EBA EUROPEAN BANKING AUTHORITY

Single Rulebook Q&A – Published Answers (Excluding Supervisory Reporting)

June 2014

Please note that this document will be updated each quarter to reflect additional Q&As which have been published during the preceding three months.

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Overview of Q&As

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External Credit Assessment Institutions (ECAIs)	**Date of Publication**
Q&A 737	25/04/2014
Q&A 760	23/05/2014
Internal Governance	**Date of Publication**
Q&A 228	24/01/2014
Large Exposures	**Date of Publication**
Q&A 57	31/10/2013
Q&A 365	28/03/2014
Q&A 474	28/03/2014
Q&A 624	11/04/2014
Q&A 638	11/04/2014
Q&A 672	11/04/2014

Leverage Ratio	Date of Publication
Q&A 576	08/05/2014
Q&A 635	08/05/2014
Q&A 756	08/05/2014
Liquidity Risk	**Date of Publication**
Q&A 22	04/03/2013
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Market Risk	**Date of Publication**
Q&A 359	08/11/2013
Q&A 99	15/11/2013
Q&A 130	15/11/2013
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Q&A 157	15/11/2013
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Q&A 589	30/04/2014
Operational Risk	**Date of Publication**
Q&A 358	08/11/2013
Q&A 706	14/03/2014
Other Topics	**Date of Publication**
Q&A 20	04/03/2013
Q&A 76	27/08/2013
Q&A 190	08/11/2013
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Q&A 366	28/03/2014

Q&A 500	23/05/2014
Own Funds	**Date of Publication**
Q&A 12	04/03/2013
Q&A 13	04/03/2013
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Passporting & Supervision of Branches	
Q&A 719	23/05/2014
Remuneration	**Date of Publication**
Q&A 1	04/03/2013
Q&A 2	04/03/2013
Q&A 3	04/03/2013
Q&A 4	04/03/2013
Q&A 5	04/03/2013
Q&A 6	04/03/2013
Q&A 7	04/03/2013
Q&A 10	31/10/2013
Q&A 41	31/10/2013
Q&A 103	15/11/2013
Securitisation & Covered Bonds	**Date of Publication**
Q&A 42	31/10/2013
Q&A 53	31/10/2013
Supervisory Review and Evaluation (SREP) & Pillar 2	**Date of Publication**
Q&A 249	20/12/2013
Transparency & Pillar III	**Date of Publication**
Q&A 515	04/04/2014
Q&A 759	30/04/2014

1. Credit Risk

Question ID	2013_23
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Credit risk
Article	194
Paragraph	(1)
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	29/7/2013
Subject matter	Credit risk mitigation techniques - independent, written and reasoned legal opinions
Question	Must lending institutions always obtain a written reasoned legal opinion in order to rely on their credit protection techniques for the purposes of Article 194(1) of the CRR? If so : a) must such opinion be obtained from external legal counsel? b) must such opinion be specific to the relevant transaction and techniques in respect of which the institution seeks to rely upon such opinion, or can lending institutions rely on generic opinions for particular types of transactions? If the latter, how often should the generic opinions be updated?
Background on the question	The first sub paragraph of Article 194(1) and Article 194(2) CRR are identical to Articles 92(1) and 92(2) respectively of Directive 2006/48/EC, which require institutions to take non-prescribed due diligence steps to ensure that their credit risk mitigation protections are effective in order to rely on them for regulatory capital purposes. Except for certain mitigation techniques, institutions have not typically obtained formal legal opinions from external counsel in this regard but have relied upon a broad range of measures (e.g. internal legal review, opinions on analogous scenarios, individual experience, market practice). Articles 194(1) and (2) CRR do not introduce an explicit requirement for firms to obtain written reasoned legal opinions, nor are we aware of any grounds in Basel III for such a requirement. However, the second sub-paragraph of Article 194(1) provides that: "the lending institution shall provide, upon request of the competent authority, the most recent version of the independent, written and reasoned legal opinion or opinions that is used to establish whether its credit protection arrangement or arrangements meet the condition laid down in the first sub-paragraph". Read literally, such sub-paragraph does not state that institutions must obtain an independent written and reasoned legal opinion in order to establish the condition in Article 194(1), but can be read as meaning that if an institution had obtained such an opinion, then it must provide it if requested. However, on an alternative reading might imply that an institution must obtain such a legal opinion in order to establish the

	condition in the first sub-paragraph of Article 194(1). In any event it is ambiguous a) whether such opinion must be obtained from external legal counsel and b) whether an institution must obtain a new opinion for every transaction, or whether it can rely upon opinions obtained in respect of similar/analogous structures. If the alternative reading is correct, then institutions would be unable to rely their existing - and future - credit risk mitigation techniques unless they obtain new legal opinions from external counsel. Implications include: a) significant expenses and delays in obtaining legal opinions in respect of existing and future arrangements b) sudden increase in capital requirements - as exposures previously benefiting from credit protection techniques would lose such benefits, absent legal opinions.
Answer	Article 194(1) of the Regulation (EU) 575/2013 requires that credit protection is legally effective and enforceable in all relevant jurisdictions. This condition must be met before the credit protection can be considered as an eligible credit risk mitigation technique. The only way for an institution to establish whether this condition is met is to obtain a legal opinion. The requirement in the abovementioned Article does not specify that such opinion needs to be obtained from an external legal counsel. As long as it is "independent, written and reasoned" it may also be provided by an internal legal counsel. On the issue of whether an opinion must be specific to the relevant transaction covered and the technique employed by the institution or whether it can be a generic one, it depends mainly on the nature of the two. If an institution engages in the same type of transaction, with counterparties located in the same jurisdiction and uses the same credit risk mitigation technique, then it can rely on the same opinion. For example, if an institution uses a master netting agreement for which a generic opinion exists, it can use that opinion as long as the latter clearly indicates that the agreement is legally effective and enforceable in all the jurisdictions relevant to the transactions covered by that agreement. DISCLAIMER: This question goes beyond matters of consistent and effective application of the regulatory framework. A Directorate–General of the Commission (Directorate General for Internal Market and Services) has prepared the answer, albeit that only the Court of Justice of the European Union can provide definitive interpretations of EU legislation. This is an unofficial opinion of that Directorate General, which the European Banking Authority publishes on its behalf. The answers are not binding on the European Commission as an institution. You should be aware that the European Commission could adopt a position different from the one expressed in such Q&As, for instance in infringement proceedings or after a detailed examination of a specific case or on the basis of any new legal or factual elements that may have been brought to its attention.

Question ID	2013_58
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Credit risk
Article	178
Paragraph	1
Subparagraph	b
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	29/07/2013
Subject matter	Definition of default in terms of days
Question	Is it correct that the 180 day definition is only available for other purposes linked to the referenced defaulted loans under the standardised approach – but not for the 100% risk weight? Could this represent a discrimination of SA banks against IRB banks which might be allowed to apply a 180 day definition for the risk weight of defaulted residential/SME commercial/public sector loans under their internal rating systems?
Background on the question	Article 127 (under Part Three Capital Requirements; Title II Capital requirements for credit risk; Chapter 2 Standardised approach; Section 2 Risk weights) - when defining the default of an obligor - refers to Article 178 (under Part Three Capital Requirements; Title II Capital requirements for credit risk; Chapter 3 Internal Rating Based approach; Section 6 Requirements for the IRB approach; Sub-section 2 Risk quantification). Article 178, paragraph 1 point b) defines the default event in 90 days and allows competent authorities to "replace the 90 days with 180 days for exposures secured by residential or SME commercial real estate in the retail exposure class, as well as exposures to public sector entities". This point also states that "the 180 days shall not apply for the purposes of Article 127". This latter statement has been added to the final text at a later stage of the first level legislative process.
Answer	The 180 days shall not apply for the purposes of Article 127 of Regulation (EU) No 575/2013 (CRR) according to Article 178(1)(b) of CRR. When assessing the regulatory capital implications of this provision, please note that the legal implications of classifying exposures as defaulted differ between the Standardised and the IRB approach. DISCLAIMER: This question goes beyond matters of consistent and effective application of the regulatory framework. A Directorate–General of the Commission (Directorate General for Internal Market and Services) has prepared the answer, albeit that only the Court of Justice of the European Union can provide definitive interpretations of EU legislation. This is an unofficial opinion of that Directorate General, which the European Banking Authority publishes on its behalf. The answers are not binding on the European Commission as an institution. You should be aware that the European Commission could adopt a position different from the one expressed in such Q&As, for instance in infringement proceedings or after a detailed examination of a specific case or on the basis of any new legal or factual elements that may have been brought to its attention.

Question ID	2013_27
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Credit risk
Article	123
Paragraph	
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	30/07/2013
Subject matter	Definición de PYME - SME definition
Question	¿Qué criterios debe reunir una empresa para considerarse que es "PyME"? **Translation to EN:** SMEs - What are the defining criteria?
Background on the question	En diferentes artículos del Reglamento (123, 154, 178, 501) se hace referencia a las exposiciones frente a pequeñas y medianas empresas (PyME). Sin embargo, no hay ningún artículo en que se defina qué criterios debe cumplir una empresa para considerarse como PyME (únicamente en el artículo 501 se especifica explícitamente qué criterios debe cumplir, pero sólo a efectos del propio artículo). Por tanto, ¿qué definición se debe aplicar? **Translation to EN:** Although various articles of the Regulation (123, 154, 178, and 501) refer to exposures to small and medium sized enterprises (SMEs), none defines the criteria a company must meet in order to be considered an SME (only Article 501 explicitly states criteria to be met, but only for the purposes of that article). So, what should the definition be?
Answer	Institutions shall apply the respective treatment set out in Articles 123, 154, 178(1)(b) and 501 of Regulation (EU) No 575/2013 (CRR) to exposures that meet the criteria set out in those provisions. With regard to Articles 123, 154 , and where applicable, the derogation in the second sentence of 178(1)(b), institutions shall, apart from exposures to natural persons, include to this end qualifying exposures where they identify their counterpart to be an SME. In doing so, Recommendation 2003/361/CE of 6 May 2003 provides them with guidance. For purposes of Article 501, and as set out in detail in paragraph 2 point b thereof, they are required to use the definition set out in that Recommendation. DISCLAIMER: This question goes beyond matters of consistent and effective application of the regulatory framework. A Directorate General of the Commission (Directorate General for Internal Market and Services) has prepared the answer, albeit that only the Court of Justice of the European Union can provide definitive interpretations of EU legislation. This is an unofficial opinion of that Directorate General, which the European Banking Authority publishes on its behalf. The answers are not binding on the European Commission as an institution. You should be aware that the European Commission could adopt a position different from the one expressed in such Q&As, for instance in infringement proceedings or after a detailed examination of a specific case or on the basis of any new legal or factual elements that may have been brought to its attention.

	Translation to ES: Las instituciones aplicarán el respectivo tratamiento previsto en los artículos 123, 154, 178, apartado 1, letra b), y 501 del Reglamento (EU) No 575/2013 a las exposiciones que satisfagan los criterios establecidos en tales disposiciones. En lo que atañe a los artículos 123 y 154, y, en su caso, la excepción recogida en la segunda frase del artículo 178, apartado 1, letra b), las instituciones, aparte de las exposiciones frente a personas físicas, incluirán a este efecto las exposiciones cualificadas en las que identifiquen que su contraparte es una PYME. En la Recomendación 2003/361/CE de 6 de mayo de 2003 se les ofrecen directrices al respecto. A efectos del artículo 501, y según se refiere con detalle en el apartado 2, letra b) del mismo, están obligadas a utilizar la definición recogida en dicha Recomendación. EXENCIÓN DE RESPONSABILIDAD: Esta cuestión trasciende a los asuntos relativos a la aplicación coherente y eficaz del marco regulador. Una Dirección General de la Comisión (la Dirección General de Mercado Interior y Servicios) ha preparado la respuesta, aún cuando únicamente el Tribunal de Justicia de la Unión Europea puede proporcionar interpretaciones definitivas de la legislación de la UE. La presente es un dictamen no oficial de dicha Dirección General, que la Autoridad Bancaria Europea publica en su nombre. Las respuestas no son vinculantes para la Comisión Europea como institución. Han de tener en cuenta que la Comisión Europea podría adoptar una posición diferente de la expresada en tales preguntas y respuestas; por ejemplo, en procedimientos de infracción, tras un examen pormenorizado de un asunto específico, o sobre la base de cualesquiera nuevos elementos de hecho o de derecho que puedan habérsele planteado.

Question ID	2013_94
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Credit risk
Article	124, 125, 126
Paragraph	
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	27/08/2013
Subject matter	Applicable risk weights for agricultural properties.
Question	Should exposures fully secured by agricultural properties be assigned a risk weight of 100% according to article 124 or can they be considered as residential or commercial properties according to article 125 and 126 and, thus, have a lower risk weight?
Background on the question	Exposures fully secured by mortgages on immovable property shall, according to article 124, shall be assigned a risk weight of 100% unless the property is classified as residential or commercial. In article 4 (75) there is a definition of residential property but there is no corresponding definition of commercial property.
Answer	Unless the residential purpose dominates the purpose of commercial exploitation of the property, agricultural and silvicultural ~~and forest~~ properties should be considered commercial properties.* *As of 31/10/2013 this answer was corrected. DISCLAIMER: This question goes beyond matters of consistent and effective application of the regulatory framework. A Directorate General of the Commission (Directorate General for Internal Market and Services) has prepared the answer, albeit that only the Court of Justice of the European Union can provide definitive interpretations of EU legislation. This is an unofficial opinion of that Directorate General, which the European Banking Authority publishes on its behalf. The answers are not binding on the European Commission as an institution. You should be aware that the European Commission could adopt a position different from the one expressed in such Q&As, for instance in infringement proceedings or after a detailed examination of a specific case or on the basis of any new legal or factual elements that may have been brought to its attention.

