⁾	E	E ⁽⁵⁾	OS	E ⁽³⁾⁽⁶⁾	E	E	E/T ⁽³⁾⁽⁷⁾	E/T ⁽⁸⁾
SPAIN	E ⁽¹⁾	E	E ⁽²⁾	E ⁽³⁾	E	E ⁽⁴⁾	OS	E ⁽⁵⁾	E	OS	E/T ⁽⁶⁾	E/T ⁽⁷⁾
SWEDEN	E/T ⁽¹⁾⁽²⁾	E ⁽¹⁾	E ⁽¹⁾⁽³⁾	E ⁽¹⁾⁽⁴⁾	E ⁽¹⁾⁽⁵⁾	E ⁽¹⁾	OS	E ⁽¹⁾⁽⁶⁾	E	OS	E ⁽¹⁾⁽⁷⁾	E ⁽¹⁾⁽⁷⁾
SWITZERLAND	E ⁽¹⁾	E	E	E	E	E	E	E ⁽²⁾	E	E	E	E
UK	E ⁽¹⁾	E	E ⁽²⁾	E ⁽³⁾	E	E	OS	E	E	OS	⁽⁴⁾	⁽⁵⁾

	13	14	15	16	17	18	19	20	21	22	23
	Swaps	Underwriting Financial Instruments	Dealing in Foreign Exchange	Financial Leases	Debt Collection	Debt Factoring	Safekeeping	Advisory Services	Provision of Life Insurance/reinsurance	Provision of Non-Life Insurance/reinsurance	Settlement of Insurance Claims
AUSTRIA	E	E	E	T/E ⁽⁵⁾	T ⁽⁶⁾	E	T	T	E	E	OS
BELGIUM	OS ⁽⁶⁾	E	E ⁽⁷⁾	T	E/T ⁽⁸⁾	E/T ⁽⁸⁾	T	T	E	E	E
CANADA	E ⁽¹⁾	E ⁽¹⁾	E ⁽¹⁾	T	T ⁽²⁾	E	T ⁽⁴⁾	T ⁽⁵⁾	E ⁽⁶⁾	E ⁽⁷⁾	E
DENMARK	E	E	E	T	T ⁽⁴⁾	T/E ⁽⁵⁾	T	T	E	E	OS
FINLAND	E	E	E ⁽²⁾	T/E ⁽⁵⁾	T	E ⁽²⁾	T	T	E	E ⁽²⁾	E ⁽²⁾
FRANCE	E ⁽¹⁾⁽⁷⁾	E	E	T/E ⁽⁸⁾	T	E ⁽¹⁾	T	T	E	E	OS/T ⁽⁹⁾
GERMANY	E ⁽⁶⁾	E	E	T/E ⁽⁷⁾	T	T/OS ⁽⁶⁾	T	T	E	E	OS
GREECE	E ⁽¹⁾	E ⁽¹⁾	E ⁽¹⁾	T ⁽⁶⁾	T	T	T	E ⁽⁶⁾	E ⁽⁶⁾	E ⁽⁶⁾⁽⁷⁾	E ⁽⁶⁾⁽⁷⁾
HUNGARY	E	E ⁽⁷⁾	E	T ⁽⁸⁾	T	E	T	T	E	E	E
IRELAND	E	E	E/OS ⁽⁶⁾	T ⁽⁶⁾	T	E ⁽⁷⁾	T	T	E	E/T ⁽⁶⁾	OS
ITALY	OS/E ⁽⁷⁾	E	E/OS ⁽⁶⁾	T/E ⁽⁹⁾	E	E	T	T	E	E	E
JAPAN	OS ⁽⁸⁾	T ⁽⁹⁾	E	T/E ⁽¹⁰⁾	T	T	T	T	E	E	OS
LUXEMBOURG	E	E	E/OS ⁽⁵⁾	T ⁽⁶⁾	T	E ⁽⁷⁾	T ⁽⁸⁾	T	E	E	OS
MEXICO	E	OS/T ⁽⁷⁾	OS/T ⁽⁸⁾	T ⁽⁹⁾	T	OS	T	T	E	T ⁽¹⁰⁾	OS
NETHERLANDS	E	E	E	T/E ⁽⁴⁾	T	T	T	T ⁽⁵⁾	E	E	E
NEW ZEALAND	E ⁽¹⁾⁽³⁾⁽⁷⁾	E ⁽¹⁾⁽³⁾	E ⁽¹⁾⁽³⁾	T/E ⁽⁸⁾	E ⁽⁹⁾	E ⁽¹⁾	T ⁽¹⁾	T ⁽¹⁾	E ⁽¹⁾⁽³⁾	T ⁽¹⁾⁽³⁾	T ⁽¹⁰⁾
NORWAY	OS	OS	OS	T	OS	OS	T ⁽¹⁾	OS	OS	OS	OS
PORTUGAL	E ⁽⁹⁾	E	E	T	T	E	T	T	E ⁽³⁾	E ⁽²⁾⁽³⁾	OS
SPAIN	E	E	E	T/E ⁽⁸⁾	T	E ⁽⁹⁾	T	T	E	E	OS
SWEDEN	E ⁽⁷⁾	E ⁽⁸⁾	E/OS ⁽⁹⁾	T/E ⁽¹⁰⁾	T	E ⁽¹¹⁾	T	T	E ⁽¹²⁾	E ⁽¹²⁾	OS
SWITZERLAND	E	E	E	T	T	E/T ⁽³⁾	T	T	E	E	E
UK	E	E ⁽⁶⁾	OS/E ⁽⁷⁾	T/E ⁽⁸⁾	T	E/T ⁽⁹⁾	T	T	E	E	OS

	24 Loss Adjusting Services	25 Trustee Services	26 Fund Management	27 Professional Services
AUSTRIA	T	T	E	T
BELGIUM	T/E ⁽⁹⁾	T	E	T ⁽¹⁰⁾
CANADA	E ⁽¹⁾	T	T	T
DENMARK	T	T ⁽⁶⁾	E	T ⁽⁷⁾
FINLAND	E ⁽²⁾	N/A ⁽⁶⁾	T	T
FRANCE	T	T ⁽¹⁰⁾	T/E ⁽¹¹⁾	T
GERMANY		T	E	T
GREECE	T	T ⁽¹⁾	E/T ⁽⁸⁾	T ⁽⁶⁾⁽⁹⁾
HUNGARY	E ⁽⁹⁾	E ⁽¹⁰⁾	T ⁽¹¹⁾	T ⁽¹²⁾
IRELAND	T	T	T/E ⁽⁹⁾	T/E ⁽¹⁰⁾
ITALY	T	E ⁽¹⁰⁾	E	T
JAPAN	T	E/T ⁽¹¹⁾	T/E ⁽¹²⁾	T
LUXEMBOURG	T	E ⁽⁹⁾	T ⁽¹⁰⁾	T
MEXICO	T	T	T	T
NETHERLANDS	T	T	E/T ⁽⁶⁾	T
NEW ZEALAND	T/E ⁽¹⁾⁽¹¹⁾	E ⁽¹⁾⁽¹²⁾	E ⁽¹⁾	T/E ⁽¹⁾⁽¹³⁾
NORWAY	OS	OS	OS	OS
PORTUGAL	T	N/A ⁽⁹⁾	E	T
SPAIN	T	N/A ⁽¹⁰⁾	E/T ⁽¹¹⁾	T
SWEDEN	T ⁽¹⁾⁽¹³⁾	N/A ⁽¹⁴⁾	T/E ⁽¹⁵⁾	T
SWITZERLAND	T	T	E	T
UK	T ⁽¹⁰⁾	T	T/E ⁽¹¹⁾	T ⁽¹²⁾

The following commentary generally highlights the differences in treatment between Member countries in regard to the 27 different categories of financial services, covered by Table 1.

1. *Dealing in Money*

Services related to dealing in money are treated as exempt in most Member countries. The following exceptions were noted:

- Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, New Zealand, Portugal, Spain, Sweden, Switzerland and UK treat supplies of collectors' items as taxable.
- France and Germany also treat such services (except those concerning collectors' items) as exempt. However, if the supplier has opted to tax these services are taxable.
- Italy treats the issue or dealing in commercial paper/promissory notes as being outside the scope for VAT purposes.
- Japan treats the charge for the transfers of money between accounts and telegraphic transfer charges as taxable.
- Norway treats these services as outside the scope of VAT.

2. *Operation of a Bank Account*

Services related to the operation of a bank account are exempt in most Member countries. The following exceptions were noted:

- Mexico treats these services as taxable.
- Japan treats bank account charges and charges for the issue of cheque books as taxable.
- Norway treats these services as outside the scope of VAT.

3. *Documentary Credits*

Services related to documentary credits are exempt in most Member countries. The following exceptions were noted:

- Austria, Belgium, Denmark, France, Finland, Germany, Greece, Ireland, Italy, Luxembourg, Portugal Spain, Sweden and UK apply exemption with credit for services in relation to exports of goods outside the EU and Isle of Man.
- Mexico only treats the commissions on these services as taxable.
- The Netherlands treat documentary credits as exempt. However, this treatment is currently under discussion.
- Norway treats these services as outside the scope of VAT.

4. *Provision of Loans*

Services relating to the provision of loans are treated as exempt in most Member countries. The following exceptions were noted:

- Austria, Belgium, Denmark, Finland, France, Germany, Greece, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden and UK treat the management of loans by persons other than the person granting the loans as taxable.
- Ireland treats the management of loans by persons not granting the loans, e.g. intermediaries or agents, as exempt.
- Mexico treats the commission on such services as taxable, except where the loan is a mortgage or for construction or acquisition of homes or when it is given to finance the purchase of goods subject to a zero rate, in which case exemption applies.
- Norway treats these services as outside the scope of VAT.

5. *Credit Card Services*

Charges relating to credit card services are treated as exempt in most Member countries. The following exceptions were noted:

- In Germany, the commissions from participating retailers are often subject to the option to tax.
- Hungary has not yet decided the liability of commissions from accepting businesses.
- Japan treats the cardholder annual membership fee as taxable. However, interest charges on instalment purchases which are payable by cardholders and commission from member agencies (payable to the credit card company) are exempt.
- Mexico taxes the real interest derived from credit cards. The membership fee is also taxable.
- Norway treats the services as outside the scope of VAT.

6. *Financial Guarantees*

A contract issued by a guarantor obliging them to indemnify a party for any loss arising from the failure or default of the other party to fulfil his obligation is treated as exempt for VAT purposes by most Member countries. The following exceptions were noted:

- Mexico treats the contract as outside the scope when the guarantor is an individual and taxes the premium earned when the guarantor is a financial institution.
- Norway treats the contract as outside the scope of VAT.

