



October 6, 2020

Honorable John F. McKeon
Chairman, New Jersey General Assembly
225 West State Street
Trenton, NJ 08625

RE: S.2902/A.4402: Imposes a Tax on High-Quantity Processors of Financial Transactions at \$.0025 per transaction

Dear Chairman McKeon:

On behalf of the undersigned trade associations representing 200,000 workers in the financial services industry in New Jersey, throughout the U.S. and other businesses groups in the state, we are writing to express our strong opposition to S.2902/A.4402, which would impose a tax on high-quantity processors of financial transactions. This legislation would effectively represent a sales tax on investors and runs counter to many longstanding policies on promoting savings and economic growth, including the recently enacted New Jersey Secure Choice retirement program.

We encourage you to consider the following as you think about moving forward with this legislation:

Effect on Investors. S.2902/A.4402 would impose a tax that runs counter to many longstanding New Jersey policies promoting personal savings and economic growth. The cost of any Financial Transaction Tax (FTT) would ultimately be passed on to both large and small investors. This means that public and private pension funds, charitable organizations, and every day investors would pay to save. Any tax imposed on a saver's account and thereby reducing their savings balance would result in them having to work longer to meet their goals for retirement, a house, college, or whatever their investment goal for the future. The state should be encouraging saving and investing, not imposing additional barriers to saving.

Revenue Decline. Faced with an FTT in New Jersey, firms are more likely to use alternate trading platforms to offer a better price for their client; this could result in less revenue for the state. Moreover, if New Jersey imposes an FTT, any firm that processes trades in the state could risk alleged non-compliance with FINRA's "[best execution](#)" rule that requires broker-dealers to find the most favorable price for customers when buying and selling securities.

Currently, every dollar spent on securities services in New Jersey contributes \$1.22 to the state economy, and each job in the securities industry accounts for 2.15 jobs statewide.ⁱ An FTT could lead to financial firms moving their electronic infrastructure and the related jobs outside of New Jersey. This would reduce employment and revenue in the state.

Unsuccessful Experiments With an FTT. Some countries in Europe, such as Sweden and France, have unsuccessfully experimented with an FTT. In 1984, Sweden implemented a 1% transaction tax (or \$0.01 per \$1) on equities traded, which was later doubled in 1986. In the 30 days leading up to the introduction of the tax, Sweden's market experienced a 5.3% decline. Once the tax was implemented, Sweden's market saw 30% of total trading volume - 50% volume of the top 11 traded stocks which represent 60% of total trading volumes - shift to London. One study showed volatility of London traded Swedish stock shares declined while Stockholm shares increased in volatility due to the lack of liquidity. Expected tax revenues were never realized as there was such a dramatic decline in and shifting offshore of trading activity. The tax was eventually repealed in 1991.ⁱⁱ

Another unsuccessful attempt to implement an FTT was in 2012 when France imposed a .2% tax on French equity trades on large French companies and a .01% tax on high frequency trading. The tax on equities was increased to .3% in 2017. After implementation of the tax, the New York Stock Exchange Euronext Paris volume declined on average 16% within two months and the French CAC 40 declined 21% in the first 10 days and 16% in the first 40 days.ⁱⁱⁱ One third of the trading in French public companies moved to London and other European securities markets. France did not raise even half the revenue they had projected in 2012 or 2013.^{iv} France experienced an overall 30% reduction in trading volume in 2012.^v In sum, trading volume went down, market makers and liquidity providers exited, and the market and revenues were below expectations.

In Europe, there are 28 countries that have some regulatory barriers for companies to move their operations from one country to another; moving state to state in the United States has no such barriers.