Question ID	2013_65
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Credit risk
Article	Article 124
Paragraph	1 & 2
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	31/10/2013
Subject matter	Immovable property risk weights under the standardised approach (residential)
Question	Is the 35% standardised risk weight applicable to exposures fully and completely secured by mortgages on residential property outside the Union?
Background on the question	Article 125(1) of Regulation (EU) No 575/2013 (CRR) allows for exposures fully and completely secured by mortgages on residential property to receive a 35% risk weight where the conditions in 125(2) are met unless otherwise decided by the competent authorities in accordance with Article 124(2). Competent authorities can increase risk weights in their territory based on loss experience and forward-looking property market developments but the Regulation is silent on how risk weights should be determined for property markets outside the Union .e.g. Hong Kong.
Answer	Article 125(1) of Regulation (EU) No 575/2013 (CRR) does apply to exposures secured by mortgages on residential property outside of the Union. Article 124(2) requires in the fifth subparagraph that for property in their territory, competent authorities have to set a higher risk weight corresponding to the actual risks under certain conditions. For third countries, Article 124(2) does not establish such a requirement but competent authorities are still able to set higher risk weights or apply stricter criteria for exposures secured by immovable property located in third countries based on financial stability considerations as set out in the second, third and fourth subparagraphs and after consultation with EBA in accordance with the sixth subparagraph. <u>DISCLAIMER:</u> This question goes beyond matters of consistent and effective application of the regulatory framework. A Directorate General of the Commission (Directorate General for Internal Market and Services) has prepared the answer, albeit that only the Court of Justice of the European Union can provide definitive interpretations of EU legislation. This is an unofficial opinion of that Directorate General, which the European Banking Authority publishes on its behalf. The answers are not binding on the European Commission as an institution. You should be aware that the European Commission could adopt a position different from the one expressed in such Q&As, for instance in infringement proceedings or after a detailed examination of a specific case or on the basis of any new legal or factual elements that may have been brought to its attention.

Question ID	2013_66
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Credit risk
Article	126
Paragraph	1 and 2
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	31/10/2013
Subject matter	Immovable property risk weights under the standardised approach (commercial)
Question	Is the 50% standardised risk weight applicable to exposures fully and completely secured by mortgages on commercial property outside the Union?
Background on the question	Article 126(1) of Regulation (EU) No 575/2013 (CRR) allows for exposures fully and completely secured by mortgages on commercial property to receive a 50% risk weight where the conditions in 126(2) are met unless otherwise decided by the competent authorities in accordance with Article 124(2). Competent authorities can increase risk weights in their territory based on loss experience and forward-looking property market developments but the Regulation is silent on how risk weights should be determined for property markets outside the Union .e.g. Hong Kong.
Answer	Article 126(1) of Regulation (EU) No 575/2013 (CRR) does apply to exposures secured by mortgages on ~~residential~~ commercial* property outside of the Union. Article 124(2) requires in the fifth subparagraph that for property in their territory, competent authorities have to set a higher risk weight corresponding to the actual risks under certain conditions. For third countries, Article 124(2) does not establish such a requirement but competent authorities are still able to set higher risk weights or apply stricter criteria for exposures secured by immovable property located in third countries based on financial stability considerations as set out in the second, third and fourth subparagraphs and after consultation with EBA in accordance with the sixth subparagraph. **As of 21/02/2014 this answer was corrected* DISCLAIMER: This question goes beyond matters of consistent and effective application of the regulatory framework. A Directorate General of the Commission (Directorate General for Internal Market and Services) has prepared the answer, albeit that only the Court of Justice of the European Union can provide definitive interpretations of EU legislation. This is an unofficial opinion of that Directorate General, which the European Banking Authority publishes on its behalf. The answers are not binding on the European Commission as an institution. You should be aware that the European Commission could adopt a position different from the one expressed in such Q&As, for instance in infringement proceedings or after a detailed examination of a specific case or on the basis of any new legal or factual elements that may have been brought to its attention.

EBA EUROPEAN BANKING AUTHORITY

Question ID	2013_69
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Credit risk
Article	310
Paragraph	
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	08/11/2013
Subject matter	Alternative calculation of own funds requirement for exposures to a Qualifying Central Counterparty (QCCP)
Question	In the formula given in Article 310 of Regulation (EU) No 575/2013 (CRR) the trade exposure is referenced. According to article 306(1)(c) CRR and Article 306(2) CRR exemptions for the calculation of trade exposure exist, e.g. trade exposure can be set to zero under certain circumstance given in Article 306 CRR. Do these exemptions also hold when using Article 310 CRR?
Background on the question	It is unclear, whether a clearing member can set exposures with the CCP from client transactions to zero (Article 306(1)(c)) CRR), when the alternative method is used. The same question arises when posted collateral which is bankruptcy remote is included (Article 306(2) CRR). Both exceptions for exposure calculation are laid down in Article 306 CRR. But Article 310 CRR does not explicitly refer to Article 306 CRR for the definition of trade exposure. This evidently changes amounts for capital requirement in the formula of Article 310 CRR.
Answer	No, the exemptions in Article 306 of Regulation (EU) No. 575/2013 (CRR) do not apply to Article 310. This conclusion can be reached based on two considerations: 1. The formulation of Articles 306(1)(c) and 306(2) of the CRR are specific to that Article (there is no reference in Article 306 to Article 310, and vice-versa); and 2. It clearly follows from Article 301(2) of the CRR that the method set out in Article 310 is an alternative to the method set out in Article 306. DISCLAIMER: This question goes beyond matters of consistent and effective application of the regulatory framework. A Directorate General of the Commission (Directorate General for Internal Market and Services) has prepared the answer, albeit that only the Court of Justice of the European Union can provide definitive interpretations of EU legislation. This is an unofficial opinion of that Directorate General, which the European Banking Authority publishes on its behalf. The answers are not binding on the European Commission as an institution. You should be aware that the European Commission could adopt a position different from the one expressed in such Q&As, for instance in infringement proceedings or after a detailed examination of a specific case or on the basis of any new legal or factual elements that may have been brought to its attention.

Question ID	2013_269
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Credit risk
Article	227
Paragraph	1
Subparagraph	N/A
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	08/11/2013
Subject matter	Use of Core Market Participants Rule
Question	This question regards the use of the Core Market Participants rule (Article 227 of Regulation (EU) No 575/2013 (CRR)) in the context of Master Netting Agreements with Own Estimates of Volatility (Article 220). The rule detailed under Article 227 of CRR specifically excludes only the Internal Models Approach for Master Netting Agreements (Article 221), and is consistent with the Basel II text (June 2006) in which paragraph 170 excludes the same approach in paragraphs 178-181. However, paragraph 177 of the June 2006 text provides for repo-style transactions under master netting agreements to have haircuts calculated in accordance with paragraphs 147-172, inclusive of the core market participant rules. This is in contrast to the CRR, where article 220(1) is only inclusive of the volatility adjustments detailed in Articles 223-226, thereby excluding the core market participant rule. The question is whether this exclusion in the final CRR was intentional or an oversight.
Background on the question	There appears to be an inconsistency between the Basel II original text, which allows for the use of the core market participant rule when an institution uses the financial collateral comprehensive method or the master netting agreements approach with own estimates of volatility adjustments, and the CRR text. Could the EBA confirmed that the core market participant rule can be used by an institution that uses own estimates of volatility adjustments.
Answer	Article 220 requires using the financial collateral comprehensive method as set out in Articles 223 to 226. Where that financial collateral comprehensive method is used, Article 227 expressly permits, subject to conditions set out in that article, the use of a 0% volatility adjustment instead of the volatility adjustments set out in Articles 224 to 226. DISCLAIMER: This question goes beyond matters of consistent and effective application of the regulatory framework. A Directorate General of the Commission (Directorate General for Internal Market and Services) has prepared the answer, albeit that only the Court of Justice of the European Union can provide definitive interpretations of EU legislation. This is an unofficial opinion of that Directorate General, which the European Banking Authority publishes on its behalf. The answers are not binding on the European Commission as an institution. You should be aware that the European Commission could adopt a position different from the one expressed in such Q&As,

	for instance in infringement proceedings or after a detailed examination of a specific case or on the basis of any new legal or factual elements that may have been brought to its attention.

Question ID	2013_327
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Credit risk
Article	115
Paragraph	3
Subparagraph	
EBA technical standards & guidelines	Draft ITS on Supervisory Reporting
Article/Paragraph	115 (3)
Published as Final Q&A	08/11/2013
Subject matter	Artikel 115 (3) Zuordnung von Religiongemeinschaften zu Forderungsklasse/ Attribution of religious communities to an exposure class
Question	Was ist mit der Aussage im 3. Satz gemeint: In diesem Fall gilt Absatz 2 nicht..." ? **English translation:** What does the statement 'In this case, paragraph 2 shall not apply…' in Article 115(3) mean?
Background on the question	Der 1+2.. Satz des Artikel 115 (3) ordnet Religionsgemeinschaften mit Rechtspersönlichkeit und bestimmten Rechten den Risikopositionen regionaler und lokaler Gebietskörperschaften zu. **English translation:** The first and second clauses of Article 115(3) place religious communities with legal personality and certain rights in the same category as exposure to regional governments and local authorities.
Answer	"In this case, paragraph 2 shall not apply ..." of Article 115(3) means that although churches and religious communities can be treated as exposures to regional governments or local authorities, this treatment does not allow the treatment laid down in paragraph 115(2) that exposures to regional governments and local authorities can be treated as exposures to the central government. Therefore, these exposures shall be treated as exposures to institutions under Article 115(1). DISCLAIMER This question goes beyond matters of consistent and effective application of the regulatory framework. A Directorate General of the Commission (Directorate General for Internal Market and Services) has prepared the answer, albeit that only the Court of Justice of the European Union can provide definitive interpretations of EU legislation. This is an unofficial opinion of that Directorate General, which the European Banking Authority publishes on its behalf. The answers are not binding on the European Commission as an institution. You should be aware that the European Commission could adopt a position different from the one expressed in such Q&As, for instance in infringement proceedings or after a detailed examination of a specific case or on the basis of any new legal or factual elements that may have been brought to its attention **Deutsche Uebersetzung:** „In diesem Fall gilt Absatz 2 nicht...“ gemäß Artikel 115 Absatz 3 bedeutet, dass trotz der Möglichkeit, Kirchen und Religionsgemeinschaften als Risikopositionen gegenüber

	regionalen oder lokalen Gebietskörperschaften zu behandeln, eine Behandlung im Sinne von Absatz 115 Absatz 2 nicht zulässig ist, wonach Risikopositionen gegenüber regionalen und lokalen Gebietskörperschaften als Risikopositionen gegenüber dem Zentralstaat behandelt werden können. Daher sind diese Risikopositionen als Risikopositionen gegenüber Instituten im Sinne von Artikel 115 Absatz 1 zu behandeln. HAFTUNGSAUSSCHLUSS: Diese Frage geht über Fragen einer einheitlichen und wirksamen Anwendung des Regelungsrahmens hinaus. Eine Generaldirektion der Kommission (Generaldirektion Binnenmarkt und Dienstleistungen) hat die Antwort ausgearbeitet, obwohl nur der Gerichtshof der Europäischen Union eine endgültige Auslegung des EU-Rechts vorlegen kann. Dabei handelt es sich um eine inoffizielle Stellungnahme dieser Generaldirektion, die von der Europäischen Bankenaufsichtsbehörde in ihrem Auftrag vorgelegt wird. Die Antworten sind für die Europäische Kommission als Organ nicht verbindlich. Bitte beachten Sie, dass die Europäische Kommission einen anderen als den in diesen F&A genannten Standpunkt einnehmen kann, etwa bei Vertragsverletzungsverfahren oder nach einer eingehenden Prüfung eines spezifischen Falles oder auch aufgrund neuer rechtlicher oder sachlicher Elemente, die ihr gegebenenfalls zur Kenntnis gebracht wurden.

Question ID	2013_387
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Credit risk
Article	273
Paragraph	5
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	08/11/2013
Name of institution	BaFin/Deutsche Bundesbank
Country of incorporation / residence	Germany
Subject matter	Capital charge for credit derivatives in the banking book in the position of protection seller
Question	In Regulation (EU) No 575/2013 (CRR) we assume that for credit derivatives in the banking book in the position of protection seller the present capital charge is calculated only for credit risk with respect to the underlying and no extra capital charge for counterparty credit risk after CRR is needed. Do you agree?
Background on the question	N/A
Answer	As set out in Art. 273(5), where credit default swaps sold by an institution are treated by an institution as credit protection provided by that institution and are subject to own funds requirements for credit risk of the underlying for the full notional amount, their exposure value for the purposes of counterparty credit risk in the non-trading book shall be zero. (Cf. Article 111(1) sentence 2 and Article 166(10) in conjunction with annex I no. 1 letter b). Moreover, Articles 111(2) and 166(5) do not require exposure values for credit derivatives to be determined in accordance with Chapter 6 of Part Three because credit derivatives are not listed in Annex II. DISCLAIMER: This question goes beyond matters of consistent and effective application of the regulatory framework. A Directorate General of the Commission (Directorate General for Internal Market and Services) has prepared the answer, albeit that only the Court of Justice of the European Union can provide definitive interpretations of EU legislation. This is an unofficial opinion of that Directorate General, which the European Banking Authority publishes on its behalf. The answers are not binding on the European Commission as an institution. You should be aware that the European Commission could adopt a position different from the one expressed in such Q&As, for instance in infringement proceedings or after a detailed examination of a specific case or on the basis of any new legal or factual elements that may have been brought to its attention.