7. *Guarantee Claims*

The settlement by the guarantor of any liability under question 6 (financial guarantees) above is treated as either exempt or outside the scope of VAT by most Member countries:

- Outside the scope: Austria, Germany, Ireland, Italy, Japan, Luxembourg, Mexico, Norway, Portugal, Spain, Sweden and UK.
- Exempt: Belgium, Canada, Denmark, Finland, France, Greece, Hungary, Netherlands, New Zealand and Switzerland.

8. *Dealings in Financial Instruments and Shares*

The issue, sale, transfer or receipt of financial instruments and related services are treated as exempt by most Member countries. The following exceptions were noted:

- Italy treats supplies of bonds and government bills/gilts as exempt. Issue of bonds and government bills/gilts is outside the scope of the tax.
- Japan treats supplies of securities (e.g. Corporation bonds, shares and Government bonds) as exempt. The issue of securities is outside the scope of VAT, however the supply of securities for usage of golf grounds etc. are taxable.
- New Zealand excludes financial instruments which are used to transfer any interest in land which would otherwise be taxable.
- Norway treats dealings in financial instruments and shares as outside the scope of VAT.
- Mexico treats all such dealings as taxable, with the exception of government bonds and shares.
- Portugal taxes dealing in instruments which confer certain rights over land.
- Spain has the following exceptions: (1) “the issue, sale and transfer of instruments with values linked to goods and commodities; and (2) the issue, sale and transfer of instruments which are considered to confer property rights regarding real estate” are taxable.

9. *Stock Lending*

The lending of stock, for a fee to a counterparty, is treated as exempt by most Member countries. The following exceptions were noted:

- Italy and Norway treat this as outside the scope of VAT.
- Mexico treats such dealings as taxable.

10. *Share dividends*

The receipt of dividends by a company/individual is treated as exempt or outside the scope for VAT purposes by most Member countries:

- Outside the scope: Austria, Belgium, Denmark, Finland, Germany, Hungary, Ireland, Italy, Japan, Luxembourg, Mexico, New Zealand, Norway, Spain, Sweden and UK.
- Exempt: Canada, Greece, Netherlands, Portugal and Switzerland.

11. Futures

Contracts for the sale of a financial instrument or commodity at a fixed price at a stated, future date. Most Member countries treat these as either exempt or outside the scope for VAT purposes:

- Outside the scope: Belgium, Germany, Japan and Norway.
- Exempt: Austria, Canada, Denmark, Greece, Hungary, Ireland, Luxembourg, Mexico, Netherlands, Portugal and Switzerland.

The following exceptions were noted:

- Austria treats the related services of intermediaries as taxable.
- Belgium treats operations which give rise to the delivery of goods, which are subject to VAT, as taxable.
- Finland treats futures as taxable unless the object of the contract is currency, securities or other such property.
- France treats commodity futures as taxable on final delivery.
- Italy treats transactions relating to standardised financial futures as exempt. Commodity futures are not negotiated on the Italian market, hence the related operations are considered to be outside the scope. The intermediation of commodity futures traded in foreign stock markets and supplied to nationals is treated as exempt. Forward agreements relating to securities are exempt. However, forward agreements relating to commodities are considered to be taxable.
- New Zealand treats the supply of financial futures as exempt only if the supply occurs through a futures exchange, otherwise it is taxable.
- Spain treats the operation of financial futures quoted on official markets as exempt but treats as taxable futures linked with goods or commodities. There is only one official market in commodity futures. This market has special rules regarding VAT on its operations.
- Sweden treats trade in futures (standardised forward agreements and financial or commodity futures) on Swedish and foreign markets as exempt. If not standardised, the trade may be regarded as taxable transactions of goods and services. However, it is not possible to trade in financial or commodity futures on Swedish markets according to Civil law.
- The UK treats commodity futures as zero rated on a terminal market, unless a contract with a non-member leads to delivery in which case it is taxable or zero rated depending on the commodity involved. Financial futures are treated as outside the scope for own account trading and exempt for member/client transactions. Forward Agreements for the future delivery of goods are liable to VAT according to the liability of the goods in question.

12. Options

Options may be entered into in respect of interest rates, securities, stock indices, commodities and their derivatives. Fees for entering into an option contract are treated as exempt by most Member countries. The following exceptions were noted:

- Austria treats commodity options as taxable.

- Belgium places options outside the scope if the financial instrument / commodity is not physically handed over at maturity, otherwise they are treated as exempt. Operations which give rise to the delivery of goods, which are subject to VAT, are treated as taxable.
- Finland treats options as taxable if the object of such a contract is not currency, security or other such property.
- France treats options as exempt unless the supplier has opted to tax.
- Germany, Italy and Portugal treats commodity options as taxable.
- Japan treats the striking or sale of an option as outside the scope of VAT.
- Norway places options outside the scope of VAT.
- UK treats commodity options as zero rated on the terminal market otherwise, taxable. The exercise of options is outside the scope of VAT.

13. Swaps

Swaps are treated as exempt by most Member countries. The following exceptions were noted:

- Belgium treats swaps as outside the scope of VAT at the moment of commitment and exempt at maturity.
- Italy treats swaps as outside the scope of VAT. The services of intermediaries and the contract itself are treated as exempt.
- Japan treats the contract itself as outside the scope of VAT. Interest swaps and currency swaps are treated as exempt. However, brokerage fees or commissions payable for the services of an intermediary in connection with the making of arrangements for a swap contract are taxable.
- Norway treats swaps as outside the scope of VAT.

14. Underwriting financial instruments

Underwriting the issue of financial instruments e.g. guaranteeing to find buyers for all or part of an issue, including the services of sub-underwriters, is treated as exempt by most Member countries. The following exceptions were noted:

- Japan treats such operations as taxable.
- Mexico treats the fees and commissions earned for this service as taxable but treats the charge for issuing shares as outside the scope.
- Norway treats underwriting as outside the scope of VAT.

15. Dealing in Foreign Exchange

(See also Section 3.4 for extra information and a table illustrating the treatment of foreign exchange)

The exchange of currency between counterparties is treated as exempt by most Member countries. The following exceptions were noted:

- Belgium treats supplies used to hedge a bank's own risk, as outside the scope of VAT.
- Ireland, Luxembourg and Sweden treat such dealings as outside the scope for own account trading, and exempt for retail / wholesale trading.
- Italy treats the supply as outside the scope of VAT when an authorised bank participates in the exchange of currency.
- Mexico treats the exchange of currency as outside the scope but taxes any fees or commissions earned.
- Norway treats this as outside the scope of VAT.
- UK treats such dealings as outside the scope if undertaken at an agreed rate for no separate fee, and as exempt if a fee or commission is charged.

16. Financial Leases

Finance provided for the acquisition of goods by way of instalment credit or credit sale agreement in which the finance house takes title to the goods:

- The whole charge is treated as taxable by following Member countries: Belgium, Canada, Denmark, France, Greece, Hungary, Ireland, Luxembourg, Mexico, Norway, Portugal, Sweden and Switzerland.
- The following Member countries treat the charge for credit as exempt if it is separately disclosed: Austria, Finland, Germany, Japan, Netherlands, New Zealand, Spain and UK.
- Ireland treats credit by way of hire-purchase as exempt.
- Italy treats the charge for credit as taxable; on the contrary, it is treated as exempt for consumer credit.

17. Debt collection

Fees for the collection of outstanding debts are treated as taxable by most of the Member countries. The following exceptions were noted:

- Germany and Austria treat the collection of cheques, bills and other commercial papers as exempt.
- Belgium treats only the operation of true debt recovery as taxable. If the operation consists of debt transfer, an invoice endorsement, a discount or payment with subrogation, it is treated as exempt.
- Canada treats debt collections as exempt if the supplier of the service has taken on the financial risk of the debt.
- Italy treats services of debt collection as exempt.
- New Zealand treats debt collection as exempt. However, New Zealand treats the service of debtor tracing as taxable.
- Norway treats debt collection as outside the scope of VAT.

18. Debt Factoring

Debt factoring is treated as exempt in many of the Member countries. The following exceptions were noted:

- Denmark and Sweden treat the collection and administration as taxable.
- France treats debt factoring as exempt unless the supplier has opted to tax.
- Germany places non-recourse factoring outside the scope of VAT.
- Greece, the Netherlands, and Japan treat debt factoring as taxable.
- Ireland treats any related service charge as taxable.
- Luxembourg treats factoring as exempt, only if the company acquires title to the debt (treated as a credit transaction). Otherwise, factoring is taxable.
- Mexico treats factoring as outside the scope.
- Norway treats debt factoring as outside the scope of VAT.
- Switzerland treats recourse factoring as taxable if the factor has to settle accounts with respect to each individual payment received from the debtor.

19. *Safekeeping*

The provision of safe custody facilities, including safety deposit boxes, are treated as taxable by all Member countries.

20. *Financial Advisory Services*

The provision of advice regarding, for example, portfolio management, advice on the buying and selling of securities or advice in relation to market conditions, is treated as taxable by almost all member countries with the following exceptions:

- Netherlands treat advisory services relating to financial transactions as exempt.
- Norway treats such services as outside the scope of VAT.

21. *Provision of life insurance / reinsurance*

The provision by an authorised insurer of insurance against death is treated as exempt by most Member countries. The following exceptions were noted:

- Norway treats life insurance/reinsurance as outside the scope for VAT purposes.

22. *Provision of non-life insurance/re-insurance*

The provision by an authorised insurer of insurance cover relating to a specific risk (i.e. theft, loss, damage, illness etc.) in return for a periodic premium, including the services of brokers and agents is generally treated as exempt by Member countries. The following exceptions were noted:

- Mexico treats such insurance as taxable, with the exception of agricultural risk insurance.
- New Zealand treats such insurance as taxable.
- Norway treats such insurance as outside the scope of VAT .

23. *Settlement of Insurance claims*

The settlement by the insurer of claims arising under the provision of non-life insurance/reinsurance is treated as exempt or outside the scope in Member countries:

- Outside the scope: Austria, Denmark, France, Germany, Ireland, Japan, Luxembourg, Mexico, Norway, Portugal, Spain, Sweden and UK.
- Exempt: Belgium, Canada, Finland, Greece, Hungary, Italy, Netherlands, Switzerland.
- The following exceptions were noted:
- New Zealand treat claims paid to private persons as outside the scope of VAT, but taxable if paid to taxable persons.

