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PERMANENT SECRETARY OF
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**Response by the Danish government to the discussion paper on the
debt write-down tool – bail-in – put forward by the Commission**

MINISTRY OF BUSINESS AND
GROWTH
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Dear Jonathan Faull,

The Danish government supports the initiative by the European Commission to put in place an effective crisis management system to cope with distressed credit institutions across Europe. Denmark strongly urges the Commission to put forward the proposal as soon as possible and stands ready to prioritize the file during the Danish Presidency. Denmark also welcomes this technical consultation.

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The Danish government strongly supports the inclusion of the debt write-down tool (bail-in) in the Commission's proposal for a European framework for bank recovery and resolution.

Denmark has already established a credible resolution regime of distressed banks, taking effect in October 2010, which provides the legal set up for an orderly winding up, including the possibility to bail-in creditors and large depositors and thus protecting the governments' budget from costs arising from a bail out. The resolution regime includes the bail-in tool as well as other tools in order to achieve flexibility in the handling of distressed banks.

The explicit aim of the voluntary Danish resolution regime is to seek private solutions before a resolution through Finansiell Stabilitet A/S (the state owned winding up company), in order to support financial stability and to avoid, if possible, losses for uncovered creditors of the distressed bank. Bail-in must only be used after private solutions has been depleted, and the Danish resolution scheme rests firmly on a basis of voluntariness: Property rights are protected through a distressed bank having to declare it's wish for resolution under the scheme.

From a Danish point of view a transparent and credible possibility of debt write-down will be necessary to ensure that creditors of especially large

credit institutions perform a thorough analysis of the credit risk before granting loans to a credit institution. We therefore welcome the introduction of the possibility to use debt write-down tools in an open as well as a closed bank model. The financial crisis has showed that the possibility of losses to shareholders does not sufficiently prevent moral hazard in credit institutions. Therefore broader measures are needed such as the possibility of debt write-down. In addition debt write-down provides for the resolution of distressed credit institutions without recourse to public finance and government intervention.

It is important that no creditors are worse off under the resolution regime than in an ordinary liquidation process, and that bail-in fully respects the ranking of creditors' claims under insolvency law. For this reason short term liabilities should not be exempt from bail-in.

The well-functioning of the covered bond market is vital for financial stability in Denmark and the confidence of the covered bond investors in the system is therefore of highest importance. One of the main factors in this regard is the assurance of the investor that timely payment will be made to the largest possible extent. Holders of covered bonds shall according to CRD and UCITS benefit from a privileged status in case of bankruptcy. It should therefore be made clear in the coming directive that covered bonds should not be subject to debt write-down.

The Commission raises a number of questions in the discussion paper on the possible introduction of the debt write-down tool. The Danish government reserves its position on some of these questions whereas comments on other questions are stated in the attachment.

Yours sincerely,

Michael Dithmer