Question ID	2013_172
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Credit risk
Article	107
Paragraph	2
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	NA
Published as Final Q&A	23/11/2013
Subject matter	Credit risk approach applicable to exposures to CCPs: standardized approach (SA) or internal rating based approach (IRB)
Question	Is the IRB approach applicable to exposures to CCPs?
Background on the question	According to Article 107(2) of Regulation (EU) No 575/2013 (CRR), institutions shall apply the treatment set out in Chapter 6, Section 9 of CRR for exposures to a CCP. This treatment applies to trade exposures and to default fund contributions to a CCP. Own funds requirements for these exposures shall be calculated applying Articles 301 in conjunction with Articles 306 to 310 of CRR. Article 107(2) of CRR also sets out that exposures which are not in the scope of Chapter 6, Section 9 of CRR shall be treated either like exposures on institutions (for QCCP), or like exposures on corporate (for non QCCP). CRR does not explicitly set out the approach (SA or IRB) that can be applied for these exposures.
Answer	According to Article 107(2) of Regulation (EU) No. 575/2013 (CRR), the types of exposures outside the scope of Chapter 6, Section 9 of the CRR shall be treated as exposures to institutions or corporates depending on the conditions set out in that paragraph. For exposures to institutions or corporates, institutions shall apply, in accordance with Article 107(1) of the CRR, the Internal Ratings Based Approach, if permitted by the competent authorities, in accordance with Article 143. DISCLAIMER: This question goes beyond matters of consistent and effective application of the regulatory framework. A Directorate General of the Commission (Directorate General for Internal Market and Services) has prepared the answer, albeit that only the Court of Justice of the European Union can provide definitive interpretations of EU legislation. This is an unofficial opinion of that Directorate General, which the European Banking Authority publishes on its behalf. The answers are not binding on the European Commission as an institution. You should be aware that the European Commission could adopt a position different from the one expressed in such Q&As, for instance in infringement proceedings or after a detailed examination of a specific case or on the basis of any new legal or factual elements that may have been brought to its attention.

Question ID	2013_72
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Credit risk
Article	123
Paragraph	(c)
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	29/11/2013
Subject matter	SA - Retail Classification - EUR1 million limit
Question	In the definition of the retail exposures it states "...excluding exposures fully and completely secured on residential property collateral that have been assigned to the exposure class laid down in point (i) of Article 112..." of Regulation (EU) No. 575/2013 (CRR). Does this mean that exposures that are in default but fully secured on residential property (meeting all minimum requirements and limits) are not excluded?
Background on the question	E.g. for a group of connected customers, the on-balance sheet exposures (gross of value adjustments/impairments), i.e. total amount owed, are EUR €2.000.000 of which the amounts secured by residential property under Article 112(i) of CRR are EUR 1.200.000. Therefore, the amounts excluding residential real estate exposures under Article 112(i) would be EUR 800.000, hence classified as Retail. If for the same group of connected customers some of the exposures secured with residential real estate goes into default, for example EUR 300.000, does that mean that the customer exposures are no longer considered retail? (The exposures that would fall in Article 112(i) would decrease to EUR 900.000 and the amounts excluding residential real estate under Article 112(i) would be more than EUR 1m). The size and substance of the exposures do not change.
Answer	Where an exposure classified in the retail exposure class under Article 112(h) of Regulation (EU) No. 575/2013 (CRR) or exposures secured by mortgages on immovable property under Article 112(i) of the CRR goes into default, this shall be reclassified in the exposures in default class under Article 112(j) of the CRR. Consequently, when such an exposure has been reassigned to the default class it will contribute to the EUR 1 million cap on the total amount owed to the institution and parent undertakings and its subsidiaries under Article 123(c).

Question ID	2013_144
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Credit risk
Article	153
Paragraph	1
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	29/11/2013
Subject matter	IRB Approach
Question	Regarding the IRB approach for the calculation of capital requirements for preventing credit risk, where should the weighting formula be applied? Is it contract by contract, or is it a weighted average of the probability of default (PD) and loss given default (LGD) for each pool and then apply the risk weight formula to this mean?
Background on the question	The weighting formula is the formula that allows institutions to calculate the risk weight of a pool. RW (PD,LGD,M).
Answer	As set out under Article 151(3) of Regulation (EU) No.575/2013 (CRR), the calculation of risk-weighted exposure amounts for credit risk and dilution risk shall be based on the relevant parameters associated with the exposure in question. Only where the relevant parameters, namely (1) probability of default (PD); (2) loss given default (LGD); and (3) maturity, associated with the exposures in question are identical for each exposure category in question may the credit institution aggregate a number of individual exposures in order to calculate the risk-weighted exposure amount for that group of exposures.

Question ID	2013_239
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Credit risk
Article	127, 178
Paragraph	
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	06/12/2013
Subject matter	Off-balance sheet items and definition of default
Question	Please confirm that indeed the off-balance sheet part of a facility (e.g. undrawn amount) or any other off-balance sheet items e.g. acceptances, guarantees, etc should not be categorised in the "in default" exposure class even if the customer is classified as "in default".
Background on the question	Art.178 states that (excluding retail customers), if (a) the institution considers the obligor unlikely to pay its credit obligations to the institution, or any subsidiary or parent company, in full without recourse to actions such as realising security; or (b) the obligor is past-due more than 90 days on any material obligation to the institution, or any subsidiary or parent company, then all the exposures of that obligor should be classified as in default. However, from their nature (not yet materialised), off balance sheet items cannot be in default.
Answer	Off-balance sheet items are treated like on-balance sheet exposures and therefore shall be risk-weighted as defaulted exposure in case of default according to Article 178 of Regulation (EU) No. 575/2013 (CRR). The key difference between off-balance and on-balance exposures relates to the definition and calculation of the exposure value that needs to be risk-weighted. The definition and calculation of the exposure value of off-balance sheet items is detailed in Article 166 subparagraphs 8 to 10 (for the IRB approach) and Article 111(1)(for the Standardised approach) of the CRR.

Question ID	2013_343
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Credit risk
Article	501
Paragraph	2
Subparagraph	b
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	31/01/2014
Subject matter	Definition of SME
Question	SMEs are defined by turnover alone (EUR 50 million according to OJ L 124, 20.05.2003). Our question concerns when turnover is recorded. Is it (i) at inception of the loan or (ii) on an on-going basis? We would also like to know what level of documentation/proof is required, if any.
Background on the question	Not all of our members, particularly smaller ones, hold turnover data on their systems so will have no actual "proof". It would be disproportionately burdensome for them to start collecting this data, particularly if it had to be monitored. But it would be relatively straightforward for them to determine what percentage of their loan book would never exceed the SME turnover threshold either at inception or during the life of the loan.
Answer	Under Article 501(2)(b) of Regulation (EU) No. 575/2013 (CRR) an SME is defined in accordance with Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium sized enterprises. A deviation results only to the extent that, among the criteria listed in Article 2 of the Annex to that Recommendation, only the annual turnover shall be taken into account. Since the possible relief in capital requirements under Article 501 of the CRR is limited to exposures to SMEs, it needs to be ensured that this privilege is not extended inappropriately. An institution therefore needs to have adequate current information available on an on-going basis and should be able to adequately demonstrate the fulfilment of this requirement to its competent authorities.

Question ID	2013_361
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Credit risk
Article	124
Paragraph	3
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	31/01/2014
Subject matter	Applicability of the transitional period under Article 124(3) of Regulation (EU) No. 575/2013
Question	According to Article 124(3) of Regulation (EU) No. 575/2013 (CRR), institutions should have a 6-month transitional period to apply higher risk weights set by competent authorities to exposures secured by mortgages on immovable property. Should this transitional period also apply if the national authority decides under CRR to set risk weights at the same level and to the same extent, i.e. for the same kind of exposures that are currently set under CRD (so in fact such decision would not result in a higher capital requirements for banks in comparison to current national legislation)?
Background on the question	According to current Polish legislation, for FX exposures secured by mortgages on residential property, a 100% risk weight is applied. A 50% risk weight for exposures secured by mortgages on commercial immovable property is not allowed (except for leasing transactions and properties located in countries where 50% risk weight is applied) and 100% risk weight is applied. Taking into account the above, the 100% risk weight in case of aforementioned exposures, however higher than "general" level, would in fact remain unchanged. So, the transitional period does not seem to be justified or needed.
Answer	Article 124(3) of Regulation (EU) No. 575/2013 (CRR) provides that "when competent authorities set a higher risk weight or stricter criteria, institutions shall have a 6-month transitional period to apply the new risk weight". The purpose of this transitional provision is to provide institutions with the necessary time to adapt to the new risk weights. In the event that no new risk weights are imposed under the provisions of Article 124(2) of the CRR, the transitional period is not relevant.

Question ID	2013_416
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Credit risk
Article	501
Paragraph	2c
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	31/01/2014
Subject matter	The meaning of the "amount owed to the institution"
Question	How should institutions understand the "amount owed to the institution" under Article 501(2)(c) in case of off-balance sheet exposures to customers that haven't yet been used? Is it the exposure value (as understood in Article 111) or the nominal value of such product (for example credit line)?
Background on the question	The question focuses on off-balance sheet products like credit lines with low CCFs (credit conversion factors). Depending on the amount taken into account (nominal value or exposure) the amount owed to institution from the customer or group of customers can change in the material way. Moreover, depending on the approach taken, this amount may exceed EUR 1,5m. Credit lines are popular products for SMEs; if the amount taken into account was nominal value and not the exposure, this regulation would have a smaller impact on the SME sector.
Answer	Article 501(2)(c) of Regulation (EU) No. 575/2013 (CRR) refers to amounts "owed" to the institution. Therefore, in the case of a line of credit, only the drawn amount needs to be considered when checking if the EUR 1,5 million limit is complied with. Provided that all conditions of Article 501(2) of the CRR are met, the exposure as a whole including its undrawn part can qualify as exposure to an SME.

Question ID	2013_360
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Credit risk
Article	386
Paragraph	1
Subparagraph	b
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	21/02/2014
Subject matter	Eligibility of index CDS hedges in Advanced CVA charge
Question	Please can you confirm whether Basel FAQ 2c7 published in December 2012 on page 19 of BCBS's FAQ (http://www.bis.org/publ/bcbs237.pdf) is applicable under CRR?
Background on the question	Basel FAQ 2c7 (http://www.bis.org/publ/bcbs237.pdf) states that index CDS are only eligible A-CVA hedges for proxied counterparties, if the proxy is a constituent of the index. A literal application of this FAQ severely limits the amount of CVA hedging that can be performed and therefore discourages prudent risk management. It is also not clear why there should be different requirements for proxied counterparties, compared to counterparties which do have a traded CDS. Specifically, Basel FAQs do permit index CDS to be eligible hedges for counterparties with traded credit spreads, without any requirement for the counterparty to be an index constituent.
Answer	Index hedges are eligible hedges regardless of whether the counterparty (or proxy) they are hedging is an index constituent or not. However, under Article 386(1)(b) of Regulation (EU) No. 575/2013, index hedges are only eligible hedges if the basis between any individual counterparty spread and the spreads of index credit default swap hedges is reflected in the CVA-Value-at-Risk.

Question ID	2013_101
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Credit risk
Article	166
Paragraph	1
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	14/03/2014
Subject matter	IRB exposure value - Recognition of specific credit risk adjustment for positions measured at fair-value (e.g. IFRS category FVO, HfT and AfS)
Question	Which is the exposure value according to Article 166 (1) of Regulation (EU) No. 575/2013 (CRR) for IRB positions measured at fair value (to p+l or OCI) in the relevant accounting standard, when a separation of credit risk and market risk related fair value changes (e.g. revaluation reserve) for these positions is not possible and therefore not used to cover expected loss in accordance with Article 159 of the CRR?
Background on the question	According to Article 166(1) of the CRR, the IRB exposure value is the accounting value without taking into account any credit risk adjustments. Specific and general credit risk adjustments are used to cover the expected losses in accordance with Article 159 of the CRR. According to the CP/2012/10, the criteria for specifying a SCRA or GCRA are: 1) The adjustment relates to credit risk 2) The adjustment reduces the CET 1 3) The adjustment is to be included irrespective of whether it results from provisions, value adjustments or impairments A negative fair-value change, especially in case of a negative revaluation reserve (OCI), that relates to credit risk fulfils the criteria of a credit risk adjustment. Therefore, it has to be considered in the IRB exposure value according to Article 166 of the CRR and can be used to cover expected losses in accordance with Article 159 of the CRR. .
Answer	Whether a separation of credit risk related changes from other changes (in particular market risk related changes) is possible or not, is not relevant for exposures measured at fair value for that purpose. The determining factor is that the fair value changes are recognised as impairments under IFRS, or as adjustments of a similar nature made under other applicable accounting frameworks that reflect losses related to a deterioration or a worsening of an asset's or an asset portfolio's credit quality. For instance, under current IAS 39, and in application of the RTS on the calculation of credit risk adjustments, if there is a negative fair value change for an asset which is recognised in Other Comprehensive Income (OCI), this change in fair value does not represent a credit risk adjustment, unless it represents an impairment loss that is recognised as such in the profit or loss account.

