

Question ID	2018_3822
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR) as amended
Topic	Own funds
Article	26
Paragraph	2
Subparagraph	-
COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations	Regulation (EU) No 241/2014 - RTS for Own Funds requirements for institutions
Article/Paragraph	2 and 3
Date of submission	26/04/2018
Published as Final Q&A	15/05/2020
Disclose name of institution / entity	No
Type of submitter	Competent authority
Subject matter	Inclusion of interim profits in CET1
Question	After the competent authority (CA) granted a permission to include interim profits in CET1 on the basis of the Article 26(2) CRR, on what date do these interim profits become part of CET1 capital?
Background on the question	Example: On 20 April, an institution applied to the CA to include Q1 interim profits in CET1. Permission was granted on 15 May. On what date does the CET1 increase?As the permission of the CA is necessary to include interim profits in CET1 (the Article 26(2) of the CRR), the natural understanding is that an institution may include Q1 interim profits from 15 May. Before this date, the CRR requirements were not fulfilled (no CA permission) and there was no legal ground to recognise Q1 profits before CA permission was granted.Recognising interim profits as part of CET1 capital on a date before the CA grants permission seems to not only be questionable from the CRR standpoint, since it would lead to uneven playing field (as higher CET1 ratios would be reported for earlier quarters). It could also have legal implications as such an approach basically means that an institution would have two different amounts of CET1 on the same date.
EBA answer	

On the basis of the Article 26(2) of Regulation (EU) No. 575/2013 (CRR), an institution may include interim or year-end profits in CET1 before it has taken a formal decision confirming the final profit or loss of the institution for the year only with the competent authority's prior permission, and provided that the requirements of points (a) and (b) of Article 26(2) CRR as specified in Article 2 and 3 of Regulation (EU) No 241/2014 - RTS for Own Funds requirements for institutions - are met.

In respect of reporting this means that if the competent authority's permission is granted after the remittance date provided for in Regulation (EU) No 680/2014 (ITS on Supervisory Reporting) the interim or year-end profits can be included in the CET1 of the COREP report the reference date of which covers the corresponding period, i.e. the period in which the profits were actually generated.

In such a case, the corrected data including the interim profit in CET1 shall be corrected and re-submitted (now including the interim profit in CET) to the competent authority without undue delay, according to Article 3(5) of the ITS on Supervisory Reporting.

In the example at hand, this would mean that for data concerning Q1, if the competent authority grants the permission on 15 May while the remittance date for Q1 COREP data is 12 May, the institution should resubmit this data in order to be able to include interim profits in CET1 capital for Q1 data.

Link

https://eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2018_3822

European Banking Authority, 15/08/2020
www.eba.europa.eu