Several Constitutional Limitations May Apply to the Tax. The proposed FTT may impose an unconstitutional burden by imposing a tax on the sale of federal securities. This tax may be unconstitutional under *Complete Auto Transit, Inc. v. Brady* because the activity is not sufficiently connected to the state to justify a tax;^{vi} under *Targa Resources Partners, L.P., v. Director* because the proposed tax is not related to benefits provided to the taxpayer;^{vii} and under *Goldberg & McTigue v. Sweet* because it discriminates against interstate commerce and is not fairly apportioned.^{viii}

The tax proposed by S.2902/A.4402 would significantly increase the costs of executing trades in New Jersey. In the immediate short-term, these costs would be passed on to many New Jersey residents, including middle-class pensioners. Longer-term, concerns about best execution requirements would force most securities firms to execute future trades on non-New Jersey exchanges. If enacted, the legislation is far more likely to harm New Jersey savers and investors and the state's overall economy than to raise significant revenue.

We appreciate the opportunity to share our concerns S.2902/A.4402 and underscore the harm this proposed FTT could have on retirement savers, investors, businesses and the economy. If you have any questions, please do not hesitate to contact us.

Thank you for your time and consideration.

Sincerely,

American Council of Life Insurers (ACLI)
Alternative & Direct Investment Securities Association (ADISA)
American Securities Association (ASA)
Center for Capital Markets Competitiveness – U.S. Chamber of Commerce
Consumer Bankers Association (CBA)
Commerce and Industry Association of New Jersey (CIANJ)
Equity Markets Association
Financial Services Forum (FSF)
Financial Services Institute, Inc. (FSI)
Futures Industry Association (FIA)
Futures Industry Association – Principal Traders Group (FSI PTG)
Financial Planning Association (FPA)
Foreign Exchange Professionals Association (FXPA)
Investment Company Institute (ICI)
Institute of International Bankers (IIB)
Insured Retirement Institute (IRI)
International Swaps and Derivatives Association (ISDA)
Managed Funds Association
Modern Markets Initiative (MMI)
NAIFA New Jersey
New Jersey Business & Industry Association (NJBIA)
New Jersey Chamber of Commerce
Securities Industry and Financial Markets Association (SIFMA)
Securities Industry and Financial Markets Association – Asset Management Group (SIFMA AMG)
The SPARK Institute, Inc.
TechNet

ⁱ Bureau of Economic Analysis.

ⁱⁱ Umlauf, Steven R.. *Transaction Taxes and the Behavior of the Swedish Stock Market*, Journal of Financial Economics 33 (2), 227-240 (April 1993).

ⁱⁱⁱ Goethe University Frankfurt. Haferkorn, Martin and Zimmermann, Kai. (2013). *Securities Transaction Tax and Market Quality – The Case of France*. <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.360.6098&rep=rep1&type=pdf>

^{iv} Goethe University Frankfurt. Haferkorn, Martin and Zimmermann, Kai. (2013). *Securities Transaction Tax and Market Quality – The Case of France*. <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.360.6098&rep=rep1&type=pdf>

^v Banque de France. Jean-Edouard Colliard & Peter Hoffman. *Sand in the Chips? Evidence on Taxing Transactions in Modern Markets* (Euro. Central Bank, Working Paper, Jul. 31, 2013). <https://fondation.banque-france.fr/sites/default/files/media/2017/05/03/colliard-hoffmann.pdf>

^{vi} Tax Foundation. Atkins, C. (2005, May 19). *Important Tax Cases: Complete Auto Transit v. Brady and the Constitutional Limits on State Tax Authority*. Retrieved from <https://taxfoundation.org/important-tax-cases-complete-auto-transit-v-brady-and-constitutional-limits-state-tax-authority/>

^{vii} Lexis Nexis. *New Jersey Partnership Filing Fee Is Not an Unconstitutional Flat Tax*. <https://www.lexisnexis.com/LegalNewsRoom/tax-law/b/newsheadlines/posts/new-jersey-partnership-filing-fee-is-not-an-unconstitutional-flat-tax>

^{viii} Lexis Nexis. *Goldberg v. Sweet*. <https://www.lexisnexis.com/community/case-opinion/b/case/posts/goldberg-v-sweet>