24. *Loss adjusting services*

The provision of services relating to the assessment and negotiation of an insurance claim are treated as taxable in most Member countries. The following exceptions were noted:

- Belgium treats the services of valuation experts and loss adjusters as taxable. However, the services of claims handling and administration are exempt.
- Canada treats these services as exempt subject to certain provisions.
- Finland and Italy treat these services as exempt.
- Hungary treats such services as exempt if they are not 'expert advising'. 'Expert advising' services are taxable.
- Norway treats loss adjusting services as outside the scope of VAT.
- Sweden treats these services as exempt if they are supplied by the Insurance company, and are subordinate to the insurance service.
- The UK treats loss adjusting services as taxable. However, under the terms of a specific trade agreement, loss adjusting services provided in conjunction with claims handling and settlement services can be treated as a single exempt supply.

25. *Trustee services*

The provision of services as trustee for an estate, fund or special investment fund is treated as taxable in most Member countries. The following exceptions were noted:

- Such services do not exist in Finland, Portugal, Spain or Sweden.
- Italy treats trustees of an estate as taxable. However, all other operations are treated as exempt.
- In Hungary, if the administrator of the fund provides management services for a charge, then these services are exempt for VAT purposes. If no charge is made, the supply is outside the scope of VAT.
- Luxembourg treats such services as exempt. However, services in respect of special investment funds that are neither FCP (Fonds Commun de Placement) nor SICAV/SICAF are taxable.

- New Zealand treats trustee services relating to superannuation funds as exempt.
- Norway treats trustee services as outside the scope of VAT.

26. *Fund Management*

The provision of management services relating to a fund, is treated as exempt by a number of Member countries. For those Members which are also EU members, fund management is generally taxable with exemption for those investment funds which fall within the category of special investment funds as defined by the appropriate Member country. The following exceptions were noted:

- Canada and Finland treat fund management as taxable.
- Greece treats the management of mutual funds as exempt. Any other fund management services are treated as taxable.
- Hungary treats fund management as taxable unless it is supplied as part of a financial institution's activities.
- Ireland treats the management of investment portfolios (excluding special investment funds) and private funds as taxable.
- Luxembourg treats fund management as taxable. Services related to specific share or security transactions executed on client orders and the management of OPC (Organisme de Placement Collectif) are exempt.
- Mexico treats fund management as taxable except the management of pension funds.
- New Zealand treats fund management services as taxable unless the service involves either the collection of investment income (for example, dividends and interest) or the arranging or agreeing to buy and sell financial instruments.
- Norway treats fund management as outside the scope of VAT.
- Sweden treats fund management as taxable, except where the fund is an authorised security fund.
- UK treats fund management as taxable, except where the fund is an Authorised Unit Trust or an Open Ended Investment company (in which case the management of it is exempt).

27. *Professional services*

The provision of services by accountants/lawyers are treated as taxable by most Member countries with the following exceptions:

- Belgium treats the services of registered lawyers as exempt.
- Greece treats lawyers' services as exempt.
- Hungary treats legal services as exempt.
- Ireland treats such services as taxable or exempt, depending on the nature of the services.
- Norway who treats such services as outside the scope of VAT. A general service tax is under consideration by the Norwegian tax authorities.

4.2 Differences in the VAT Treatment of Financial Services and Instruments

The information detailed above in the commentary provides an indication of the treatment of financial services across Member countries. Generally, there is a basic level of consistency in the treatment of such services across Member countries. However, some significant differences can be identified.

The scope of indirect tax on financial services

There are some differences in the scope of VAT in Member countries.

Norway excludes all services from the scope of VAT.

Mexico, on the other hand, applies a positive rate of tax to the majority of financial services but exempts loan interest, swaps, options, futures, and life assurance and treats foreign exchange dealing and debt factoring as outside the scope. This is interesting as it is popularly considered that distortions can arise from the taxing of credit and loans whilst derivative products remain exempt (thereby leading to a switching from fees and commissions to margin-based supplies to avoid taxation).

New Zealand applies a positive rate of tax to non-life insurance premiums.

The liability of financial services

Whilst some differences have been identified in almost all the services and instruments mentioned, many of the differences are not sufficiently significant to give rise to distortions. There are, however, a few specific differences which may lead to competitive and economic distortions. These are:

(i) Dealing in foreign exchange

The differences in treatment of foreign exchange arise in respect of dealing where no fee or commission is paid (any profit being made on the margin). The question is whether such a transaction is a supply for VAT purposes or is outside the scope of the tax.

Where both the buyer and seller are within the same Member country or within the EU, the differences in treatment are unlikely to give rise to any significant indirect tax consequences.

However, where deals are made cross-border or between EU and non-EU counterparties, the difference in treatment will cause a disparity in the seller's ability to recover VAT on costs. In some cases, the value of VAT at stake is likely to be significant in commercial terms.

In respect of services which do not carry the right of tax deduction on VAT costs, differences in treatment could lead to an increase in the cost base of financial institutions located in Member countries where foreign exchange dealing is treated as outside the scope of VAT. Taxable multi-nationals, on the other hand, may benefit if foreign exchange dealing is treated as a general overhead and not as a specific exempt transaction. This treatment may affect the competitiveness and profitability of financial institutions when compared to those located in jurisdictions where recovery of VAT is permissible.

(ii) Financial leasing

Many Member countries treat the whole of any leasing charge as taxable, whereas others treat the finance (or interest) element as exempt. (It is possible that the precise terms of the leasing agreement would affect Member countries' analysis of the liability of this service, but such information was not made available).

This could affect the fiscal yield since those countries applying VAT to the whole charge allow the VAT to flow through the system and to be borne by the end user, whereas those countries which exempt part of the charge, create "hidden tax".

(iii) Fund management

Some Member countries treat fund management as exempt whereas others treat it as taxable. If VAT were the only factor, this difference in treatment may encourage businesses to set up investment funds in jurisdictions which exempt fund management services and buy the services from a jurisdiction which taxes them. This may allow the services to be purchased without "hidden tax" and without application of VAT on the imported services.

Non entrepreneurs may, in principle, seek to purchase fund management services from a jurisdiction which exempts such services and so incur only the "hidden" tax element which is likely to be considerably lower than VAT on the whole of the fee.

(iv) Debt factoring / debt collection.

There are many apparent differences in the VAT treatment of these services between Member countries. However, the indications are that the differences are actually a matter of variation in interpretation of the nature of the services. In general, it appears that if a debt is sold and the risk passes to the purchaser, the sale is an exempt supply for indirect tax purposes. Fees for administration and tracing bad debtors are generally taxable.

The differences in the treatment of specific types of contract for these services, such as recourse contracts, seem unlikely to lead to significant economic or competitive distortions.

(v) Trustees

Again, some Member countries treat trustee services as exempt and some as taxable. In principle, this could encourage customers to purchase services cross-border to avoid a VAT charge. However, given the nature of these services, it is likely customers would require the trustee to be subject to the laws of their own jurisdiction. Further, there may be regulatory considerations which would militate against cross-border provision of such services.

4.3 Differences and potential distortions

Some of the differences identified could potentially lead to distortions within Member countries. For example, in countries where financial leasing is taxable, certain consumers who are not able to recover input VAT may restructure agreements to purchase assets under one contract and take a loan or credit under a separate agreement thus avoiding VAT on the interest payable.

Differences may also lead to distortions between Member countries. For example, in order to avoid a VAT cost, private investors may seek to obtain fund management services from Member countries which exempt those services. Thus VAT would become an influencing factor in the investor's choice of supplier.

Research has not been undertaken to establish the fact, extent or impact of any such distortions. However, it is clear from many Member states' recent experience concerning supplies of telecommunication services that businesses are prepared to go to some lengths to restructure their purchasing arrangements to reduce VAT costs which in addition to the adverse VAT consequences may be undesirable from a wider economic perspective for the country concerned.

4.4 Services subcontracted by financial institutions

A recent case heard by the European Court of Justice ("ECJ"), *Sparekassernes Datacenter*, may have an impact on the scope of the exemption from VAT for financial services in European Union member countries.

Sparekassernes Datacenter ("SDC") was set up by an association of Danish savings banks to carry out functions they would otherwise have to carry out themselves from their own resources. The services are performed primarily by electronic means, and similar services are also provided to other financial institutions. They include services relating to credit transfers, advice on and trade in securities, and the management of deposits, purchase contracts and loans.

The ECJ considered questions raised by the Danish Court in relation to points 3-5 of Article 13B (d) of the 6th EU VAT Directive. However, the judgement concentrated largely on services relating to transfers of funds and payments, and the scope of the exemption for transactions concerning payments and transfers (*paiements, virements* in French) in Article 13B (d) 3.

The ECJ made it clear that the exemption was not limited to bodies of a particular status, such as banks, nor to the services supplied by banks to their customers. Supplies by a subcontractor to a bank were accordingly not necessarily excluded from exemption. However, the ECJ laid down strict criteria to be met if a subcontracted service were to qualify for exemption. In particular, it must be an exempt transaction in its own right, and it is not enough that it may be indispensable to an exempt transaction carried out by a bank.

Those EU Member States which previously limited exemption to the services of financial institutions or banks, or excluded from exemption sub-contracted services provided in connection with payments and transfers, may need to reconsider the treatment of such services in light of this decision.

5 RECOVERY OF VAT INCURRED BY FINANCIAL INSTITUTIONS

This chapter contains information on the basis on which clearing banks and merchant banks currently recover VAT incurred on expenditure. The key differences for insurance companies are explained at the end.

Information on VAT recovery was received from the following countries:

Canada, Denmark, Finland, Hungary, Ireland, Italy, Japan, Luxembourg, The Netherlands, New Zealand, Norway, Portugal, Spain, Sweden and the UK.

For the purpose of this chapter, “Member countries” refers only to the aforementioned countries.

A summary of the information provided by Member countries is set out below stating the majority position and detailing any exceptions.

5.1 Recovery of input tax directly relating to taxable supplies

All the Member countries stated that VAT incurred on purchases which could be *directly attributed* to the making of taxable supplies could be fully recovered, with the exception of Norway which does not allow recovery of any VAT incurred by financial institutions. Also, see section on Italy below.

5.2 Recovery of input tax directly relating to supplies made to customers outside the Member country (or outside the EU) and/or supplies made in connection with the export of goods.

With the exception of Norway and Hungary, all responding Member countries stated that the VAT incurred in connection with the supplies made to customers outside the Member country (or EU), or supplies in connection with exports of goods outside the Member country (or EU), could be recovered in full.

In some cases, it is also necessary to demonstrate the use to which the supply would be put outside the Member country.

5.3 Recovery of VAT incurred on certain types of expenditure.

Information was requested on whether VAT incurred on certain types of expenditure was irrecoverable, regardless of whether it can be directly related to taxable supplies.