	If that is the case, the fair value change - in its entirety - will be considered as a credit risk adjustment.

Question ID	2013_402
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Credit risk
Article	386
Paragraph	3
Subparagraph	N/A
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	28/03/2014
Subject matter	Exclusion of eligible CVA hedges from the specific risk capital requirements (market risk)
Question	When an institution enters into a transaction to hedge the credit valuation adjustment ("CVA") risk on a portfolio of trades with a non-financial counterparty ("NFC") own funds requirements for specific risk, which falls within the scope of the exemption provided under article 382.4.a (i.e., a NFC that is under the EMIR thresholds), can the institution take advantage of the provision of article 386.3 whereby the hedge is exempt from own funds requirements for specific risk?
Background on the question	Article 386.3 provides that "Eligible hedges that are included in the calculation of the own funds requirements for CVA risk shall not be included in the calculation of the own funds requirements for specific risk as set out in Title IV or treated as credit risk mitigation other than for the counterparty credit risk of the same portfolio of transaction." In accordance with Article 382.4.a, exposures to NFCs that are under the EMIR thresholds are exempt from own funds requirements for CVA risk. However, in line with sound risk management practices, an institution may decide to hedge the CVA risk (e.g., P&L volatility) [as opposed to the CVA risk capital charge which in this case is nil due to the exemption under Article 382.4.a]. The wording of Article 386.3 may suggest that the hedge does not qualify for the exemption from the specific risk capital requirement as the NFC falls under the exemption conditions provided in Article 382.4. If so, the institution would be penalised for implementing sound risk management practices.
Answer	Article 386(3) of Regulation (EU) No. 575/2013 (CRR) provides that "Eligible hedges that are included in the calculation of the own funds requirements for CVA risk shall not be included in the calculation of the own funds requirements for specific risk as set out in Title IV or treated as credit risk mitigation other than for the counterparty credit risk of the same portfolio of transaction." Accordingly, CDS hedges of the CVA of OTC derivatives not included in the scope of application of CVA own funds requirements, as provided for Article 382(4)(a) of the CRR, shall be subject to the relevant own funds requirements for specific risk as set out in Part Three, Title IV of CRR, unless they are treated as credit risk mitigation for counterparty credit risk as set out in Part Three, Title II, Chapter 4 of CRR. In particular, according to Article 106(3) of the CRR, when an institution hedges a non-trading book credit risk exposure, or a counterparty credit risk exposure using a credit derivative booked in its trading book by using an internal hedge, the non-

	trading book exposure or counterparty risk exposure shall not be deemed to be hedged for the purposes of calculating risk weighted exposure amounts unless the institution purchases from an eligible third party protection provider a corresponding credit derivative meeting the requirements for unfunded credit protection in the non-trading book.

Question ID	2013_414
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Credit risk
Article	501
Paragraph	2(c)
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	28/03/2014
Subject matter	Conditions taken into account to use the factor 0,7619
Question	Should an institution stop using the factor 0.7619 as soon as the amount owed to the SME enterprise exceeds 1.5m EUR?
Background on the question	The amount of exposure to one counterparty as well as its annual turnover change during the time of contract. The question is if the institutions should stop using the factor 0.7619 when the total amount owned to counterparty exceeds 1.5m EUR as well as the annual turnover exceeds the amount given in the Commission Recommendation 2003/361/EC, and then return to using this factor as soon as the conditions return to those presented in Article 501 of CRR.
Answer	The conditions specified in Article 501(2) should be met on an on-going basis. Accordingly, if, or as soon as the total amount defined in Article 501(2)(c) exceeds, for a given client or group of connected clients, EUR 1,5 million to the knowledge of the institution, the institution should stop using the factor of 0.7619. However, if, or as soon as the total amount no longer exceeds the EUR 1,5 million threshold, the institution can once again apply the factor of 0.7619 for the corresponding client or group of connected clients. In order to ensure that the conditions of Article 501(2)(c) are met on an on-going basis, institutions shall take reasonable steps to acquire and maintain the relevant information on their customers.

Question ID	2013_257
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Credit risk
Article	501
Paragraph	1
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	04/04/2014
Subject matter	Calculation of capital requirements for SME under Article 501 of CRR
Question	How should the capital requirements be calculated for SME exposures according to Article 501 of Regulation (EU) No 575/2013 (CRR)? In essence we are asking if the risk weighted assets for qualifying SMEs should be reduced or only the capital requirements for qualifying SMEs.
Background on the question	In Article 501(1) of CRR it states "Capital requirements for credit risk on exposures to SMEs shall be multiplied by the factor 0,7619". We are seeking clarification on the exact meaning of this statement as there could be at least two interpretations: 1. The institution should calculate risk weighted assets normally, then calculate the capital requirements normally (by multiplying the risk weighted assets by 0,08 etc.) and then multiply the capital requirement by the factor 0,7619 thereby getting to the reduced capital requirement for SMEs. 2. The institution should calculate risk weighted assets for the qualifying SME portfolio normally, then multiply the risk weighted assets with the SME reduction factor of 0,7619 and then use the new reduced risk weighted assets in order to calculate the capital requirements normally. Of course both of these methods should only be used for the SME exposures which qualify for the SME capital requirement deduction.
Answer	Capital requirements for credit risk refers to the risk-weighted exposure amounts set out in Article 92(3)(a) of Regulation (EU) No 575/2013 (CRR). Institutions should therefore calculate risk weighted exposure amounts for their qualifying SME exposures and then multiply these by the factor specified in Article 501(1) of the CRR (0,7619). The reduced amount of risk weighted exposure amount should then be used in the calculation according to Article 92(3)(a) of the CRR. The final draft ITS on Supervisory Reporting provides guidance on how each of these figures should be reported under both the Standardised and IRB Approaches for Credit Risk. It should be noted, however, that this final draft ITS may still be subject to changes before it is formally adopted and published in the Official Journal of the European Union.

Question ID	2014_705
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Credit risk
Article	125
Paragraph	2
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	04/04/2014
Subject matter	CRR – assignment of preferential risk weight to part of the loan secured by mortgage
Question	Does expression “part of the loan” refer to gross or net exposure? Which approach is correct?
Background on the question	According to Article 125 (2) (d) of Regulation (EU) No 575/2013 (CRR), the part of the loan to which the 35% risk weight is assigned does not exceed 80% of the market value of the property. e.g. Exposure with gross value = 1 200 000 EUR, credit risk adjustments = 500 000 EUR, net value = 1 200 000 – 500 000 = 700 000 EUR, is secured by real estate with market value = 1 000 000 EUR (80% of market value = 800 000 EUR). Collateral meets all requirements to enable assignment of preferential risk weight. If Art. 125 2. (d) refers to net value, then whole exposure (700 000 EUR) is covered by collateral (800 000 EUR) and might be treated as fully and completely secured, using preferential risk weight.
Answer	For the purpose of Article 125(2)(d) of Regulation (EU) No. 575/2013 (CRR), the part of the loan to which the 35% risk weight is assigned is to be determined after specific credit risk adjustments (i.e. it should be assigned to the net exposure). According to Article 113(2) of CRR, risk weights are applied by multiplying the exposure value by the risk weight. According to Article 111(1) of CRR, exposure values of asset items, including asset items resulting from a loan, are determined after specific credit risk adjustments. Note, however, that one potential indication of an obligor being unlikely to pay under the definition of default are specific credit risk adjustments resulting from a significant perceived decline in credit quality subsequent to the institution taking on the exposure (Article 178(3)(b) of CRR). If a default has occurred in accordance with Article 178, the 35% risk weight is no longer applicable because in this case Article 127 requires assigning a risk weight of 100% to the exposure value remaining after specific credit risk adjustments of exposures fully and completely secured by mortgages on residential property in accordance with Article 125.

EUROPEAN BANKING AUTHORITY

Question ID	2013_354
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Credit risk
Article	159
Paragraph	
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	11/04/2014
Subject matter	Discounts on balance sheet exposures purchased when not in default
Question	In Regulation (EU) No 575/2013 (CRR) Article 159 it states: "......Discounts on balance sheet exposures purchased when in default in accordance with Article 166(1) shall be treated in the same manner as specific credit risk adjustments." In respect of this how should one treat discounts on purchased exposures that were not in default at the time of purchase and discounts that were not calculated on single exposure level, but instead calculated on a whole portfolio of exposures which are not in default.
Background on the question	See above.
Answer	Article 159 of Regulation (EU) 575/2013 (CRR) does not provide for a treatment of discounts on balance sheet exposures purchased when not in default in the same manner as specific credit risk adjustments. Furthermore, according to Article 1 of the RTS on the specification of the calculation of specific and general credit risk adjustments in accordance with Article 110(4) of the CRR, such discounts do not qualify as credit risk adjustments. Hence, such discounts are not allowed to be included in the calculation according to Article 159 of the CRR. However, according to Article 166(1) of the CRR, if the discount on these exposures purchased is reflected in the balance sheet, the discount should also be reflected in the exposure value.

Question ID	2013_611
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Credit risk
Article	274
Paragraph	1
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	-
Published as Final Q&A	11/04/2014
Subject matter	Calculation of exposure value for counterparty credit risk under Mark-to-market Method
Question	Is there any exemption for the calculation of "add ons" when using Mark-to-market method for determining the exposure value for Regulation (EU) No. 575/2013 (CRR)? What is the right treatment of a single transaction that is not subject to legally enforceable netting agreement, if the contract has a negative value?
Background on the question	In the case of a single transaction that is not subject to a netting agreement, is the exposure value (for CCR) of a contract listed in Annex II the greater of "zero" and "the difference between the exposure value of that transaction and the CVA for that counterparty being recognised as an incurred write down". When using Mark-to-market Method (Article 274) for determining the exposure value the institution sums up the current replacement cost and potential future credit exposure. In a case of a contract with a positive value an institution attaches current market value to the contract in order to determine the current replacement cost, and then adds the potential future exposure (notional amounts multiplied with %). The Article is unclear about the treatment of contracts with negative replacement costs. Are contracts with negative replacement costs (which are not subject to legally enforceable netting agreement - single transactions) also subject to add-ons for potential future exposure?
Answer	There is no exception for contracts listed in Annex II of Regulation (EU) No. 575/2013 (CRR) with a negative market value for the calculation of add-ons using the Market-to-market Method under Article 274 of the CRR. The exposure value under the Mark-to market Method is 1c[t]he sum of current replacement cost and the potential future credit exposure... 1d (Article 274(4) of the CRR). For determining current replacement costs, institutions only consider contracts with a positive market value (Article 274(1)). Replacement costs for contracts with a negative market value is floored at zero. In contrast, the add-on for the potential future credit exposure defined in Article 274(2) of the CRR has to be calculated for all contracts regardless of the current market value.

Question ID	2013_669
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Credit risk
Article	199
Paragraph	6
Subparagraph	(c), (d)
EBA technical standards & guidelines	Not applicable
Article/Paragraph	199 (6) (c), (d)
Published as Final Q&A	11/04/2014
Subject matter	Application of Article 199(6)(c) and (d) in the event that the credit institution has not liquidated any such collateral in the past
Question	In the event that a credit institution has not liquidated the collateral referred to in Article 199(6) in the past, is it sufficient to demonstrate the availability of processes and data collection/analyses tool which enables the institution to show that the realised proceeds from the collateral are not below 70% of the collateral value in more than 10% of all liquidations for a given type of collateral in case collateral is liquidated?
Background on the question	The denial of permission on the grounds of missing data concerning the liquidation of collateral is an undue burden for a credit institution which in the past did not have any reasons for the liquidation of assets.
Answer	As part of the provisions for the additional eligibility for collateral allowed under the IRB approach, Articles 199(6)(c) and (d) of Regulation (EU) No. 575/2013 (CRR) state that: c) the institution analyses the market prices, time and costs required to realise the collateral and the realised proceeds from the collateral; d) the institution demonstrates that the realised proceeds from the collateral are not below 70% of the collateral value in more than 10% of all liquidations for a given type of collateral. Where there is material volatility in the market prices, the institution demonstrates to the satisfaction of the competent authorities that its valuation of the collateral is sufficiently conservative. Both conditions refer, in particular, to the "realised proceeds from the collateral" and can therefore only be satisfied if the institution has appropriate comparable historical data which reflect previous liquidations of a similar type of collateral. Only considering the processes and data collection/analyses tools in place is thus not sufficient to grant permission to an institution to use as eligible collateral physical collateral of a type other than those indicated in paragraphs 2, 3 and 4 of Article 199 of the CRR.

