Single Rulebook Q&A

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Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR) as amended
Topic	Supervisory reporting - COREP (incl. IP Losses)
Article	99
Paragraph	-
Subparagraph	-
COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations	Regulation (EU) No 680/2014 - ITS on supervisory reporting of institutions (as amended)
Article/Paragraph	Article 3(4); Annex II, Part II, 1.2
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Disclose name of institution / entity	No
Type of submitter	Competent authority
Subject matter	Timing of recognition of year-end profits in CET1 for the purpose of COREP reporting and Pillar 3 disclosure
Question	What is the correct timing for the recognition of year-end profits in CET1 for the purpose of COREP reporting and Pillar 3 disclosure, in the case that a bank does not request prior permission of the competent authority for inclusion of interim or year-end profits in CET1 pursuant to Article 26(2) of the CRR?
Background on the question	Article 26(2) of Regulation (EU) 575/2013 (CRR) states: "For the purposes of point (c) of paragraph 1 [inclusion of retained earnings in CET1], institutions may include interim or year-end profits in Common Equity Tier 1 capital before the institution has taken a formal decision confirming the final profit or loss of the institution for the year only with the prior permission of the competent authority. The competent authority shall grant permission where the following conditions are met: (a) those profits have been verified by persons independent of the institution that are responsible for the auditing of the accounts of that institution; (b) the institution has demonstrated to the satisfaction of the competent authority that any foreseeable charge or dividend has been deducted from the amount of those profits."When Article 26(2) does not apply, a

	clarification is needed on the exact event that triggers the inclusion of interim or year-end profits in CET1 (specifically, the question is whether the institution has "taken a formal decision confirming the final profit or loss of the institution for the year" only upon its auditor's final certification of financial statements or upon the approval of financial statements and decision on dividend distribution by the General Assembly), and whether this event has an impact on the year-end reporting or only on subsequent reporting. Similarly, a clarification is needed on the CET1 figures to be reported in the Pillar 3 disclosure.Note that Q&A 2013/208 touches upon the issue, but leaves open the question of the timing.Also, Q&A 2014/1523 deals with the reporting of the profit or loss for the year in FINREP template F02, but does not covers COREP reporting.For illustrative purposes, the issue could be clarified on the basis of a bank that has positive year-end profits and does not ask (or does not obtain) prior permission pursuant to Article 26(2) CRR, assuming the following hypothetical timeline:December 31st: reference date for year-end COREP reportingFebruary 11th: year-end COREP reporting deadlineMarch 20th: Auditor's final certification of financial statementsMarch 31st: reference date for Q1 COREP reportingApril 12th: Approval of financial statements and decision on dividend distribution by the General Assembly (or the relevant body in charge)April 30th: Publication of Pillar 3 disclosureMay 12th: Q1 COREP reporting deadline.
EBA answer	For COREP reporting according to Article 5(a)(1) of Regulation (EU) No 680/2014 - ITS on supervisory reporting of institutions (as amended): In case an institution does not seek the competent authority's prior permission for the inclusion of year-end profits in CET1 in accordance with Article 26(2), the recognition of year-end profits as retained earnings under Article 26(1)(c) of CRR requires a formal decision at the level of the institution. Article 3(4) of ITS on Reporting sets out that "Institutions may submit unaudited figures. Where audited figures deviate from submitted unaudited figures, the revised, audited figures shall be submitted without undue delay**.** Unaudited figures are figures that have not received an external auditor's opinion whereas audited figures are figures audited by an external auditor expressing an audit opinion." However, an audit opinion by an external auditor has not the same status as the subsequent formal decision by the responsible body in the institution confirming the final profits or losses. For the case at hand this implies the following: The institution submits the unaudited year-end figures in template C 01.00 of Annex I of ITS on Reporting before February 11th with all year-end profits considered as non-eligible:

	Example: {C01.00; r150} [or Profit or loss eligible] = 0; {C01.00; r160} [or Profit or loss attributable to owners of the parent] = 100; {C01.00; r170} [or (-) Part of interim or year-end profit not eligible] = -100. (In other words, all year-end profits, based on unaudited figures, amount to 100 and are not eligible.) If the auditor’s final attestation of financial statements on March 20th leads to changed figures, then these changed figures are resubmitted for reporting date December 31st as audited figures based on Article 3 (4) ITS on Reporting. However an audit opinion must not lead to recognition of year-end profits as CET1 under Article 26 (1)(c) of CRR, i.e. all year-end profits are still considered as non-eligible. Example: {C01.00; r150} [or Profit or loss eligible] = 0; {C01.00; r160} [or Profit or loss attributable to owners of the parent] = 120; {C01.00; r170} [or (-) Part of interim or year-end profit not eligible] = -120. (In other words, all year-end profits, based on audited figures, amount to 120 and are not eligible.) It is only after the subsequent formal decision of the relevant body in charge on April 12th, confirming the final profit or loss and, in the example, the dividend distribution, that year-end profits are recognised as retained earnings under Article 26(1) CRR. In order to reflect that the amount is to be included in CET1 as of the year-end, the figures reported in template C 01.00 for reporting date December 31st have to be corrected and resubmitted in accordance with Article 3(5) of Commission Implementing Regulation (EU) 680/2014 (ITS on Reporting). Example: {C01.00; r150} [or Profit or loss eligible] = 60; {C01.00; r160} [or Profit or loss attributable to owners of the parent] = 120; {C01.00; r170} [or (-) Part of interim or year-end profit not eligible] = -60. (In other words, all year-end profits, based on audited figures, adjusted for dividends, amount to 60 and are eligible.) For Pillar 3 disclosure according to Part VIII of the CRR: In principle information disclosed according to Part VIII of CRR and figures reported according to Article 5 (a) (1) of ITS on Reporting should be aligned, because according to Article 433 para (2) of CRR annual disclosures shall be published in conjunction with the date of publication of the financial statements.
Link	https://eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2018_4085