In most cases, Member countries limit or deny the recovery of input tax on entertainment and many of the responding countries indicated that input tax incurred on the purchase of, for example, company cars, gifts etc., is not recoverable.

The following table sets out examples of expenditure on which recovery of VAT is restricted:

	Expenditure on which VAT is irrecoverable
Canada	50% of the cost of entertainment
Denmark	Cars, hotels, entertainment, gifts
Finland	Entertainment, passenger cars
Greece	Acquisition, maintenance and fuelling of passenger cars and motorcycles, entertainment aircraft and ships/accommodation/travel expenses/food and drinks/tobacco
Ireland	Petrol, entertainment, margin scheme goods, food/drink, accommodation, personal services, cars
Italy	Vehicles, aircraft, ships, motor cycles and fuel, hotel services, food/drink.
Luxembourg	Non business e.g. "luxuries, amusement or entertainment"
Japan	No restrictions apply
Netherlands	Not specified
New Zealand	Certain types of entertainment - adjustment of 50%
Norway	All (for a bank or a financial institution)
Portugal	Cars, fuel, travel expenses, entertainment, tobacco, luxuries
Spain	Gifts, cars, entertainment, food/drink, tobacco, luxuries
Sweden	Entertainment exceeding a certain value, passenger cars & motor cycles. Leasing of cars - recovery 50%. Accommodation for permanent use and margin scheme goods
Switzerland	Entertainment, the acquisition and maintenance of motorcycles with a cubic capacity of more than 125 cubic centimetres, sailing and motor boats, sporting aircraft, 50% of tax paid on expenses for board and beverages
United Kingdom	Cars, entertainment, car leasing 50%

5.4 Scope to recover input tax on expenditure which cannot be directly attributed and which is partly used to make taxable supplies.

In practice, a substantial proportion of input tax incurred on expenditure by financial institutions cannot be attributed directly to either taxable or exempt outputs but is used in part, or to some degree at least, to provide taxable outputs. There is considerable variety between Member countries concerning the basis on which VAT recovery is calculated. There is no information available at this time to determine whether the extent of any differences in the methods used to calculate the deductible input tax affect the overall level of VAT recovery.

Canada

In principle, it is possible to use the 'single pot' revenue based method or to divide the business into sectors, but it is optional. Use of specific methods are neither prescribed by legislation nor subject to prior consent or agreement with the revenue authority. Input tax credit claims and the underlying methods used by the registrant to determine this amount are verified at the time of audit by the revenue authority.

Denmark

In principle, it is possible to use either the 'single pot' revenue based method or to divide the business into sectors. However, the most commonly used basis is to apply a standard recovery percentage. This is used both for general clearing bank business and for supplies of deposit boxes. Unfortunately no information was available indicating the range of recovery percentages for banks, how the figures would be arrived at nor if it is established individually for each bank.

Finland

No method of calculating the recovery is set out in the Finnish legislation. However, the most commonly used method is direct attribution of taxable/exempt supplies followed by the 'single pot' income based pro rata calculation.

Hungary

In principle, it is possible to use a 'single pot' revenue based pro-rata method. However, in practice, this is not applied as the volume of revenue from taxable activities is very small, and the cost of calculating the recoverable input VAT would outweigh the benefit.

Ireland

In principle, banks can use a 'single pot' revenue based pro-rata method. However, most banks divide their business up into the following categories:

- leasing
- hire purchase
- trustee services / advice
- debt factoring
- property development
- other financial services.

Allocation of particular costs to these sectors may be on a transaction basis, use of employees basis, floor space allocated basis, use of heat and light or use of computers etc., and the recovery of each

sector is normally determined by the taxable turnover taken as a percentage of the total turnover for that sector.

Italy

It is not possible to use the direct attribution method in Italy unless the taxable activity in question is separately accounted for. It is acceptable to divide the business into activities and it is usual to separately account for financial instruments and shares and other financial activities. The recovery percentage is calculated for each sector as a value based pro rata deduction. Recovery is not allowed on non depreciable goods and services which are used for both exempt and taxable activities. However, institutions can recover the relevant proportion of VAT on capital (depreciable) goods allocated to each period of depreciation. Institutions can also opt not to recover any input tax.

Japan

Two 'single pot' revenue based methods are used. Either all input tax incurred is recovered using a values based pro-rata calculation, or where possible input tax is directly attributed to taxable or exempt supplies and the remainder is recovered using a values based pro-rata method.

Luxembourg

A single pot values based pro-rata method is most commonly used.

Netherlands

Banks can only use a 'single pot' value based pro-rata method. They are not allowed to divide the calculation into separate activities.

New Zealand

Three methods are accepted; direct attribution, turnover or a special method. Banks can use a 'single pot' value based pro-rata method. In practice, the majority of banks apply such methodology to establish allowable 'input tax'.

Norway

No recovery is allowed.

Portugal

Banks can use a 'single pot' value based pro-rata method. However, usually the banks separate their taxable activities into sectors, such as leasing and the sales of collector's coins. Usually a value based pro-rata is applied to the other financial services, although in cases where taxable supplies are negligible, the banks may elect to be treated as fully exempt.

Spain

Banks are not allowed to use a 'single pot' value based pro-rata method. They must separate their calculations between financial operations, leasing and sales of real estate. Within these sectors it is usual to use the value based pro-rata calculated on the turnover of each sector.

Sweden

Banks cannot use a 'single pot' value based pro-rata method for all their input tax. Where possible, direct attribution is undertaken. Where this is not possible, input tax must be subdivided on reasonable grounds. In practice, input tax is divided between VAT related to investment costs (buildings, machinery and inventory) and VAT related to non investment costs. Banks may use a single pot values based pro-rata method for non investment costs. VAT on investment costs must be considered individually.

Recovery methods (for example based on the number of personnel in certain activities) are subject to agreement with fiscal authorities.

Switzerland

The Swiss authorities accept either direct attribution, or a 'single pot' value based pro-rata method related to the amounts of gross profit made in the different categories of banking transactions such as granting loans, dealing in securities etc., with taxable and exempt elements being added up separately where necessary. In practice, the majority of banks apply this pro-rata based calculation to establish allowable input tax.

United Kingdom

In principle, clearing banks could use a 'single pot' value based pro-rata method. However, in practice, methods are sectorised. Typical examples of the sectors used are:

- core banking (retail / corporate lending and treasury)
- financial instruments and capital markets
- leasing
- investment/advisory.

Allocation to the various sectors can be done using a variety of methods method. The recovery of the input tax allocated to each sector is usually calculated on a value based pro-rata using the turnover of the sector concerned.

5.5 Income/activities excluded from a calculation to establish the percentage of recoverable VAT

In general, where any income is excluded, the categories of such exclusions are similar; where there are exclusions these are typically sales of property, sales of capital assets, income arising from the issue of share capital and dividend income.

The following table sets out whether Member countries exclude particular types of income from a value-based calculation:

	Income excluded from a value-based calculation
Canada	Sale of property, dividends and interest from related corporations.
Denmark	Such calculations are not used by clearing banks in practice.
Finland	No rules.
Hungary	Occasional sales of tangible assets.
Ireland	Sale of property, capital assets, issue of share capital, dividend income (but only when the bank is not running the business). In-house foreign exchange is excluded but wholesale/retail forex is included.
Italy	No rules but activities which are outside the scope cannot be treated as separate sectors (e.g. issue of share capital and dividend income).
Luxembourg	Disposal of tangible/intangible capital goods, transactions concerning the supply of property and leasing or letting.
Japan	Means of payment, cash credit, guaranteed income contract bonds (Government Bonds etc., Certificate of Deposit, Commercial Papers) and sales of securities etc.
Netherlands	Sales of capital assets in real estate.
New Zealand	Issue of share capital, dividend income from subsidiaries, gross property sale proceeds, and distortive supplies.
Norway	Not applicable.
Portugal	Sales of fixed assets, real estate (if incidental).
Spain	Sales of capital assets and real estate.
Sweden	Subsidies, dividends, sale of capital assets and real estate (if incidental).
Switzerland	Non-banking activities (e.g. staff restaurants, software development for third parties, leasing of goods).
UK	Distortive supplies (e.g. off-balance sheet financial instruments), dividends, foreign exchange.

5.6 Inclusion in the recovery calculation of VAT generated by services imported by banks

In all cases, the responding countries stated that input tax which arises from imports of services is treated in the same way as any other input tax incurred by the bank or financial institution.

5.7 Administration - frequency of calculation and returns

In most cases, although there may be a requirement to submit returns more frequently, the calculation to establish the recovery rate is only made once a year. The VAT returns submitted during the year are calculated based on the previous year's recovery percentage and an adjustment is made in the final return of the year or in a subsequent return, in order to establish the correct level of recovery for that year.

There is considerable variance in the time at which a claim can be made and the speed with which such a claim would be paid by the fiscal authorities, and this can be seen in the following table. In Denmark's case, since a standard recovery is used, there is no requirement to make individual calculations and in Norway's case, since no VAT is allowed, no calculations are required.

	When a claim can be made	When the authority will pay
Canada	A financial institution must complete and file an annual return, unless the registrant elects to file monthly or quarterly returns.	Payment made within 21 days or interest is payable.
Denmark	The claim is made quarterly.	Payment is made at the latest three weeks after the return is submitted.
Finland	Net payment claimed at the end of accounting period/exceptionally monthly.	Paid as soon as possible
Hungary	Monthly tax periods where VAT due exceeds 1,400,000 Forints	If tax authority has to pay refund will be made within 30 days of the claim.
Ireland	Claim made monthly or bi-monthly if VAT registered. If not registered, at any time on a special form.	Repayment made within 10 working days of receipt of form in 80% of cases.
Italy	Payment claimed at the end of accounting period (annual VAT return)	Three months after return submission
Japan	Within two months of the end of the tax period. The tax period means the accounting period or calendar year. The tax period may be shortened to three months.	Prompt action taken
Luxembourg	Tax periods are normally monthly for credit institutions. If the amount of deductible tax exceeds the tax due, the excess is carried forward to the following period.	No answer provided
Netherlands	Claim made monthly.	Payment made when processed.
New Zealand	Return (monthly if annual turnover greater than \$24m otherwise two monthly) due by the last working day of the month following the end of the taxable period.	If a refund is due, payment must be made within 15 working days or interest is payable (except where the Commissioner disputes the return)
Norway	Not applicable.	Not applicable
Portugal	Claim made monthly on the VAT return.	Paid within 3 months or interest due.