Question ID	2013_206
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Credit risk
Article	298
Paragraph	1
Subparagraph	(c) (i)
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	30/04/2014
Subject matter	Consideration of collateral in the current exposure method
Question	We seek clarification regarding the consideration of collateral in the current exposure method (referred to as the Mark-to-market method in Regulation (EU) No 575/2013 (CRR) for the own capital requirements as well as for the large exposure regime. Is it possible to allow for collateral posted in calculating the current replacement according to Article 298(1)(c)(i) of Regulation (EU) No 575/2013 (CRR)?
Background on the question	V is the value of a portfolio of derivative transactions, which can be netted (V>0, if the value of the portfolio is positive and V0, if collateral is received and C
Answer	Where a netting agreement meets the requirements set out in Article 296 of Regulation (EU) No. 575/2013 (CRR), by derogation from the measurement of current replacement cost set out in Article 274(1) where no such netting agreement is relevant, the current replacement cost is the actual net replacement cost resulting from the agreement according to Article 298(1)(c) of the CRR. This net replacement cost shall be obtained by considering all mutual claims subject to the agreement, including those resulting from collateral posted and received that would be netted under the agreement as set out in Article 296(2)(a) and (d). DISCLAIMER: This question goes beyond matters of consistent and effective application of the regulatory framework. A Directorate General of the Commission (Directorate General for Internal Market and Services) has prepared the answer, albeit that only the Court of Justice of the European Union can provide definitive interpretations of EU legislation. This is an unofficial opinion of that Directorate General, which the European Banking Authority publishes on its behalf. The answers are not binding on the European Commission as an institution. You should be aware that the European Commission could adopt a position different from the one expressed in such Q&As, for instance in infringement proceedings or after a detailed examination of a specific case or on the basis of any new legal or factual elements that may have been brought to its attention.

EBA EUROPEAN BANKING AUTHORITY

Question ID	2013_511
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Credit risk
Article	127
Paragraph	1
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	30/04/2014
Subject matter	Definition of exposure class "Exposures in default" under SA approach
Question	Are all exposures of the defaulted obligor taken into account when assigning exposures into the exposure class "Exposures in default" or just individual exposure(s) of that obligor that is (are) in default, since the definition of "Exposures in default" has changed (default definition according to the IRB approach)?
Background on the question	The definition of exposures in default has changed compared to Directive 2006/48/EC in a way that the reference regarding the default definition is made to the IRB approach. So when default of the obligor occurs under this definition (Article 178 of the CRR), all exposures of defaulted obligor are taken into account. However under the SA approach the treatment so far was(is) that only exposures that are past due more than 90 days are categorised under "Exposures in default". Since the latter definition has changed, my question is whether still only individual exposures that had defaulted under the IRB definition are taken into account in the SA approach.
Answer	Yes, all exposures of a defaulted obligor must be assigned to the exposure class "Exposures in default" under Article 127 of Regulation (EU) No 575/2013 (CRR), except for those retail exposures to an obligor, for which the definition of default in Article 178 of this Regulation is not met (i.e. individual credit facility approach). Article 127 of the CRR applies to any item where the obligor has defaulted in accordance with Article 178, but in the case of retail exposures solely to any credit facility which has defaulted in accordance with Article 178. Article 178 of the CRR states that in the case of retail exposures, institutions may apply the definition of default laid down in points (a) and (b) of the first subparagraph at the level of an individual credit facility rather than in relation to the total obligations of a borrower.

Question ID	2013_464
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Credit risk
Article	CRR Article 374
Paragraph	1
Subparagraph	N/A
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	16/05/2014
Subject matter	Standardised Method
Question	If the derivative exposure is guaranteed, can the weight be determined based on guarantor's rating instead of counterparty's rating, i.e. do we use the counterparty's credit rating or the guarantor's rating?
Background on the question	Illustrative example: Credit institution 'A' trades with the fully owned subsidiary of credit institution 'B'. The subsidiary does not have an external credit rating and its internal credit rating is lower than that of 'B'. Credit institution 'B' provides guarantee to its subsidiary. If 'A' wants to hedge its exposure to the subsidiary of 'B', it should buy CDS protection on 'B' (since subsidiary is guaranteed by credit institution 'B'). When 'A' calculates CVA capital charge for its exposure to the subsidiary of 'B' under the standardised approach, it should use the credit rating of 'B'. Is it correct to determine the weight based on credit rating of 'B' rather than 'B''s subsidiary?
Answer	In accordance with Article 384 of Regulation (EU) No.575/2013 (CRR), if a credit assessment by a nominated ECAI for credit institution 'B''s subsidiary is not available, and if credit institution 'A' uses the Standardised Approach for calculating capital requirements for credit risk, it shall assign a weight of w_i=1% to the credit institution 'B''s subsidiary, or, if credit institution 'A' uses Article 128 of the CRR to risk weight counterparty credit risk exposures to the credit institution 'B''s subsidiary, a weight of w_i =3% shall be assigned. If a credit assessment by a nominated ECAI for credit institution 'B''s subsidiary is not available, and if credit institution 'A' uses the IRB Approach for calculating capital requirements for credit risk, it shall map the internal rating of credit institution 'B''s subsidiary to one of the external credit assessments, which shall be mapped to one of the six weights w_i as set out in Table 1 of Article 384 of the CRR.

Question ID	2013_499
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Credit risk
Article	24 & 110
Paragraph	
Subparagraph	
EBA technical standards & guidelines	Draft ITS on Supervisory Reporting
Article/Paragraph	C 07.00, c030
Published as Final Q&A	16/05/2014
Question	In line with question 2013_201, how do we allocate any specific (to particular portfolios) collective provisions to various asset classes? a) do we follow the rules applied when calculating the specific collective provisions by the relevant department?; or b) can we allocate them to past-due exposures first and then to the all other exposures?
Background on the question	A) Question 2013_201 B) RWA are calculated at accounting value net of any credit risk adjustments, however some of these adjustments are collective.
Answer	The Commission Delegated Regulation (EU) No. 183/2014 of 20 December 2013 supplementing Regulation (EU) No. 575/2013 (CRR) provides criteria for the qualification of certain credit risk adjustments as general credit risk adjustments or specific credit risk adjustments. Moreover, in order to facilitate the mapping of the criteria for this distinction between general and specific credit risk adjustments to the accounting framework to which they apply for institutions, the delegated act specifically includes a discussion of cases for general and specific credit risk adjustments. In particular, Article 1(5) of the Regulatory Technical Standards (RTS) on specification of the calculation of specific and general credit risk adjustments in accordance with Article 110(4) of the CRR identifies three specific cases of losses which shall be included in the calculation of Specific Credit Risk Adjustments, namely: a. losses recognised in the profit or loss account for instruments measured at fair value that represent credit risk impairment under the applicable accounting framework; b. losses as a result of current or past events affecting a significant individual exposure or exposures that are not individually significant which are individually or collectively assessed; c. losses for which historical experience, adjusted on the basis of current observable data, indicates that the loss has occurred but the institution is not yet aware which individual exposure has suffered these losses. Furthermore, Article 2(1) of the RTS states that in the case of a Specific Credit Risk Adjustment that reflects losses related to the credit risk of a group of exposures, institutions shall assign this Specific Credit Risk Adjustment to all single exposures of this group proportionally to the risk-weighted exposure amounts. For this purpose,

	the exposure values shall be determined without taking into account any Specific Credit Risk Adjustments.

Question ID	2013_616
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Credit risk
Article	384
Paragraph	1
Subparagraph	-
EBA technical standards & guidelines	Not applicable
Article/Paragraph	-
Published as Final Q&A	23/05/2014
Subject matter	Calculation of EADi(total) for CVA purposes under the standardised method
Question	How should an institution using Mark-to-market Method for calculating the exposure value for CCR purposes calculate an EADi(total) when calculating the own funds requirements for CVA risk under standardised method? How should collateral be taken into account?
Background on the question	EADi total is defined as "the total counterparty credit risk exposure value of counterparty "i" (summed across its netting sets) including the effect of collateral in accordance with the methods set out in Sections 3 to 6 of Title II, Chapter 6 as applicable to the calculation of the own funds requirements for counterparty credit risk for that counterparty. An institution using one of the methods set out in Sections 3 (mark-to-market method) and 4 (original exposure method) of Title II, Chapter 6, may use as EADitotal the fully adjusted exposure value in accordance with Article 223(5). As mark to market method (Section 3 of Title II, Chapter 6) does not specify how to take into account collateral (i.e. what should be reduced "current replacement costs" or "the total exposure value – the sum of the current replacement costs and an add on for the potential future exposure") there is no guidance how to calculate the fully adjusted value of exposure (E*). If an institution uses financial collateral simple method for the purposes of calculating capital requirements for credit risk, can it use the financial collateral Comprehensive Method only for CVA purposes (may an institution calculate E* for CVA purposes)? If not, does that mean that effects of collateral (for CVA purposes – when calculating EADitotal) can only be taken into account if an institution generally uses financial collateral comprehensive method?
Answer	Article 384(1) of Regulation (EU) No. 575/2013 (CRR) states: "An institution using one of the methods set out in Sections 3 and 4 of Title II, Chapter 6, may use EADi(total) as the fully adjusted exposure value in accordance with Article 223(5)." This rule does not make it a pre-condition that the institution uses the Financial Collateral Comprehensive Method according to Article 223 of the CRR for calculating the risk weighted exposure amounts for credit risk. Accordingly, an institution that uses one of the methods set out in Sections 3 (mark-to-market method) or 4 (original exposure method) of Title II, Chapter 6, may recognise financial collateral according to the Financial Collateral Comprehensive Method for calculating EADi(total) for calculating the own fund requirement for CVA risk according to the standardised method (Article 384), and it may do so even when it uses the Financial Collateral Simple Method for calculating the risk weighted exposure amounts for credit risk based on the exposure value computed using the mark-to-market method (without taking into account collateral) in accordance with Article 273.

Question ID	2013_668
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Credit risk
Article	305
Paragraph	2
Subparagraph	a
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	23/05/2014
Subject matter	Conditions for application of 4% risk weight
Question	Please confirm that the criteria in Article 305(2)(a) is met with gross omnibus segregation solutions that provide the same level of segregation as individual segregation (e.g. account segregation with asset-tagging, where good individual asset attribution yields the same results as individual segregation).
Background on the question	Article 305(2)(a) and Article 305(3) together provide the risk weights for segregation, replacing (under certain circumstances) the 2% risk weight in Article 306 with 4% risk weight. We believe that Legal Segregation with Operation Comingling, for example, meets the criteria in Article 305(2)(a).
Answer	Article 305, together with Article 306 of Regulation (EU) No. 575/2013 (CRR), allow a preferential treatment for client exposures towards a QCCP provided certain eligibility criteria are fully or partially met. Article 305(2)(a) contains a core criteria that explicitly requests that: "the positions and assets of that institution related to those transactions are distinguished and segregated, at the level of both the clearing member and the CCP, from the positions and assets of both the clearing member and the other clients of that clearing member and as a result of that distinction and segregation those positions and assets are bankruptcy remote in the event of the default or insolvency of the clearing member or one or more of its other clients;" Therefore, the CRR clearly requires use of a clearing account that provides at least an equivalent level of client protection as individual client segregation. In order to benefit from the 2% risk weight the client must not be exposed to risk arising other than from its own positions and assets. If the client is exposed to a double default of its clearing member and another client, or to a loss of value of other clients' collateral, then it should not benefit from the 2% weighting. 'Asset-tagging' or 'good individual asset attributions' do not necessarily guarantee this condition nor the other conditions laid down in Article 305(2) of the CRR in practice. In the instance where a client faces fellow client risk, as described in Article 305(3) of the CRR, where an institution that is a client is not protected from losses in the case that the clearing member and another client of the clearing member jointly default, they may benefit from the 4% risk weight so long as all other conditions of Article 305(2) are met. This would also include the condition that the positions and assets of that institution related to their CCP-related transactions are still distinguished and

	segregated at the level of both the clearing member and CCP, from the positions and assets of both the clearing member and the other clients of that clearing member. Following this, gross omnibus segregation (legal segregation & operational comingling) may be an acceptable level of segregation for institutions if they can demonstrate to offer the aforementioned level of protection. Where the conditions of Article 305(2) or (3) of the CRR are not met, the institution shall calculate the own funds requirements in accordance with Article 305(1).

Question ID	2013_692
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Credit risk
Article	382
Paragraph	1
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	NA
Published as Final Q&A	23/05/2014
Subject matter	CVA for client exposures
Question	Are exchange traded derivatives (ETDs) in scope in terms of CVA applicability?
Background on the question	AFME has observed divergent interpretations within industry regarding CVA treatment of exposures relating to ETDs. Per Article 382(1) of Regulation (EU) No 575/2013 (CRR), the requirement is for institutions to "calculate the own funds requirements for CVA risk for all OTC derivative instruments" (other than credit derivatives recognised to reduce risk-weighted exposure amounts for credit risk). It is not clear therefore whether ETDs are in scope.
Answer	In accordance with Article 382(1) of Regulation (EU) No. 575/2013, the CVA charge is intended specifically to capture all OTC derivative instruments. Thus ETDs are excluded from the scope.

