Dear Commissioner Vestager,

We welcome that the European Commission has started to seek information from Spain, Italy, Portugal, and Greece on their treatment of deferred tax assets.

Firstly, like the Commission we are concerned that government guarantees to deferred tax assets in some member states appear very much like State Aid. Secondly, we fear that through these accounting manoeuvres the financial stability of the Eurozone as a whole might be at risk.

Firstly, we would like to remind you of the decision of the governments of Spain, Italy, Portugal, and Greece allowing banks to transform a big share of deferred tax assets (DTAs) into directly refundable tax credits (DTCs). The effect of this is to convert DTAs that depend on future profitability into tax credits that do not. The result is that, under Regulation (EU) No 575/2013 (Capital Requirements Regulation), these converted DTAs are eligible as Tier 1 capital.

Spain and Italy had already introduced these changes by December 2013, while Portugal and Greece have passed laws more recently before the ECB's AQR and stress tests. Overall, the four countries hold more than 40 billion euros in deferred tax assets - or bank losses that are offset against tax bills and insured by the government - according to ECB data published last year.

The Commission in its role within the Troika seems initially to have welcomed this move: "The recent legislative measures on deferred tax assets should support the solvency of the banking sector under the new EU rules on capital requirements" (Financial Assistance Programme for the Recapitalisation of Financial Institutions in Spain, Fifth Review, DG ECFIN).

However, the resulting tax credits effectively represent the free gift to selected banks of claim on a particular government to be used directly to boost bank capital and, as such, we see no economic difference between this and other forms of public capital support for banks.

Secondly, apart from the question of State Aid, the severe consequence of government guarantees to deferred tax assets is a further strengthening of the highly destabilising link between the banks and their sovereigns sovereigns that the Union is supposed to be working hard to dissolve.

DTCs are in fact quite reliant on government intervention if the bank does not actually realise profits. In the worst case, if a state becomes insolvent, the deferred tax credit claim is worth nothing. Easing the bank-sovereign link is one of the most important objectives of the actual regulatory initiatives. This effort has to be continued.

Best regards,
Sven Giegold