	When a claim can be made	When the authority will pay
Spain	Claim made in the last return of the year	Repayment made within 6 months or interest due.
Sweden	Claim made monthly if turnover is in excess of 1m Swedish Krona.	Paid as soon as possible.
Switzerland	A financial institution must complete and file quarterly returns. If deductible input tax exceeds tax due, the surplus is refunded. The calculation of deductible input tax is based on the previous year's recovery rate. Annual adjustment is made in order to ascertain the correct level of input tax recovery.	If a refund is due, payment must be made within 60 days after receipt of the tax return or interest is payable. The use of the surplus of deductible input tax as a security against tax due is reserved.
UK	Provisional calculations (usually based on the previous year's recovery rate) made quarterly and paid. Annual Adjustment is made in order to ascertain the correct level of input tax recovery.	No answer provided

5.8 In calculating the VAT recovery, can the recoverable percentage in any pro-rata based calculation be rounded up to the next whole number?

In general, responding countries did not allow rounding up; however, the exceptions to this were Italy, Luxembourg, the Netherlands, Portugal and Spain who all allow the recoverable percentage to be rounded up to the next whole number. New Zealand does not have any specific requirements with regard to the rounding.

5.9 Insurance companies

The responses received in respect of insurance companies differed with regard to the categories of activity into which the business is divided. As a general rule, it appears that insurance companies use sectorisation more consistently across Member countries than banking institutions. The key differences from banks are set out in the table below:

	Sectors into which business is divided
Canada	Direct allocation is firstly used. The legislation requires that allocation methods used by the person must be fair and reasonable in the circumstances. The legislation does not prescribe use of any specific method of input tax credit allocation.
Denmark	Sectors used are typically: <ul style="list-style-type: none"> ■ Insurance activities; ■ Property activities; ■ Other accessory activities. The recovery basis for each sector is calculated on a revenue base pro rata.
Finland	There are no special provisions.
Ireland	Activities will be typically divided into taxable and exempt activities. Taxable activities: property transactions, actuarial services, loss adjusting services, engineering inspections, taxable fund management. Exempt activities: insurance, reinsurance, securities trading, exempt fund management. The recovery is then calculated using a revenue based, pro-rata formula.

	Sectors into which business is divided
Italy	Activities are typically divided into two main categories: <ul style="list-style-type: none"> ■ Real estate management; ■ Insurance and financial instruments and shares management.
Netherlands	Business cannot divide activities.
New Zealand	In practice, no separation is made. However, the authorities give preference to the practice of tracing GST to discrete cost centres which are wholly exempt or taxable. These functions may include life, general, treasury/investment, advisory services etc.
Norway	Not applicable.
Portugal	There are no differences in the treatment of insurance companies and banks.
Spain	All activities of insurance companies are encompassed in a single pro-rata calculation.
Sweden	There is no specified scheme, but the recovery may be based on turnover.
UK	Insurance companies typically divide their activities into: <ul style="list-style-type: none"> ■ Core insurance; ■ Investments; ■ Property. The recovery for each sector of the business is usually based on the values-based pro-rata calculation.

One anomaly was identified from the information received in respect of insurance companies. In the Netherlands, input tax incurred in respect of supplies of insurance to non-EU customers is not recoverable, nor is input tax related to the insurance of exports of goods.

5.10 Commentary

Member countries may wish to review the permitted methods of recovery of input tax to determine whether these give scope for distortion of competition.

The current purchases for which no input tax recovery is allowed are fairly consistent between Member countries and could be formalised; similarly, the categories of excluded income show a reasonable level of consistency and could also be formalised.

It has been agreed by some that further benefit may accrue from standardising the principles of recovery so that institutions in Member countries would have an improved level of certainty with regard to the calculation to be used. This matter was raised by the German Bankers' Association as having fundamental importance at a commercial level, and formed part of their reason for not exercising the option to tax financial services as widely as expected. It is unclear whether other institutions share this view.

It is unlikely that the differences in input tax recovery would form a consideration for a financial institution when deciding where to locate its operations. Other fiscal and market factors are likely to be far more significant. However, differences in this area may affect the profitability of the organisation in a number of ways:-

- The actual amount of VAT on expenditure which may be recovered.
- The administrative cost of applying a complex recovery formula and the related administrative costs.
- The cashflow cost, depending on frequency and timing of repayments of input VAT.

- The certainty of the fiscal calculations (these can often be adjusted retrospectively).

As regards the tax yield, those countries which indicate high levels of recovery by financial institutions are likely to be suffering a reduced yield from tax measured against those countries demonstrating low levels of recovery. In the absence of information relating to the value of tax incurred by financial institutions in each Member country, it is not possible to evaluate the significance of this.

6. Foreign Exchange

6.1 Treatment of foreign exchange

Foreign exchange has been identified as an area of particular interest because there are differences in the treatment of foreign exchange transactions across Member countries. In order to address this issue, information has been provided on the following points:

- Are foreign exchange transactions, where profit is earned on the margin (i.e. the difference between buying and selling prices) and no fee or commission charged, treated as a supply for VAT purposes?
- If such transactions are treated as a supply, what is the liability and how is the basis of valuation established?
- Even if foreign exchange transactions are not treated as supplies for VAT purposes, is input tax recovery allowed, and if so, on what basis?

The replies obtained in response to these questions are summarised in the table below.

	Is it a supply for VAT purposes?	What is the Liability/Valuation basis?	Can related input tax be recovered?
Austria	No	N/A	N/A
Belgium	Yes	Exempt (unless hedging a bank's own risk, in which case outside the scope). Basis of valuation is profit margin plus commission received.	No, unless the supply is to a counterparty outside EU.
Canada	Yes	Z/R or exempt. "No need to establish a basis of valuation".	No, unless the supply is to a counterparty outside Canada.
Denmark	No	N/A	No recovery
Finland	Yes	Exempt. Basis of valuation is difference between purchase and selling price.	No, unless the supply is to a counterparty outside EU.
France	No	N/A	No

	Is it a supply for VAT?	What is the Liability/Valuation basis?	Can related input tax be recovered?
Germany	Yes	Exempt	No, unless the supply is to counterparts outside the EU
Greece	No	N/A	No
Ireland	Wholesale/retail trading - yes Own account trading - no	Exempt. Basis of valuation is the net margin N/A	No, unless supply is counterparty outside the EU. Directly attributable to own account f/ex - disallowed Residual: bank's own account foreign exchange transactions not included in calculation.
Italy	No	N/A	No
Japan	Yes	Exempt	No
Luxembourg	Yes	Exempt if carried out on behalf of third parties. Basis of valuation is profit margin plus commission received. Outside the scope if carried out for the institution's own account.	No, unless the supply is to a counterparty outside EU.
Mexico	Yes	Exempt	No
Netherlands	Yes	Exempt. Basis of valuation is the net revenue or fee paid.	No, unless the supply is to a counterparty outside the EU.
New Zealand	Yes	Exempt. Z/R if the service is physically performed outside NZ, or the service is supplied in NZ and provided to a non resident who is outside NZ at the time the service is performed. Basis of valuation is the net margin.	No, unless the supply is to a counterparty outside New Zealand.
Portugal	No	N/A	No
Sweden	Yes	Exempt if carried out on behalf of third parties. Basis of valuation is profit margin plus commission received. Outside the scope if carried out for the institution's own account.	No, unless the supply is to a counterparty outside EU.
Spain	Yes, except if exchange rates to antique pieces or collectors' gold, silver and platinum coins.	Exempt	No, unless the supply is to a counterparty outside EU.
Switzerland	Yes	Exempt	No
UK	No	N/A	Input tax is only deductible to the extent that foreign exchange transactions are undertaken to support supplies for which there is a right to deduct input tax.

6.2 Differences in the treatment of foreign exchange

The table above shows that there are differences in the treatment of foreign exchange dealing, where no fee or commission is paid by the customer and profit is earned only on the margin. In some Member countries such dealing is treated as a supply for VAT purposes, and in others it is outside the scope of VAT. Significantly, 7 of the EU countries that responded stated that they did not treat such transactions as a supply for VAT purposes. Belgium, Germany, Finland, Luxembourg and Sweden stated that such supplies were within the scope of VAT. However, the treatment varies slightly across these four Member countries.

Very little information was provided on the basis of valuation, even when the transaction was considered to be a supply for VAT purposes.

It is possible that the differences in treatment lead to distortions, particularly in the level of input tax recovery achieved by institutions in different Member countries. This would impact the level of “hidden tax” passed on to taxable customers.

It should be noted that the decision of the European Court of Justice (ECJ) in the First National Bank of Chicago case may have a significant impact on the treatment of foreign exchange transactions in EU Member countries.

The case concerns the treatment of foreign exchange transactions and at the time of writing is waiting to be heard. In particular, two points are to be addressed:

- Do foreign exchange transactions constitute the supply of goods or services effected for consideration, even where there is no separate fee or commission?
- If there has been a supply of goods or services effected for consideration, what is the consideration, for the transaction?

The Advocate-General has given his opinion on the above two questions, concluding that foreign exchange transactions do constitute a supply for VAT purposes; the value of the supply being the bid-offer spread. If the ECJ follows the Advocate General’s opinion, this will have a significant impact on the treatment of foreign exchange transactions for those EU Member countries which do not currently treat foreign exchange transactions as supplies.

7. Conclusions

7.1 VAT Treatment of Financial Services and Instruments

There appears to be a similarity in the type of financial services which are treated as taxable and those which are treated as exempt.

Exceptions to this principle arise in Member countries where a form of indirect tax has been applied to the main banking services such as current accounts, loans and dealing in money. That is to say in Australia, Mexico, Japan and Turkey. There may be merit in conducting some further work to identify the full scope and effects where these services are treated as liable to VAT.

Other exceptions relate to specific supplies; for example, New Zealand taxes non-life insurance premia; and there is a variety of treatments for financial leases, trustee services and fund/portfolio management.

Competitive distortions may arise from the difference in VAT treatment where the service in question is of a type which can easily be supplied cross-border; for example fund/portfolio management.

7.2 Valuation of Financial Services and Instruments

For services which are fee/commission-based or interest-based, the value of the supply is taken to be the fee/commission and/or interest paid to the supplier. Whether this value can be said to equate to the “value-added” has not been addressed during this study. As most of the financial services are exempt, it has proved difficult to establish whether the basis of valuation is consistent between Member countries.

For those supplies where the income is earned on the margin between the buying price and the selling price, there is little consistency between Member countries regarding valuation for indirect tax purposes. Supplies affected include:

- lending, interest income
- derivatives (futures, options, swaps)
- foreign exchange
- stock lending
- commercial paper.