Question ID	2013_417
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Credit risk
Article	501
Paragraph	2
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	none
Published as Final Q&A	28/05/2014
Subject matter	Conversion of the total amount owed to institution from national currency to EUR
Question	Which exchange rate should the institution use to convert the amount owed to institution (mentioned in Article 501 point 2) and measure if that amount doesn't exceed EUR 1.5 million? Should it be converted to EUR each day with exchange rate from this day or should the exchange rate be fixed, for example from the day when the product was sold?
Background on the question	When the currency of products sold to customers isn't EUR, each day the value of those products in EUR changes, while they have to be converted with a variable exchange rate . Year 2013 has shown in our country that in one year EUR can change its exchange rate by 30%. This can have material impact of the total amount owed to institutions as stated in Article 501. In one month the amount can exceed 1.5m EUR and in another does attributable to the exchange rate. This unpredictability can make banks less eager to use the SME supporting factor of 0.7619 and the impact on SME sector would be smaller.
Answer	Under Article 501(2)(c) of Regulation (EU) No. 575/2013 (CRR), the potential reduction in capital requirements is only available where the total amount owed does not exceed the EUR 1.5 million limit. This is an on-going condition and an institution must (i) be able to demonstrate its fulfilment to its competent authorities if and when requested, and (ii) report to competent authorities every three months their total SME exposures, on the basis of adequate current information. Where an exposure is denominated in a currency other than the Euro, an institution may calculate the euro equivalent using any appropriate set of exchange rates, updated with an appropriate frequency, provided its choice has no obvious bias and the approach used to choose the appropriate set of exchange rates is consistently applied. Consistent with regulatory reporting requirements, one such example of an appropriate exchange rate could be the relevant Euro spot exchange rate published on the European Central Bank's website.

2. External Credit Assessment Institutions (ECAIs)

Question ID	2014_737
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	External Credit Assessment Institutions (ECAI)
Article	136
Paragraph	1
Subparagraph	2
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	25/04/2014
Subject matter	Applicable mappings before entry into force of ITS on Articles 136(1) and 270
Question	What mappings will be applicable between the first date of application of Regulation No. 575/2013 (i.e. 1 January 2014) and the entry into force of the ITS on Articles 136(1) and 270?
Background on the question	ITS on Articles 136(1) and 270 will only be submitted to the Commission by 1 July 2014. This implies that the mappings of ECAI's credit assessments will not be available until they are adopted by the Commission and subsequently published in the Official Journal of the European Union in the last months of 2014. During this period, the application of risk weights based on the credit quality of the exposure, as foreseen by Article 113(1), would not be possible.
Answer	Article 136(1) and Article 270 of Regulation (EU) No 575/2013 (CRR) require EBA to submit draft implementing technical standards to the European Commission with the ECAI mappings by 1 July 2014. In the meantime, credit institutions should, to ensure consistency and continuity, use the existing mappings issued by the National Competent Authorities in the implementation of those provisions of the CRD/CRR which refer to the mappings of ECAIs to determine credit quality steps. Once the respective ITS's have entered into force, credit institutions shall apply the ECAI mappings set out therein. DISCLAIMER: This question goes beyond matters of consistent and effective application of the regulatory framework. A Directorate General of the Commission (Directorate General for Internal Market and Services) has prepared the answer, albeit that only the Court of Justice of the European Union can provide definitive interpretations of EU legislation. This is an unofficial opinion of that Directorate General, which the European Banking Authority publishes on its behalf. The answers are not binding on the European Commission as an institution. You should be aware that the European Commission could adopt a position different from the one expressed in such Q&As, for instance in infringement proceedings or after a detailed examination of a specific case or on the basis of any new legal or factual elements that may have been brought

	to its attention.

Question ID	2014_760
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	External Credit Assessment Institutions (ECAI)
Article	137
Paragraph	-
Subparagraph	-
EBA technical standards & guidelines	Not applicable
Article/Paragraph	-
Published as Final Q&A	23/05/2014
Subject matter	High Income OECD countries and High Income Euro Area countries as defined in the OECD
Question	High Income OECD countries and High Income Euro Area countries as defined in the OECD (currently e.g. USA, UK, Germany, Luxembourg, Canada, Finland, etc.) receive since early 2013 no longer a country risk classification, due to their high solvency, tax income as well as tax possibilities etc. As a consequence, it is not possible to derive a risk weight according to article 137 (2) CRR without using any appropriate mechanism for determining the corresponding country risk classification. Can it be assumed, that High Income OECD countries and High Income Euro Area countries which are supposed to be even “better” than country risk classification 0 can be treated under Article 137 with an MEIP being equal to 0?
Background on the question	At the beginning of 2013 OECD revised its methodology for country risk classification (Arrangement on Officially Supported Export Credits – “the Arrangement”). According to the rules of the Arrangement, two groups of countries are not classified. The first group is not classified for administrative purposes and is comprised of very small countries that do not generally receive official export credit support. The second group of countries is comprised of High Income OECD countries and High Income Euro Area countries. Especially the second group was introduced due to their high solvency, tax income as well as tax possibilities and reputation. Despite this fact, a variety of Export Credit Rating Agencies continue to rate those countries 0 but include additional information regarding the export credit premium to be paid. Others like the OECD itself do not publish a rating but a list of the High Income OECD countries and High Income Euro Area countries. As CRR based on the Basel framework is offering the choice to use OECD country classifications for solvency and large exposure purposes, it seems to be obvious that countries being classified better than the best status rewarded should be treated like the best status and not like an “unrated” counterparty. Consequently, we strongly recommend to handle such High Income OECD countries and High Income Euro Area countries like countries with MEIP = 0.
Answer	Exposures to central governments and central banks of Member States or third countries for which a consensus risk score according to Article 137(1)(a) of Regulation (EU) No. 575/2013 (CRR) does not exist may only be risk-weighted according to Article 137(2) if a credit assessment of an Export Credit Assessment Agency that the institution has nominated is available and the conditions of Article 137(1)(b) are met.

3. Internal Governance

Question ID	2013_228
Status	Final Q&A
Legal act	Directive 2013/36/EU (CRD)
Topic	Internal governance
Article	76
Paragraph	3
Subparagraph	4
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	24/01/2014
Subject matter	Requirement to establish a risk/audit committee
Question	Article 76(3), first paragraph, requires significant institutions to establish a risk committee. According to the fourth subparagraph, "competent authorities may allow an institution which is not considered significant as referred to in the first subparagraph to combine the risk committee with the audit committee as referred to in Article 41 of Directive 2006/43/EC." Does this mean that all institutions in the EU are required to establish at least a joint risk and audit committee?
Background on the question	Taken literally, the requirement would mean that, at odds with the proportionality principle, all institutions in the EU would be required to establish at least a joint risk and audit committee.
Answer	Article 74(2) of Directive 2013/36/EU (CRD) establishes that an institution's governance arrangements "shall be comprehensive and proportionate to the nature, scale and complexity of the risk inherent in the business model and the institution's activities", taking into account the technical criteria in Articles 76 to 95 of the CRD. Therefore, an institution, while not deemed 'significant', may be deemed to have sufficient risks relative to its nature, scale and complexity to require the establishment of a risk committee, while smaller and less complex institutions are not required to establish such a committee under proportionality considerations. Where the first paragraph of Article 76(3) of the CRD does not apply, but a risk committee is required to be established on the basis of proportionality under Article 74(2), the fourth subparagraph of Article 76(3) may then apply. This enables competent authorities to allow a non-significant institution to combine its audit committee, referred to in Article 41 of Directive 2006/43/EC, with this risk committee. This is subject to the members of the joint committee having the knowledge, skills and experience required of both competences. Competent authorities may allow the establishment of a joint risk/audit committee following individual or peer assessments, or make their establishment available to defined categories of institutions with a similar risk profile and degree of complexity. This should be done on the basis of objective criteria. For the smallest or least complex non-significant institutions, it is likely that neither a dedicated risk committee nor a joint risk/audit committee will be required.

	While there is no definition of 'significant' in Regulation (EU) No. 575/2013 (CRR), Directive 2013/36/EU (CRD), or in existing EBA Guidelines, the EBA Guidelines on Internal Governance state, under point 14.6 and in particular 14.12, that institutions should establish a risk committee subject to the proportionality principle. Pending the development of guidelines setting out the definition of 'significant' in this context, Member States should apply their own criteria in making this determination. Regardless of the establishment of a dedicated risk committee, a joint risk and audit committee, or neither of these, the management body shall, pursuant to the second sub-paragraph of Article 76(3) of the CRD, always retain ultimate responsibility for the risk management within the institution.

4. Large Exposures

Question ID	2013_57
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Large exposures
Article	392
Paragraph	1
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	31/10/2013
Subject matter	Definition of a large exposure
Question	Please can you confirm if the large exposure threshold for reporting is 10% of eligible capital as mentioned in Article 392 or €300m?
Background on the question	At a recent XBRL conference it was mentioned that the LE reporting threshold would be €300m.
Answer	Article 394 (1) of Regulation (EU) No 575/2013 (CRR) requires that institutions report every large exposure (defined in Article 392 of CRR as exposures to clients or groups of connected client where its value is equal or exceeds 10 % of the eligible capital of the institution). Additionally, Article 394 (2) of the CRR requires the reporting of certain largest exposures and Article 5 (a) (12) of the draft Implementing Technical Standards (ITS) on Supervisory Reporting under the CRR require that institutions report information related to exposures to clients and groups of connected clients not considered large exposures in accordance with Article 392 of the CRR, but which have an exposure value larger than or equal to 300 million EUR. On 26 July 2013 the EBA submitted these draft ITS to the European Commission and published them on its website. However, it is important to note in this context that, as the formal adoption of the ITS falls on the European Commission, the ITS as published by the EBA, may still be subject to changes.

Question ID	2013_365
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Large exposures
Article	295
Paragraph	1
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	28/03/2014
Subject matter	Large Exposures - clients to CCPs
Question	May a client relying on Article 305(2) to calculate own funds requirements for its trade exposures for CCP-related transactions with its clearing member in accordance with Article 306, rely on the exemption in Article 400 as regards such CCP-related transactions? Legal Reference: Article 295(1), 400, 305 and 306
Background on the question	Article 395(1) sets limits to the large exposures of an institution. Pursuant to article 400 exposures to a central counterparty are exempt from these limits. Accordingly the question arises as to whether a client relying on Article 305(2) to calculate own funds requirements for its trade exposures for CCP-related transactions with its clearing member in accordance with Article 306 may also rely on the exemption in Article 400 as regards such CCP-related transactions? The BCBS/IOSCO consultative document provides that "when the transaction of a client with a clearing member is treated as one with a Q-CCP under the solvency regime, the client may also treat this exposure under the large exposures framework as one with the Q-CCP, and not with the clearing member"
Answer	Trade exposures, including those described under Article 305(2) of Regulation (EU) No. 575/2013 (CRR) are exempted from the application of Article 395(1) of the CRR in accordance with Article 400(1)(j). Thus, the client’s transactions with the clearing member are treated as if the client acted directly with the CCP. This is consistent with the following provision: Pursuant to Article 4(1)(91) of the CRR, the definition of 'trade exposures' also refers to the exposures of clients to a CCP arising from contracts and transactions listed in points (a) to (e) of Article 301(1), meaning that the exemption specified in Article 400(1)(j) of the CRR also covers trade exposures of clients to CCPs arising from CCP-related transactions between the clearing member and the client.

Question ID	2013_474
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Large exposures
Article	390
Paragraph	1
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	28/03/2014
Subject matter	Treatment of collateral posted from client to clearing Member in Large Exposures
Question	Does Article 390(1) of Regulation (EU) No 575/2013 (CRR) include collateral posted from client to clearing member?
Background on the question	If so, posted collateral could receive an exposure value of 0 (Article 306 (2) CRR) for the purposes of large exposures, provided that all of the pre-conditions of Articles 305(2) and 306(2) are fulfilled. Please note, that otherwise there is a risk of exceeding the LE-Limit of Article 395 (1) CRR, since collateral claims of a CCP have to meet, regardless of any limits and CCP related trade exposures of a client are not an exemption according to Article 400 of CRR.
Answer	Trade exposures, as defined in Article 4(1)(91) of Regulation (EU) No. 575/2013 (CRR), include the current and potential future exposures of clients and clearing members to CCPs arising from contracts listed in Annex II of CRR, credit derivatives and transactions listed in points (b) to (e) of Article 301(1) of the CRR. Trade exposures also include the collateral posted by clients and clearing members to CCPs. For large exposure purposes, trade exposures, including those arising from posted collateral, are exempted from the application of Article 395(1) of the CRR in accordance with Article 400(1)(j). For solvency purposes - when clients calculate the own funds requirements for trade exposures, and provided the conditions set out in Article 305(2) of the CRR are met, the exposure value of assets posted as collateral may be reduced to zero in accordance with Article 306(2), provided that these assets are bankruptcy remote in the event of the CCP, clearing member or any other clients of the clearing members defaulting.

Question ID	2013_624
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Large exposures
Article	389
Paragraph	
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	11/04/2014
Subject matter	Inclusion of indirect holdings in the large exposures regime
Question	Do indirect holdings have to be included in the large exposure regime based on Article 389 of Regulation (EU) No. 575/2013 (CRR) if they are held against a financial sector entity (that is fulfil the definition in Article 36 (1)(h) or (i) of the CRR), but are not deducted from own funds and instead risk weighted according to Articles 48(4), 46(4) or 49(4) of the CRR? If the answer is yes, can the financial sector entity being regarded as the relevant client for large exposure purposes?
Background on the question	Clarification of uncertainty whether indirect holdings not being deducted from own funds fulfil the definition in Article 389 and therefore need to be included in large exposures.
Answer	Amounts of holdings under Article 36(1)(h) or (i) of Regulation (EU) No. 575/2013 (CRR) that are not deducted from own funds are included in the calculation of the exposure value according to Article 390 for identifying large exposures according to Article 392 of this Regulation. The financial sector entity to which the institution is exposed because of the holding in its Common Equity Tier 1 instruments is the relevant “client” for the exposure included in the calculation of the exposure value for large exposures purposes. For the purposes of the large exposures regime, "exposures" are defined in Article 389 of the CRR as "any asset or off-balance sheet item referred to in Part Three, Title II, Chapter 2 of the CRR (i.e. Standardised Approach), without applying the risk weights or degrees of risk". Article 390(6)(e) of the CRR sets out that exposures deducted from own funds in accordance with Articles 36, 56 and 66 of the CRR shall not be included in the calculation of exposure values for large exposures purposes. Further, if amounts of holdings are not deducted from Common Equity Tier 1 items in accordance with Articles 46(4), 48(4) or 49(4) of the CRR, these exposures do not qualify for the exclusion from the definition of “exposures” under Article 390(6)(e).

