

RESPONSE TO THE EUROPEAN COMMISSION'S EVALUATION OF STATE AID RULES FOR BANKS IN DIFFICULTY

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Danmarks Nationalbank appreciate the opportunity to respond to the European Commission's Evaluation of the State aid rules for banks in difficulty. In the questionnaire we have only answered those questions where we find that we can add value. In the following we present our general remarks.

BANKS IN DIFFICULTY SHOULD BE MANAGED THROUGH THE CRISIS MANAGEMENT REGIME

It is Danmarks Nationalbank's assessment that the framework for recovery and resolution entails credible resolution plans for all banks of the Member States. Therefore, all banks in difficulty must be reconstructed according to the regime and so with credible resolution plans in place, a bank in difficulty should not be able to cause a serious disturbance to the economy of a Member State. State aid rules for banks in difficulty should therefore not be upheld since the resolution regime is sufficient.

However, it cannot be ruled out that the need to grant state aid may arise in absolutely extraordinary situations. In such cases, it is essential that the Commission sets out specific guidance for banks in difficulty and verifies that the requirements to grant state aid are met.

THE NEED FOR UNIFORM CRISIS MANAGEMENT IN EUROPE

The Bank Recovery and Resolution Directive (BRRD) aimed at breaking the link between bank and state and ensuring that it was no longer the taxpayers who were first in line to pay if a bank went bankrupt.

Despite this set of European harmonized rules, it has been seen that distressed banks have been handled differently in the Member States. For example, several smaller, distressed European banks have been managed via taxpayers' money rather than the tools which the crisis management

rules prescribe. Among other things this creates an unfortunate competitive situation where there is a risk that creditors will take too great risks as the incentive structure is distorted.

STATE AID SHOULD ONLY BE GRANTED IN ABSOLUTELY EXTRAORDINARY SITUATIONS

It is crucial that the use of state funds is only considered, assigned and approved in line with the regulation of the State aid rules for banks in difficulty and that state funds are only granted in a situation of a serious disturbance of the economy of a Member State. In all other situations concerning a distressed bank, the framework for recovery and resolution must be applied. Meanwhile, examples show that if a Member State is left with no choice but national insolvency law when crisis-managing a distressed bank, some Member States seek solutions via the state aid rules. However, the state aid framework is not intended to be used for the recovery and resolution of smaller banks.

On this background Danmarks Nationalbank finds that the State aid rules for banks in difficulty should specifically define what constitutes a serious disturbance of the economy of a Member State. The European Commission's control of state aid is - in cooperation with Member States, resolution authorities and banks - a key element in to ensure this.