In many cases, Member countries are not able to attach a value to the supply because they are not subject to a positive rate of tax. As these categories of financial service are generally treated as exempt, the impact of a variation in the basis for valuing the services may not be immediately apparent.

However, it is likely that the differences will lead to a distortion in the percentage of tax which is recoverable on related expenditure. If the basis of valuation affects the level of input tax recovered, it could affect the tax yield from institutions in certain Member countries. In addition, certain institutions may have a higher cost base, depending on the country in which they operate.

There are no precise rules in Member countries to determine the value of financial services for the purpose of calculating the amount of deductible input tax. It is likely there are significant differences in the way institutions value their services in practice.

Whether such differences impact on domestic or international markets for financial services is difficult to determine given the number of other factors which might influence trade on the markets.

7.3 Recovery of VAT Incurred

The methods used to establish the recoverable proportion of tax on expenditure vary considerably between Member countries. As indicated above, Member countries may wish to review the permitted methods of recovery to determine whether these give scope for distortion.

However, this is not the only factor which is likely to influence the rate of recovery. There are a number of variable factors which may influence recovery:

- the nature of supplies made by financial institutions which may be determined by regulation or custom in any country
- accounting practice
- basis of valuation of supplies
- expenditure on which recovery of tax incurred is not allowed
- de minimus and relieving provisions.

Any inconsistency of treatment in the latter two categories would be a fruitful area for further study.

The differences in the three other categories are more difficult to resolve as the implications for change extend beyond indirect tax.

7.4 Potential Distortions

At present, there is little reliable information regarding the quantum of “hidden” tax arising from the broad exemption of financial services. This makes it difficult to form a view as to whether it is worthwhile undertaking strategies to eliminate the differences in treatment. That said, it would appear that the types of distortion arising can be broadly categorised as follows:

- distortions leading to competitive advantage/disadvantage between suppliers of financial services in the same Member country;
- distortions leading to competitive advantage/disadvantage between suppliers of financial services in different Member countries; and
- distortions caused by the variation in the level of “hidden” tax passed through to taxable businesses.

It is not possible from the level of information provided by Member countries either to determine the overall extent to which any of these distortions arise in practice, nor the quantum of any such distortions. It would appear, however, that such distortions *do* arise in practice.

A key step in determining the economic and competitive effect of these distortions would be to quantify the level of ‘sticking’ or cascading tax arising from the exemption of most financial services and instruments.

7.5 Possible Further Action

This Report and the discussions in the Group suggest that differences do exist in:

- the VAT treatment of financial services;
- the valuation of financial services;
- the basis of the recovery of VAT incurred;

and members countries may wish to consider action to eliminate some or all of these differences, as well as the variations in the administrative rules governing the submission of returns, the timing of payments or repayments of VAT, and general VAT accounting procedures.

Moreover, the experience of those Member countries which tax services that are generally treated as exempt could be sought to determine which services may be brought into charge under the existing taxation regime.

However, Member countries have already expressed concerns about implementing changes to the existing systems of taxation in the absence of a clearer understanding of the effects and level of hidden tax arising from the exemption of most financial services, and of the revenue and economic effects of any move to taxation.

Given these uncertainties, Member countries have agreed to await a further report from the European Commission to evaluate the likely economic and revenue effects of any move to taxation before undertaking any further work.

Appendices

I. Glossary

II. Notes to questionnaire on VAT treatment of financial services and instruments - Table 1.

Glossary

1. Dealing in Money

Services provided in connection with the issue of, receipt of, dealing in, or transfer of money. Specific services include:

- transfers of money between accounts
- provision of bankers' drafts
- cable transfer charges
- clearing services
- direct debits
- issue or dealing in commercial paper / promissory notes.

2. Operation of Bank Account

Services provided in connection with the operation of an account; including:

- transaction charges
- interest / service charges
- issue of standard cheque books
- overdraft charges

3. Documentary Credits

An international trade finance facility, relating to credit or guarantees in respect of:

- exports of goods
- imports of goods

4. Provision of loans

Includes:

- the granting of credit, secured or unsecured, to a customer
- the receipt of a commitment fee in connection with the granting of credit
- charges made by an intermediary for making arrangements for the granting of credit.

5. Credit Card Services

Charges relating to credit card services, including:

- fees received from the card holder
- interest charges
- annual charges
- commission from participating outlets.

6. Financial Guarantees

A contract issued by a guarantor obliging him to indemnify a party for any loss arising from the failure or default of the other party to fulfil his obligation.

7. Guarantee Claims

The settlement by the guarantor of any liability arising under a financial guarantee, described at 6. above.

8. Dealing in Financial Instruments and Shares

The issue, sale, transfer or receipt of financial instruments including:

- bonds
- certificate of deposit
- shares and stocks
- co-operative investments
- government bills/gilts

Charges by intermediaries for the making of arrangements for transactions in the above instruments, including the underwriting of share and stock issues.

9. Stock Lending

The lending of stock, for a fee to a counterparty (the equivalent stock to be returned at an agreed date).

10. Share Dividends

The receipt of dividends by a company / individual.

11. Futures

Contracts for the sale of a financial instrument or commodity at a fixed price at a fixed future date. Standard contracts are used and these are authorised by a regulated market.

a. Financial Futures

The sale as principal of a financial futures contract, and the services of intermediaries in connection with the making of arrangements for the sale of a financial futures contract

- to a market member
- to a non-market member

b. Commodities Futures

The sale as principal of a commodities futures contract, and the services of intermediaries in connection with the making of arrangements for the sale of a commodities futures contract:

- to a market member
- to a non-market member

c. Forward Agreements

These are contracts entered into outside the regulated markets. The form of contract is not necessarily standardised. However the principle of agreeing a sale at a fixed price on a fixed future date is consistent.

12. Options

Options may be entered into in respect of interest rates, exchange rates, securities stock indices, commodities and their derivatives.

For example, in an interest rate option, the purchaser of the option has the right (but not the obligation) to lock into a predetermined interest rate for a given period of time. The writer of the option is exposed to a market risk in respect of interest rate movements.

Options may be contract over the counter (i.e. directly between counterparties) or through recognised exchanges.

The supplies may include:

- the grant of an option

- the close-out of an option
- the exercise of an option
- making arrangements for any of the above services.

13. Swaps

Swaps may be entered into in respect of interest rates or currencies. In the classic interest rate swap, two parties contract to exchange interest payments (and sometimes principal payments) on the same amount of indebtedness of the same maturity and with the same payments dates, with one providing fixed interest rate payments in return for variable rate payments from the other.

Supplies may include:

- contracting as principal to a Swap agreement
- the receipt of a periodic payment (e.g. interest) under the agreement
- the services of an intermediary in connection with the making of arrangements for a Swap contract.

14. Underwriting Financial Instruments

Underwriting the issue of financial instruments, e.g. guaranteeing to find buyers for all or part of an issue, including the services of sub-underwriters.

The fee will sometimes take the form of a discount (i.e. underwriter buys instruments after the issue at, say, 2% less than the estimated market value). The underwriter's income will therefore derive from the difference in buying price and selling price (i.e. the "turn").

15. Dealing in Foreign Exchange

The exchange of currency between counterparties:

- spot (bought at the current exchange rate)
- forward (agreement to buy a fixed price amount at a future date and price)
- over the counter (supplied to customers at the spot rate plus a fee).

16. Financial Leases

Finance provided for the acquisition of goods by way of instalment credit or a credit sale agreement. This includes:

- repayment of capital
- separately disclosed charge for credit.

17. Debt Collection

Fees for the collection of outstanding debts.

18. Debt Factoring

Recourse factoring: An advance is provided calculated on a discounted value of debts recoverable. The factor takes title to the debts but has the right to assign back those debts not paid by a given date.

Non-recourse factoring: Factor purchases debts at a discount taking into account the risk of non-payment since the title to the debts cannot be assigned back to the original supplier.

19. Safekeeping

The provision of safe custody facilities, including safety deposit boxes.

20. Financial Advisory Services

Provision of advice regarding, for example, the buying and selling of securities or advice in relation to market conditions.

21. Provision of Life Insurance / Reinsurance

Provision of insurance against death - often linked to a mortgage, investment or savings policy; traditionally, such insurance comprises:

- term cover for mortality; and
- an investment / savings plan.

22. Provision of Non-Life Insurance/Reinsurance

Provision of insurance cover relating to a specific risk (i.e. theft, loss, damage, illness etc.) in return for a periodic premium, including the services of brokers and agents. The insurance may be provided:

- by authorised insurers; or
- by non-authorised insurers.

23. Settlement of Insurance Claims

The settlement by the insurer of claims arising under 24. below.

24. Loss Adjusting Services

Provision of services relating to the assessment and negotiation of an insurance claim.

25. Trustee Services

Provision of services as Trustee for an estate, fund or special investment funds. Fees may include periodic management fees.

26. Fund Management

Provision of management services relating to a fund, including the management of :

- pension funds
- a collective investment fund
- an investment portfolio
- a private fund.

Fees may comprise

- a management fee
- a transaction-based fee for the buying and selling of securities.

27. Professional Services

The provision of services by accountants/lawyers

- in the general course of business
- in relation to a specific financial transaction.

Notes to Financial Services and Instruments Table

AUSTRALIA

Australia does not have a VAT regime. However, Bank Accounts Debits Tax (BAD) and Financial Institutions Duty (FID) are applied to certain financial services by the Federal and State governments, respectively.

AUSTRIA

1. Q1 - Supplies of collectors' items: T
2. Q4 - The management of loans by persons other than the person granting the loan: T
3. Q11 - The services of intermediaries: T
4. Q12 - Commodity options: T
Other options: E
5. Q16 - Charge for credit, if separately disclosed: E
6. Q17 - Collection of cheques, bills and other commercial papers: E

BELGIUM

1. Q1 - If the option to tax is exercised by the provider: T
Supplies of collectors' items: T
2. Q3. - Zero rating is applied for services in relation to exports of goods outside the EU and Isle of Man.
3. Q4. - The management of loans by persons other than the person granting the loan: T
4. Q11 - At the moment of commitment : OS
- At maturity
financial futures: OS if financial instrument is not handed over at maturity; otherwise: E
5. Q12 - At the moment of commitment: OS
- At maturity
- options on financial services: OS if the financial instrument is not physically handed over at maturity; otherwise: E
Payment of option premium: E
- options on commodities: OS if the commodity is not delivered at maturity, otherwise: T
Payment of option premium: E
If the operation gives rise to the delivery of taxable goods: T

6. Q13 - At the moment of commitment: OS
 - At maturity: E.
 If the operation gives rise to the delivery of taxable goods: T
7. Q15 - Supplies used to hedge the bank's own risks: OS
8. Q17/- If the operation consists of a debt transfer, an invoice endorsement, a
 Q18 discount or a payment with subrogation: E.
 In these circumstances, the intervention of the financial institution is of a passive nature. If, however, the intervention is of an active nature, (particularly when it is necessary to resort to compulsion), then the operation consists of a true debt recovery and is taxable.
9. Q24 - Services of valuation expert's and loss adjusters: T
 Services of claims handling and administration: E
10. Q27 - Services of registered lawyers: E
 Services of accountants: T

CANADA

All answers have been provided in respect of the Goods & Services Tax (GST) regime in Canada.