Question ID	2013_638
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Large exposures
Article	389
Paragraph	1
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	11/04/2014
Subject matter	Exposure for Large Exposure Reporting - Accrued interests
Question	Article 389 of the CRR states that for Large Exposure Reporting, the exposure should be identical to those in the standardised approach (Part II, Title 2, Chapter II) just without applying risk weights. According to Standard Approach for assets the risk position is defined by the balance sheet value including accrued interest and impairments being deducted. Can you confirm that this is also the definition for Large Exposures?
Background on the question	In Germany, credit institutions have been informed that in contrast to credit risk calculation, accrued interest should not be included in Large Exposure calculation.
Answer	For the purposes of the large exposures regime, "exposures" are defined in Article 389 of Regulation (EU) No. 575/2013 (CRR) as any asset or off-balance sheet item referred to in Part Three, Title II, Chapter 2 of the CRR (i.e. Standardised Approach, Article 111 of the CRR et seq.), without applying the risk weights or degrees of risk. The exposure value of an asset item is the same for large exposures purposes as for the calculation of capital requirements for credit risk under the Standardised Approach, which is the accounting value remaining after some adjustments in accordance with Article 111 of the CRR, but without the application of risk weights or degrees of risk. The accounting value (and thus the treatment of accrued interests) is determined by the applicable accounting framework (see Article 4(1)(77) of the CRR).

Question ID	2013_672
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Large exposures
Article	394
Paragraph	
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	11/04/2014
Subject matter	Large Exposures – disclosure of counterparty names
Question	Where the credit institution does not have consent to disclose the clients names, what should it report here?
Background on the question	Due to sensitivity and local privacy rules.
Answer	Article 394(1)(a) and (2)(a) of Regulation (EU) No. 575/2013 requires the identification of the client or the group of connected clients to which an institution has a large exposure. This requires institutions to report certain information regarding large exposures to their competent authorities, which are bound by professional secrecy as required by Article 53 of Directive 2013/36/EU. This does not constitute a disclosure requirement.

5. Leverage Ratio

Question ID	2013_576
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Leverage ratio
Article	429
Paragraph	9
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	08/05/2014
Subject matter	Determining the exposure value for repurchase transactions for the purpose of calculating the leverage ratio in case the collateral provided doesn't qualify as eligible according to Regulation (EU) No 575/2013 (CRR).
Question	How should an institution that uses the standardized approach (for the purpose of calculating the capital requirement for credit risk) determine the exposure value of repurchase transactions with other banks if the collateral provided to the institution doesn't qualify as eligible according to Article 206 and Article 207 of CRR?
Background on the question	According to Article 429(9) institutions shall determine the exposure value of repurchase transactions, in accordance with Article 220(1) to (3) and Article 222, and shall take into account the effects of master netting agreements, except contractual cross-product netting agreements, in accordance with Article 206. According to Article 206 master netting agreements covering repurchase transactions, securities or commodities lending or borrowing transactions or other capital market driven transactions shall qualify as an eligible form of credit risk mitigation where the collateral provided under those agreements meets all the requirements laid down in Article 207(2) to (4) and where a number of other conditions specified in Article 206 are met. Article 220 is N/A for banks that don't use the "Supervisory Volatility Adjustments Approach" or the "Own Estimates Volatility Adjustments Approach" for master netting agreements. However, for institutions to which Article 220 is N/A Article 222 does not say how the exposure value of repurchase transactions should be determined if the collateral in a repurchase transactions doesn't qualify as eligible.
Answer	Where collateral provided to the institution under a repurchase transaction does not meet the eligibility requirements according to Articles 206 and 207 of Regulation (EU) No 575/2013 (CRR), the exposure value of the repurchase transaction according to Article 429(9) is to be determined according to Article 222 whereby the non-eligible collateral provided to the institution cannot be taken into account. Article 429(9) of CRR requires that the effects of a master netting agreement covering repurchase transactions are taken into account in accordance with Article 206 of CRR. Article 206 requires in particular that the collateral provided under those agreements meets all the requirements laid down in Article 207(2) to (4). A master netting

	agreement is therefore not eligible if collateral provided under this master netting agreement does not meet all of these requirements. Article 220 is only applicable to eligible master netting agreements [cf. "When institutions calculate the 'fully adjusted exposure value' (E*) for the exposures subject to an **eligible** master netting agreement"]. Consequently, Article 429(9) requires the exposure value of a repurchase transaction to be determined according to Article 222 of CRR where the repurchase transaction is not covered by an eligible master netting agreement. Since recognition of collateral according to Article 222(3) is limited to eligible collateral, collateral which does not meet the eligibility requirements according to Article 207 of CRR cannot be taken into account in the determination of the exposure value of a repurchase transaction.

EBA EUROPEAN BANKING AUTHORITY

Question ID	2013_635
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Leverage ratio
Article	429
Paragraph	5
Subparagraph	a
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	08/05/2014
Subject matter	Look through approach to be applied for calculation of Leverage Ratio
Question	Art 429 (5) a) states that risk positions for the calculation of the Leverage Ratio should be calculated according to paragraph 111 (1) sent. 1 of the CRR, meaning, they are identical to risk positions in the Standard Approach. Does this mean that for transactions with underlying assets, e.g. UCITS a look through approach should also be used for the calculation of the Leverage Ratio? Does this apply to template C45.00 columns 010, 020 and 030 as well as to template C40.00 column 010?
Background on the question	Applying a look through approach will result in a consistency of exposures between the credit risk data and leverage ratio data, but it will result in inconsistencies when comparing leverage ratio with FINREP. E.g. a bank which does invest in a mutual fund that does STF-transactions and does not have any own STF transactions will report these in the leverage ratio but in FINREP that will not be indicated as part of the banking business. Template 040.00, column 010 refers explicitly to an Accounting balance sheet value. This might imply that here not risk positions are to be reported but accounting positions which would mean, no look through should be applied. This would then be inconsistent with Template C40.00, columns 040 and 050 where an add-on should be reported, which can only be based on risk positions. The sum of the risk positions of a looked through investment does not always constitute the accounting balance sheet value. Example: if a mutual fund places a deposit with the reporting institution, the look through approach with eliminate this transaction, since it is then an internal deal. Therefor the sum of Risk positions usually can be defined as Accounting Value minus internal deals. It is not clear how that should be implemented in the reporting.
Answer	Article 429 of Regulation (EU) No 575/2013 (CRR) neither requires nor allows a look through approach to underlying exposures where an asset results from transactions with underlying assets. Furthermore, according to Article 132(1) of CRR, the look through approach in paragraph 4 of this Article is N/A for determining exposure values but rather can only be used for determining an average risk weight for an exposure in the form a unit or share in a CIU. Article 429(5)(a) of the CRR does not allow for any recognition of risk weights.

Question ID	2014_756
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Leverage ratio
Article	429
Paragraph	10
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	08/05/2014
Subject matter	CCF applicable to ABCP liquidity facilities for Leverage ratio purposes
Question	Where do liquidity facilities, as defined in CRR Chapter 5 "Securitisations", stand among the off-balance sheet items listed in Annex I? What is the CCF that should be applied to them when calculating their exposure value for the purpose of the leverage ratio?
Background on the question	Art 429(10) of the CRR provides that institutions shall determine the exposure value of off-balance sheet items in accordance with Art 111(1) together with Annex I. However, although liquidity facilities are covered specifically in the Securitisation chapter, they do not feature among the off-balance sheet items that appear on Annex I. Under which category should they be grouped?
Answer	Liquidity facilities belong to the off-balance sheet items listed in point (a) of paragraph 1 of Annex I of Regulation (EU) No. 575/2013 (CRR) and are therefore covered by point (d) of Article 429(10) which applies a conversion factor of 100%. According to Article 242 of the CRR, liquidity facilities have the form of contractual agreements to provide funding to ensure timeliness of cash flows to investors. This is effectively guaranteeing the cash flows from the securitised exposures, including advances on these cash flows. Consequently, this is already a guarantee and not solely an undrawn agreement to provide guarantees. Guarantees for the good payment of credit facilities are explicitly mentioned in point (a) of paragraph 1 of Annex I as an example of guarantees having the character of credit substitutes.

6. Liquidity

Question ID	2013_22
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Liquidity risk
Article	412
Paragraph	5
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	04/03/2013
Subject matter	Application of national liquidity requirements prior to binding EU requirements
Question	In 2010 we have introduced the Decision on liquidity risk management, which covers both qualitative and quantitative requirements on liquidity risk management for the credit institutions in the Republic of Croatia. Regarding the quantitative requirements banks have to calculate and report, on monthly basis, to the CNB the minimum liquidity coefficient (MLC). It is similar to the Liquidity Coverage Ratio (LCR), it looks inflow and outflows in one month horizon under stress scenario determined by the supervisor. This minimum liquidity coefficient is calculated by dividing liquidity inflows (including liquid assets) with liquidity outflows and the result has to be equal or greater than 1. According to the Article 412 (5) of Regulation (EU) No 575/2013 the Member States may maintain or introduce national provisions in the area of liquidity requirements before binding minimum standards for liquidity coverage requirements are specified and fully introduced in the Union in accordance with Article 460. Therefore we have two questions: 1) Our understanding of Article 412 (5) is that we may maintain our Decision on liquidity risk management until 2018 (or even 2019 - according to article 460(2)) when the LCR is fully introduced in the Union (i.e. LCR = 100%) Is this correct reading? 2) We are not sure how to understand the second part of Article 412 (5) which says: Member states or competent authorities may require domestically authorised institutions, or a subset of those institutions to maintain a liquidity coverage requirement up to 100% until the binding minimum standard is fully introduced at a rate of 100% in accordance with Article 460. Can we keep our minimum liquidity coefficient unchanged, or we have to change it based on phasing-in process from 2015 so that both LCR and our MLC equals 100%, i.e. in 2015 LCR = 60% and MLC = 40%, and so on. Although it will be difficult to calculate due to different formula, haircuts and maybe scope. But on the other hand if we maintain MLC unchanged and introduce LCR (first 60%, 70%...) than our banks

<table>
<tr><td></td><td>will have double requirements.

Or this does not have anything to do with national liquidity requirements but with the fact that Member states may introduce LCR at 100% even before 2018?</td></tr>
<tr><td>Background on the question</td><td>N/A</td></tr>
<tr><td>Answer</td><td>1. According to Article 412 (5) of Regulation (EU) No 575/2013, Member States may maintain or introduce national provisions in the area of liquidity requirements until binding minimum standards for liquidity coverage requirements are fully introduced in the Union in accordance with Article 460, which means until 1 January 2018 (or until 1 January 2019 in case the Commission decides to alter the phase-in specified in Article 460 and defer until 2019 the introduction of a 100 % binding minimum standard for the liquidity coverage requirement). Doing so, they shall not circumvent the introduction of the liquidity coverage requirement from 2015 onwards as described in Article 460 of Regulation (EU) No 575/2013.
2. The second sentence of Article 412 (5) of Regulation (EU) No 575/2013 does not relate to national liquidity requirements but instead to the liquidity coverage requirement as detailed in the delegated act mentioned in Article 460. Under this provision, Member States may implement this requirement at a higher speed than specified in Article 460 (2).

