**EUROPEAN CENTRAL BANK**

BANKING SUPERVISION

**Danièle NOUY**
Chair of the Supervisory Board

*COURTESY TRANSLATION*

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Frankfurt am Main, 13 July 2015

**Re: Your letter (QZ93)**

Honourable Members of the European Parliament,

Thank you for your letter, which was passed on to me by Mr Roberto Gualtieri, Chair of the Committee on Economic and Monetary Affairs, accompanied by a cover letter dated 4 June 2015.

In your letter, you asked about deferred tax assets (DTAs) held by significant institutions in a number of Member States.

Generally speaking, DTAs are claims against the government on the assets side of banks' balance sheets. They arise on account of taxes paid or tax losses carried forward that may entail a refund from the government in the future. From a regulatory and accounting point of view, there are two broad categories of DTAs. Depending on their loss absorption capacity in the case of insolvency, DTAs have a different regulatory treatment[1].

First, there are DTAs that rely on future profitability. In principle, these DTAs would not have to be honoured by governments in the event of the liquidation or insolvency of an institution. They can be entered into the financial statements of a bank to the extent that, according to the bank and its statutory auditors, future taxable profit is likely to be available.

Second, there are DTAs that do not rely on future profitability and arise from temporary differences between the value of an asset or a liability in the financial statements (accounting value) and its tax base. These DTAs, which are also called deferred tax credits (DTCs), need to satisfy the conditions set out in Article 39(2) of the Capital Requirements Regulation (CRR). In principle, only this type of DTAs has to be honoured by

[1] According to Articles 36, 39 and 48 of the CRR, they can be either risk-weighted at 100%, risk-weighted at 250% or deducted from CET1 subject to the phased-in period implemented in each country.

governments in the event of the liquidation or insolvency of an institution and is therefore relevant for the case you describe.

According to the CRR, DTCs receive a 100% risk weight for the calculation of the solvency ratio and are therefore not deducted from regulatory capital.

It is important to highlight that, in the case of Greece, the changes in national law related to the treatment of DTAs which took place in 2014 were not taken into account in the ECB's 2014 comprehensive assessment exercise. To provide an up-to-date and comparable picture of how the situation has developed since the comprehensive assessment, the table below includes data on DTC exposures as of 31 March 2015 for all the significant banks of countries that have introduced DTCs.

| | **As at 31 March 2015** | |
|---|---|---|
| | **DTCs (in € millions)** | **DTCs (% of own funds)** |
| **Greece** | 12,786 | 46% |
| **Italy** | 34,595 | 22% |
| **Portugal** | 2,970 | 23% |
| **Spain** | 38,277 | 18% |

You inquired, furthermore, about the treatment of DTAs in the 2014 stress test, which was part of the ECB's comprehensive assessment.

The treatment of DTAs in the comprehensive assessment followed the EBA's stress test methodology.[2] According to the EBA's methodology, the stress test calculation is based on the tax regimes applicable in the individual Member States. Hence, where applicable, banks were able to recognise DTAs in the stress test. At the same time, an "auditor allowable amount" was determined in the asset quality review (AQR) for DTAs that rely on future profitability, based on the income-generating capacity of the bank and the applicable tax law. In cases where banks breached this amount when projecting DTA formation in the stress test results, DTAs exceeding this threshold were not recognised.

National tax laws introduced in recent years by Italy, Spain, Portugal and Greece have effectively transformed DTAs into assets guaranteed by the government, provided that certain criteria were met. For Spain and Italy, the relevant laws existed before 2014 and were thus applicable in the 2014 comprehensive assessment. The new tax law passed by Portugal in 2014 was taken into account only in the stress test but not in the AQR. In Greece, the implementation of a similar law was still in progress at the time of the comprehensive assessment and this law was therefore not reflected in the exercise.

In line with the aim of the ECB's comprehensive assessment of increasing the transparency of banks' balance sheets, DTAs were separately disclosed for each bank as memo items (see EBA disclosure

[2] https://www.eba.europa.eu/documents/10180/669262/Methodological+Note.pdf

template for individual banks[3]). Their overall relevance was further discussed in some detail in the ECB's Aggregate report on the comprehensive assessment.[4]

Finally, you asked what possible liabilities could arise in the future for German financial institutions through the Single Resolution Fund (SRF), should governments be unable to meet their obligations. As the Single Resolution Board (SRB) became operational on 1 January 2015 and is the competent authority in this regard, I would kindly refer you to the SRB on this matter.

Yours sincerely,

[signed]

Danièle Nouy

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[3] http://www.eba.europa.eu/risk-analysis-and-data/eu-wide-stress-testing/2014/results

[4] https://www.ecb.europa.eu/pub/pdf/other/aggregatereportonthecomprehensiveassessment201410.en.pdf