1. Treated as a financial service in the GST legislation. Financial services are E when supplied in Canada. However, financial services are Z if supplied by a financial institution to a non-resident, with certain exceptions.
2. Q8 - If supplied by a financial institution to a non-resident person: Z
 If the service relates to a financial instrument acquired otherwise than directly from a non-resident issuer by the financial institution acting as a principal: E (Therefore, issues acquired on the secondary market are E.)
3. Q17 - In general: T
 If the supplier of the service is financially at risk with respect to the debt security: E.
4. Q19 - Safekeeping may be Z when supplied to a non-resident as a custodial service in respect of securities belonging to the person.
5. Q20 - If supplied in Canada: T. Services may be Z if supplied to a non-resident, with certain exceptions.
6. Q21 - Z if:
 - The life insurance policy or accident policy is issued to a non-resident individual;
 - The group life insurance policy or group accident and sickness insurance policy relates to non-resident individuals who are insured under the policy.
7. Q22 - Z if:
 - The insurance policy relates to real property situated outside Canada.
 - Insurance policies relating to risks ordinarily situated outside Canada i.e. marine, aviation, transportation.

DENMARK

1. Q1. - Supplies of collectors' items: T
2. Q3. - Zero rating is applied for services in relation to exports of goods outside the EU.
3. Q4. - The management of loans by persons other than the person granting the loan: T
4. Q17 - For third parties: T
5. Q18 - Collection/administration: T
Interest: E
6. Q25 - In general: T

Investment funds: E
7. Q27 - In general: T
Financial transactions: E; if a financial transaction is carried out by others than banks, the transactions are E as well.

FINLAND

1. Q1 - Supplies of collectors' items: T
2. Zero rating applied for services in relation to exports outside the EU and Isle of Man
3. Q4 - Management of loans by persons other than the person granting the loan: T
4. Q11/ - If the object of the future contract or option is currency, security or other
Q12 such property: E
Otherwise: T
5. Q16 - Charge for credit. If separately disclosed, may be exempt
6. Q25 - Trustee services do not exist in Finland.

FRANCE

1. If the supplier has opted to tax (Article 13 Dir): T
2. Q1 - Supplies of collectors' items: T
3. Q3. - Zero rating is applied for services in relation to exports of goods outside the EU and Isle of Man.
4. Q4 - The management of loans by persons other than the person granting the loan: T.
5. Q10 - Investment or participation certificates: OS
Transaction certificates (non convertible into realty): E

6. Q11 - Financial Instruments
 - a) Sale and registration commission: E with option to tax
 - b) Profit: E
 Commodities futures: T on final delivery
7. Q13 - Profits on disposals: E
8. Q16 - Purchase price of goods: T
Charge for credit if separately disclosed: E
9. Q23 - If the service is carried out by a third party on behalf of the insurer: T.
Otherwise: OS
10. Q25 - Theoretical since Trustee Act has not been adopted.
11. Q26 - Investment portfolio, private fund, pension fund: T.
Unit trusts. (Fonds Commun de Placement), securitised loan investment funds (Fonds Commun de Creance): E
Sicavs: OS
If Sicav is delegated: T

GERMANY

The response to this Questionnaire was provided by the German Bankers' Association.

1. Q1 - Supplies of collectors' items: T
If the option to tax is exercised by the provider: T
2. Q3 - Zero rating is applied for services in relation to exports of goods outside the EU and Isle of Man
3. Q4 - Management of loans by persons other than the person granting the loan: T
4. Q5 - (i) Card holder fee - granting of credit payments: E
(ii) Discount - guarantee (opted): T
5. Q12 - Options on debts and securities: E
Options on commodities: T
6. Q13 - Currency swaps: E
Interest rate swap: OS/E
7. Q16 - (i) Purchase price of lease: T
(ii) Charge for credit if separately disclosed: E
8. Q18 - Recourse factoring: T
Non recourse factoring: OS

GREECE

1. Where the service relates to an export of goods or is rendered to a customer established outside the community: Z.
2. Q1 - Supplies of collectors' items: T
3. Q3 - Zero rating is applied for services in relation to exports of goods outside the EU and Isle of Man.
4. Q4 - The management of loans by persons other than the person granting the loan: T
5. Q5 - The services provided by the organisation which issues the credit card to the customer: E.
The use of organisations' networks for the payment of bills, by the credit card owner: T
6. Where such services are provided to a customer identified for VAT purposes to be in another member state. Services to a customer established outside the Community: Z
7. Q22/- Services provided by non authorised insurers: T
Q23
8. Q26 - The management of mutual funds: E
The management of any other funds: T
9. Q27 - Accountants' services: T
Lawyers services: E

HUNGARY

1. Q1 - At present, the judgement on the treatment of giro services is still outstanding.
2. Q2 - The issue of cheque books is tax free if supplied free of charge by the bank. However, if a charge is made, this is considered to be a taxable activity of a sale of printed material and is taxable at a rate of 25%.
3. Q5 - Fees from card holders: E
The treatment of commissions received from accepting businesses is still under consideration.
4. Q9 - The lending of securities is not interpreted by the Hungarian tax system, however depositing them is E.
5. Q11 - Financial futures: E
Commodities futures: T (at the rate of the goods)
Forward agreements: E
6. Q12 - In the case of options on commodities, if the transaction appears separately, it is taxable.

7. Q14 - The quotation requirement of securities, as a mediation activity between the drawer and prospective buyer may be pursued since 1 January 1997 and it is considered to be a taxable activity.
8. Q16 - Financial leasing may include the option to buy. Alternatively, it may be a closed-end lease. In the case of the option to buy, the transaction is regarded as a lease service and tax is due after the lease of the product. For closed-end leases, tax is due when the product is transferred to ownership.
9. Q24 - If it is not “expert advising”: E. If however it is “expert advising”: T.
10. Q25 - If the administrator of the fund provides a service in connection with managing the fund for a charge, then the liability of supply: E.
If it is provided free of charge, then the activity is OS.
11. Q26- T: in cases where this is not pursued within the framework of the financial institution’s activities.
12. Q27 - Accountants’ services: T
Attorneys’ services: E

IRELAND

1. Q1 - Supplies of collectors’ items: T
2. Q3 - Zero rating is applied for services in relation to exports of goods outside the EU and Isle of Man
3. Q10 - In general: OS
Where management fee is part of the dividend: E
4. Q11 - a) Financial futures: E.
b) Commodities futures: E until contract is concluded then T at the rate of the goods in question.
c) Forward agreements: as (b)
5. Q15 - E if carried out on a retail basis. OS if carried out for the institution’s own account.
6. Q16 - Leasing: T
Hire purchase credit: E
7. Q18 - Recourse/non-recourse factoring: E
Service charge: T
8. Q22 - Authorised insurers: E.
Non-authorised: T at the rate of goods/services supplied at the same time.

9. Q26 - a) Pension funds: T, unless operated by an authorised insurance company, then: E
 b) Collective investment fund: E in most cases
 c) Investment portfolio: T, unless it is a special investment fund.
 d) Private fund: T
10. Q27 - T or E, depending on the nature of the services, for instance, accounting and legal services are T, but where accountants and lawyers supply financial services these are E.

ITALY

1. Q1. - Supplies of collectors' items: T
 The issue of or dealing in promissory notes: OS
2. Q3. - Zero rating is applied for services in relation to exports of goods outside the EU and Isle of Man
3. Q4. - The management of loans by persons other than the person granting the loan: T
4. Q8 - The issue of bonds, government bills and gilts: OS
5. Q11 - Financial futures : E
 Commodities futures: Not negotiated on the Italian market.
 Forward agreements : E where the purpose of the contract concerns shares and securities.
 Where the purpose of the contract concerns commodities: T.
6. Q12 - E: The grant, close-out and the exercise of an option in respect of financial instruments:
 E
 In respect of commodities and their derivatives: T.
7. Q13 - Services of intermediaries: E
8. Q15 - Where an authorised bank participates in exchange of currency: OS (only the exchange commission is tax-free).
9. Q16 - Consumer credit: E
10. Q25 - In general: E
 Trustees of an estate: T.

JAPAN

1. Q1 - a) Charge for transfers of money between accounts and telegraphic charge: T
 b) Issue of commercial paper and promissory notes: OS
 c) Supply of commercial paper and promissory notes: E
2. Q2 - Charges for operation/management of bank account and issue of cheque books: T
 Supplies of cheques: E
3. Q4 - Interest: E
 The commitment fee or 'commission': T

4. Q5 - Card holder annual membership fee: T
Interest charges on instalment purchases which are payable by cardholders and commission from member agencies payable to the credit card company: E
5. Q8 - Supply of corporation/government bond: E
- Supply of security for use of golf ground: T
- Issue of securities: OS
6. Q9 - Lending of securities: E
Lending of security for usage of golf ground: T
7. Q11 - Financial futures
(i) Supply of spread: OS
(ii) Supply of spot goods: E
(iii) Commissions: T
- Commodities futures
(i) Supply of spread: OS
(ii) Supply of spot goods: T
(iii) Commissions: T
- Forward agreements: E.
8. Q13 - Contract itself: OS
(i) Interest swaps, currency swaps: E
(ii) Brokerage fee or commission: T
9. Q14 - Fee for issuing securities: T
10. Q16 (i) Interest/premiums of leasing fees: E
(ii) Other parts of leasing fee: T
11. Q25 (i) Distribution of earnings of money trust: E
(ii) Sale of land in land trust: E
(iii) Sale of building in building trust: T
(iv) Sale of gold in trust: T
(v) Trust fee of land trust: T
(vi) Trust fee of commingled managed fund trust, public corporation bond trust: E
(vii) Brokerage of land trust: T
12. Q26 (i) Distribution of earnings from pension fund: E
(ii) Trust fee paid by pension fund: T

LUXEMBOURG

1. Q1. - Supplies of collectors' items: T
2. Q3 - Zero rating is applied for services in relation to exports of goods outside the EU and Isle of Man
3. Q4 - The management of loans by persons other than granting the loan: T
Where the loan relates to an export of goods to a country outside the EU: Z

4. Q5 - In general: E
The supply commission paid by participating outlets: T.
5. Q15 - If carried out on behalf of third parties: E Basis of valuation is profit margin plus commission received.
If carried out for the institution's own account: OS
6. Q16 (i) Treated as a supply of services: T or territorially OS
(ii) Treated as a supply of goods: T or Z (supply to another country within or outside the EU: E)
7. Q18 - If the factoring company acquires title to the debt: E (treated as a credit transaction)
Otherwise T.
8. Q19 - Letting of safes: T
Direct or indirect safekeeping of securities, including administrative management: T (except for securities, transactions for which the client has given specific instructions and safekeeping services supplied to collective investment funds, in which case E.)
9. Q25 - In general: E
In respect of services to a special investment fund that is neither an FCP (Fonds Commun de Placement) or a SICAV/SICAF, in which case T.
10. Q26 - In general: T
In relation to specific share or security transactions executed on client orders and the management of OPC (Organisme de Placement Collectif): E

MEXICO

1. Q1 - In general: E
Except the provision of bankers drafts and the issue of commercial paper when the buyer is not a financial institution
2. Q3 - The exception covers the credits themselves and all interests charged. Commissions are taxed.
3. Q4 - Commissions paid are taxed at a 15% tax rate, except when it is a credit for construction or acquisition of homes or when given to finance the purchase of goods subject to a zero tax rate in which case E.
The service charges for the provision of a loan: E
4. Q5 - The real interest on credit card balances: T
Annual commission: T
5. Q6 - In general: OS, except the premium paid on financial guarantees. When the guarantor is an individual, the tax treatment for financial guarantees is outside the scope, but if the guarantor is a financial institution, they collect a premium and this is taxed at 15%.
6. Q8 - In general: T, except government bonds, in which case: E

7. Q14 - The issuing of financial instruments is outside the scope, but the value of the fees and commissions paid for the service is taxed at 15%
8. Q15 - The exchange of currency is outside the scope, but the value of fees and commissions paid for some services is taxed at 15%.
9. Q16 - The payment of interest: T. The base of the tax is valued in real terms.
10. Q22 - In general: T, except for agricultural risk insurance.
11. Q26 - In general: T, except the management of pension funds.

NETHERLANDS

1. Q1. - Supplies of collectors' items: T
2. Q3. - The treatment of documentary credits is currently under discussion.
3. Q4. - The management of loans by persons other than the person granting the loan: T
4. Q16 - The charge for credit, if separately disclosed: E
5. Q20 - Advisory services relating to financial services: E
6. Q26 - Collective funds: E
Other funds: T

NEW ZEALAND

All answers have been provided in respect of the Goods and Services Tax (GST) regime in New Zealand.

1. Where the service is provided to a non-resident who is outside New Zealand at the time the service is performed: Z (other conditions apply for certain financial services).
2. Q1 - Supplies of collectors' items: T
3. The service of agreeing to do or arranging follows the same treatment.
4. Q8 - Financial instruments which are used to transfer any interest in land which would otherwise be taxable are excluded.
5. Q10 - The activity of paying dividends: E
6. Q11 - E: only if the supply occurs through a futures exchange, otherwise: T
7. Q12/- GST legislation does not explicitly deal with options or swaps.
Q13 However, in practice the service is E, if the underlying contract relates to a financial instrument (for example exchange of currency).
8. Q16 - Charge for credit, if separately disclosed: E

9. Q17 - Debtor tracing: T
10. Q23 - T in the hands of the insured to the extent that the loss was incurred in carrying on a taxable activity, otherwise OS. Further, not T if the contract of insurance is not taxable claim is paid to a private person or the payment is to indemnify a person for loss of earnings.
Subject to certain conditions, the insurer is entitled to input tax credit on the value of the indemnity payment.
11. Q24 - In respect of non-life insurance: T
In respect of life insurance: E
12. Q25 - Agreeing to do or arranging financial services: E
 - Management of funds other than a superannuation funds: T
 - Executorship services: T
13. Q27 - Professional services are T, unless the service is agreeing to do or arranging of a financial service, in which case E applies.
Services relating to the collection or payment of amounts of interest, principal, dividends etc. in respect of financial instruments are E.

NORWAY

Financial services are generally outside the scope of VAT in the Norwegian VAT system. However, a general service tax is under consideration.

1. Q19 - Hiring out of safety deposit boxes: T
Banks rental of deposit boxes and their safe custody: E
Other forms of safekeeping are not liable to tax.

PORTUGAL

1. Q1 - Supplies of collectors' items: T
2. Zero rating is applied for services in relation to export of goods outside the EU and Isle of Man.
3. The services of an intermediary in arranging the financial service follow the same liability.
4. Q4 - The management of loans by persons other than the person granting the loan: T
5. Q6 - Guarantees and related services including management services which are not supplied by the original guarantor: T

6. Q8 - Portfolio management specifically relating to:
 - opening the stock deposit of securities;
 - stock deposit and drawing of securities;
 - transfer of securities among credit institutions;
 - payment of dividends and interest;
 - registration and cancellation of securities;
 - dealing in instruments which confer certain rights over land is treated as taxable.
7. Q11 - Commodity futures contracts: T
8. Q12 - Options on goods/ commodities: T
9. Q25 - Trustee services do not exist in Portugal

SPAIN

1. Q1 - Supplies of collectors' items: T
2. Q3. - Zero rating is applied for services in relation to export of goods outside the EU and Isle of Man
3. Q4 - E does not apply to services supplied to lenders in respect of syndicated loans. The management of loans by persons other than the person granting the loan: T
4. Q6 - Activities of intermediaries: T
5. Q8 - There are two exceptions
 - (i) The issue, services and operations linked with values which represent goods and commodities: T
 - (ii) The issue, services and operations which are considered as property rights regarding real estate: T
6. Q11 - (a) Financial futures: E; intermediary services: E.
 (b) Commodities futures: T unless traded on the official market in which case: E
 (c) Forward Agreements: T
 If the operation is set outside regulated Markets, the VAT general provisions apply. There are no official markets for these agreements in Spain.
 There is only one official market in commodity futures. This market has special rules regarding VAT on its operations.
7. Q12 - Options in respect of interest rates, exchange rates, securities, stock indices, and other financial instruments: E
 Other options: T
8. Q16 - Charge for credit, if separately disclosed: E
9. Q18 - If the factoring operation leads to a total transmission of the credit, then factoring services are E. Nevertheless, if factoring services do not encompass any advance payment, such services will be T

- 10. Q25 - Trustee services do not exist in Spanish law
- 11. Q26 - Management of specific investment funds: E
Management of other funds: T

SWEDEN

- 1. Except where relates to an export of goods or rendered to a business established outside the EU in which case Z.
- 2. Q1 - Supplies of collectors' items: T
- 3. Q3 - Zero rating applied for services in relation to exports of goods outside the EU and Isle of Man.
- 4. Q4 - The management of loans by persons other than the person granting the loan: T
- 5. Q5 - Fees, interest charges and annual charges: E
- 6. Q8 - Portfolio management and the making of arrangements for transactions (such as advisory services analyses and market information) could be taxable according to case law.
- 7. Q11/- Sweden treats trade in futures (forward agreements or financial or commodity futures), Q13 options and swaps on Swedish and foreign markets as exempt as long as they are standardised. If not standardised the trade may be regarded as taxable transactions of goods and services. However, it is not possible to trade in financial or commodity futures on Swedish markets according to Civil Law.
- 8. Q14 - Any element of operations that cannot be treated as dealings in financial instruments and shares: T
- 9. Q15 - If carried out on behalf of third parties.
If carried out for the institution's own account: OS
- 10. Q16 - Charge for credit may be exempt
- 11. Q18 - Collection and administration: T
- 12. Q21/- Only if the service is performed by an insurance company or any other Q22 insurance mediator. The definition of an insurance company is set out in the Swedish VAT Act.
- 13. Q24 - If supplied by the insurance company and subordinate to the insurance service: E
- 14. Q25 - Trustee Services do not exist. Comparative services: T
- 15. Q26 - In general: T.
Where the fund is an authorised security fund: E.

SWITZERLAND

1. Q1 - Supplies of collectors' items: T
2. Q8 - The delivery of shares without dealings in shares: T
3. Q18 - Non recourse factoring: E
Recourse factoring: T if the factor has to settle accounts with respect to each individual payment received from the debtor

TURKEY

Financial services provided by banks and insurance companies are generally E from VAT.

UK

1. Q1 - Supplies of collectors' items: T
2. Q3 - In relation to intra EU movements: E
In relation to imports: E
Basis of valuation is gross premium.
Zero rating is applied for services in relation to exports of goods outside the EU and Isle of Man.
3. Q4 - The management of loans by persons other than the person granting the loan: T
4. Q11 - Liability of supply
 - A. Financial Futures
 - (i) a) own account trading: OS
b) member/client transactions: E
 - (ii) No intermediary services arise.
 - B. Commodities
 - (i) a) futures contracts with or between market members are Z, unless;
b) a contract with a non-member leads to delivery, in which case supply is T or Z depending on commodity involved.
 - (ii) Intermediary services in respect of (i)a) are Z if supplied by a market member.
 - C. Forward Agreements
There are simply contracts for the future delivery of goods and are liable to VAT according to the liability of the goods in question, unless between members of a futures market, in which case Z.
5. Q12 - Grant and making of arrangements: E
Financial options: E
Commodities: Z on terminal market, otherwise T
Exercise of options: OS
6. Q14 - Discounted cases may involve no supply of underwriting, only of the securities when resold. Depends upon analysis of the individual agreements.

7. Q15 - If at an agreed rate for no specific fee: OS
If fee or commission charged: E
8. Q16 - Goods: T/Z depending on liability of goods.
Credit: E
Basis of valuation
Goods - price of goods
Credit - charge as separately disclosed
9. Q18 - Supply of advance is E; value is fee charged. With recourse factoring, factor normally charges a fee for the right to assign which is taxable.
Non-recourse factoring is similar with no fee for the right to reassign.
10. Q24 - Under the terms of a specific trade agreement, loss adjusting services provided in conjunction with claims claiming and settlement services can be treated as a single exempt supply
11. Q26 Normally T, but recharge of broker's exempt transaction charge may be a disbursement.
Management of Authorised Unit Trusts and Open Ended Investment Companies: E
12. Q27 If acting as an intermediary in relation to a specific financial supply: E.

USA

The USA imposes a State Sales Tax regime. The liability for State Sales Tax varies from state to state however, in general, financial services are E.