<u>DISCLAIMER:</u>
This question goes beyond matters of consistent and effective application of the regulatory framework. A Directorate–General of the Commission (Directorate General for Internal Market and Services) has prepared the answer, albeit that only the Court of Justice of the European Union can provide definitive interpretations of EU legislation. This is an unofficial opinion of that Directorate General, which the European Banking Authority publishes on its behalf. The answers are not binding on the European Commission as an institution. You should be aware that the European Commission could adopt a position different from the one expressed in such Q&As, for instance in infringement proceedings or after a detailed examination of a specific case or on the basis of any new legal or factual elements that may have been brought to its attention.</td></tr>
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Question ID	2013_128
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Liquidity risk
Article	411
Paragraph	2
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	29/11/2013
Subject matter	Definition of 'retail deposit'
Question	How should liabilities to clients who have not been classified to any segment under the Standardised or Advanced IRB (AIRB) approach be treated? Those clients placed only deposits with the bank and therefore the bank does not have sufficient data to assign them to any segment.
Background on the question	According to Article 411 of Regulation (EU) No 575/2013 (CRR) 'retail deposit' means a liability to a natural person or to an SME, where the natural person or the SME would qualify for the retail exposure class under the Standardised or IRB approaches for credit risk, or a liability to a company which is eligible for the treatment set out in Article 153(4) and where the aggregate deposits by all such enterprises on a group basis do not exceed EUR 1 million. In our opinion this definition is directly applicable only to clients who have credit exposure to an institution because such clients have been classified to any segment under Standardised or AIRB approach. If a client does not have credit products, an institution does not gather sufficient data to assign the client to any segment. That data is always delivered in credit origination processes. But until a client applies for any product bearing credit risk, the institution does not ask the client to provide such data. According to the existing regulations in Poland an institution is not obliged to gather all financial and other data on all its clients. To conclude, for 'deposit-only' clients the above definition is not applicable, therefore the classification of those clients to retail or wholesale deposits in calculation of the Liquidity Coverage Requirement remains unclear.
Answer	Although the institution does not have actual retail/SME credit exposures to a given customer, the institution should still apply the criteria set out in the context of the retail exposure class under the Standardised or IRB approaches for credit risk or in article 153(4) of Regulation (EU) No 575/2013 (CRR). For the Standardised approach for credit risk, the criteria are set out in Article 123. Institutions using IRB approach for retail exposures shall follow the criteria stipulated in Article 147(5) of the CRR. Where an institution does not have any exposures to an SME, the institution may include such a deposit in this category provided that the total aggregate funding raised from the customer is less than EUR1 million and the deposit is managed as a retail deposit. The institution should also treat such deposits consistently through its

	internal risk management systems and in the same way as other retail deposits (i.e. not as it would treat a larger corporate deposit). As the treatment of an SME as a retail deposit results in a lower risk weight, this beneficial treatment is subject to obtaining the background information required to classify them as such. In addition, it should also be noted that under Article 8 (1)(d) of Directive 2005/60/EC institutions are obliged to conduct ongoing monitoring of the business relationship. This includes scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the institution's or person's knowledge of the customer, the business and risk profile, including, where necessary, the source of funds and ensuring that the documents, data or information held are kept up-to-date. These requirements should be helpful in providing an institution with information necessary for the purpose of classifying a client.

Question ID	2013_132
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Liquidity risk
Article	416
Paragraph	6
Subparagraph	
EBA technical standards & guidelines	Draft ITS on Supervisory Reporting
Article/Paragraph	15
Published as Final Q&A	29/11/2013
Subject matter	Cash in CIUs and its impact on CIUs being treated as liquid assets
Question	According to Article 416(6) of Regulation (EU) No 575/2013 (CRR) CIUs may be treated as liquid assets provided that, among other things, they only invest in liquid assets as referred to in Article 416(1). Typically CIUs hold cash to a certain extent (e.g. 1-10 %) in order to secure their liquidity. However, would it lead the shares or units in the CIU being ineligible for liquid assets if the CIU deposited the cash at another bank, because credit institutions are not included in Article 416(1)? Alternatively would the CIU have to hold the cash directly at the ECB (or inside a bank safe in cash) for being eligible?
Background on the question	Many smaller banks need to adjust significantly their investments in funds to comply with the LCR. Therefore they would highly appreciate if they would know as soon as possible how the funds need to be set up in terms of cash investments in particular.
Answer	Most Collective Investment Undertakings (CIUs) will need to hold a relatively small amount of money in the form of deposits with credit institutions, as compared to total assets under management, in order to manage mismatches in the redemption and issue of units in the CIU. These deposits are required for normal prudent business operations and are not part of the underlying investment strategy of the CIU. Therefore, it could be argued that money that is held by a CIU in the form of deposits with credit institutions for the purpose of managing mismatches in the redemption and issue of units or shares in the CIU is not considered an investment under Article 416(6) of Regulation (EU) No 575/2013 (CRR), provided that the amount of money held in such deposits remains small compared to the total assets under management of the CIU and does not form part of the investment policy of the CIU. Thus, by extension, such deposits are not subject to the test for investment in liquid assets in the first sub-paragraph of Article 416(1) of CRR. These deposits should be excluded from the liquid assets reported under the look-through approach of Article 418 (3) of CRR.

Question ID	2013_135
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Liquidity risk
Article	422
Paragraph	4
Subparagraph	a
EBA technical standards & guidelines	Not applicable
Article/Paragraph	-
Published as Final Q&A	29/11/2013
Subject matter	Evidence that a client is unable to withdraw amounts legally due over a 30 day period without compromising its operational functioning
Question	With regards to both: • deposits in the context of Clearing, Custody and Cash Management, Article 422(3)(a) and (d) Regulation (EU) No 575/2013 (CRR), • deposits in the context of an established operational relationship Article 422(3)(c) (recognising the definition of an established operational relationship here is pending from the EBA), what type of 'evidence' are institutions required to demonstrate (Article 422(4)) and how conclusive does this evidence need to be for the deposit to be considered eligible? Also, with regard to Article 422(3)(c), it would appear from Article 509(2)(k) that established operational relationships will only be seen with non-financial corporates. Can you confirm if this is the case?
Background on the question	25% deposit outflow
Answer	Article 422(4) second subparagraph of Regulation (EU) No 575/2013 (CRR) states that, pending a uniform definition on an established operational relationship, institutions shall themselves establish the criteria to identify an established operational relationship for which they have a evidence that the client is unable to draw amount legally due over 30 days without compromising their operational functioning. The institution shall report these criteria to the competent authority. In the absence of a uniform definition competent authorities may provide general guidance. Notwithstanding the above mentioned article and any guidance provided by competent authorities in the absence of a uniform definition, for deposits under Article 422(3)(a) and (d), institutions can provide different forms of evidence that a client cannot withdraw deposited amount. These could include, for example, the following elements: • minimum end of day credit balance which has been proved to be stable over time; • deposits are by-products of the underlying services provided by the banking organization and not sought out in the wholesale market in the sole interest of offering interest income; • deposits are held in specifically designated accounts and priced without giving an economic incentive to the customer (not limited to paying market interest rates) to leave any excess funds on these accounts.

	As regards reporting of deposits from financials, it should be noted that while Article 509(2)(k) is clearly focused on established operational relationships with non-financial customers, Article 422(3)(c) refers to operational deposits that have to be maintained by the depositor in the context of an established operational relationship other than those reported in accordance with Article 422(3)(a), and as such, operational deposits from financial customers are not excluded from being reported in accordance with Article 422(3)(c).

Question ID	2013_136
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Liquidity risk
Article	417
Paragraph	b
Subparagraph	b
EBA technical standards & guidelines	Not applicable
Article/Paragraph	-
Published as Final Q&A	29/11/2013
Subject matter	Transfer Restrictions
Question	There is no definition within the Regulation of 'Transfer Restrictions' referred to in article 417(b) with regards to excess liquid assets in third countries
Background on the question	Transfer restrictions could include existing large exposure limits, but by definition these are assumed to be 'relaxed' by European national authorities, so existing large exposure limits applicable to third countries could also not be seen as 'transfer restrictions'.
Answer	For the purposes of Article 417(b) of Regulation (EU) No 575/2013 (CRR), transfer restrictions are existing restrictions imposed under applicable laws, regulations and supervisory requirements. Accordingly, it would be appropriate for institutions to have processes in place to capture all third country liquidity transfer restrictions to the extent practicable, and to monitor the rules and regulations in the third country jurisdictions in which the group operates and assess their liquidity implications for the group as a whole.

Question ID	2013_159
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Liquidity risk
Article	417
Paragraph	b
Subparagraph	b
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	29/11/2013
Subject matter	Uncollateralised stock borrowing (unsecured) Transactions
Question	How should uncollateralised (unsecured) stock borrowing due with 30 days be reported? Such transactions will have an impact on the liquidity position of the institution: 1. If the securities borrowed qualify under Article 416(1) as liquid assets 2. If the securities borrowed do not qualify under Article 416 but have been re-pledged and used to raise funding for the institution with a maturity beyond 30 days 3. If the securities borrowed have been used to cover institution shorts.
Background on the question	The impact of uncollateralised (unsecured) stock borrowing does not seem to be covered under Regulation (EU) No 575/2013 (CRR). Unsegregated client assets co-mingled with the institutions own stock (under re-hypothecation rights) would also represent an uncollateralised borrowing of stock unless a collateralised borrow is booked to reflect the borrowing.
Answer	Article 416(3) of Regulation (EU) No. 575/2013 CRR sets out the conditions which must be fulfilled in order to report as liquid assets the assets listed in Article 416(1). Article 417 sets out the operational requirements for holdings of liquid assets. In relation to securities borrowed that are re-used as collateral to secure financing with a maturity below 30 days, Article 423(5)(b) of CRR specifies that "The institution shall add an additional outflow corresponding to: collateral that is due to be returned to a counterparty", i.e. in this case, when collateral borrowed on an unsecured basis is due to be repaid within the 30 day period, the institution shall report this as an additional outflow. In relation to a security borrowed that is due to be returned within 30 days and that is sold short, Article 423(4) specifies that "The institution shall add an additional outflow corresponding to the market value of securities or other assets sold short and to be delivered within the 30 days horizon, unless the institution owns the securities to be delivered or has borrowed them at terms requiring their return only after the 30 day horizon and the securities do not form part of the institutions liquid assets".

Question ID	2013_170
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Liquidity risk
Article	420
Paragraph	1
Subparagraph	b
EBA technical standards & guidelines	Not applicable
Article/Paragraph	Not Applicable
Published as Final Q&A	29/11/2013
Subject matter	Netting within cash pooling agreement used as part of cash management products
Question	Where customers have both assets and liability balances within a cash pooling agreement (supported by a credit netting agreement) can the balance within the cash pooling agreement be treated as either a single net asset (Article 425) or a net liability (Article 420) i.e. not treated gross?
Background on the question	Cash pooling within a cash management product.
Answer	Articles 422(6) and 425(3) of Regulation (EU) No 575/2013 (CRR) permit the netting of inflows and outflows expected over the 30 day horizon from relevant derivative contracts only. Other inflows shall be reported in accordance with Article 425, other outflows shall be reported in accordance with Article 420. Netting within cash pooling agreements for other liquidity flows is not explicitly provided for in CRR for liquidity reporting purposes. Contractual inflows and relevant outflows should be treated individually to determine the applicable inflow and outflow rates.

Question ID	2013_160
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Liquidity risk
Article	415
Paragraph	2
Subparagraph	a
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	06/12/2013
Subject matter	Treatment of Deliverable FX for single Currency Returns under 422 (6) and 425 (3)
Question	When completing single currency returns can all deliverable FX flows occuring withing 30 days in that currency be netted down to one single FX flow reported as either an inflow 425 (3) or an outflow 422 (6), otherwise the 75% inflow cap will apply to FX activity under single currency reports, but will not apply under the all currency combined reports.
Background on the question	When reporting all currency combined the two sides of any FX are with the same counterpart and can be netted under 422 (6) and 425 (3), the text says 'on a net basis across counterparties) and this ensures that FX flows do not impact the 75% inflow cap. However when producing single currency LCR reports the two legs are in different currencies It would seem appropriate to report the net FX flow in single currency, otherwise the 75% inflow cap will be impacted by FX flows under the single currency reports, but not the all currency combined.
Answer	According to Article 415(1) of Regulation (EU) No. 575/2013 (CRR), institutions shall provide their liquidity reporting in single currency, regardless of the actual denomination of the items reported. If aggregate liabilities in a currency different from the reporting currency exceed 5% of total liabilities, or if an institution has a significant branch in a host Member state using a currency different from the reporting currency, the institution shall, according to Article 415 (2), report separately in this currency. When reporting by significant currency according to the rules of Article 415 (2) of the CRR, expected outflows and inflows from contracts listed in Annex II, including deliverable FX-flows should be reported on a net basis across counterparties and reported in the relevant currency of that net flow.

Question ID	2013_185
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Liquidity risk
Article	423
Paragraph	4
Subparagraph	N/A
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	20/12/2013
Subject matter	Firm shorts covered by client longs
Question	We assume that an outflow should be reflected under Article 423 (4) of Regulation (EU) No 575/2013 (CRR) for any firm short currently covered using a client long position, unless the residual term of the borrowing of the client stock used to cover the short is contractually committed beyond 30 days.
Background on the question	Client stock used to cover firm shorts.
Answer	According to Article 423(4) of Regulation (EU) No. 575/2013 (CRR), institutions shall report an additional outflow corresponding to the market value of securities sold short and to be delivered within the 30 day horizon. However, if the institution has covered the short position by borrowing the identical security for a period that contractually and irrevocably exceeds 30 days remaining, and the securities do not form part of the institution's liquid assets, the institution should not report an outflow.

Question ID	2013_222
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Liquidity risk
Article	416
Paragraph	1 & 2
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	-
Published as Final Q&A	20/12/2013
Subject matter	Article 416 - Reporting on liquid assets
Question	Can assets issued by credit institutions, investment firms, insurance undertakings, etc. (reference to Article 416(2)) qualify for reporting as liquid assets if these are guaranteed by one of the parties mentioned in article 416(1)(c)?
Background on the question	According to Article 416(1)(c), assets which are guaranteed by parties such as central governments, central banks, etc. shall be reported as liquid assets if they fulfil the conditions. Article 416(2) states that assets shall not be considered liquid assets if issued by credit institutions (unless they fulfil one of the three conditions mentioned), investment firms, insurance undertakings, etc. The question is whether this exclusion from liquid asset reporting is also applicable if these assets are guaranteed by one of the parties which are mentioned in Article 416(1)(c). Article 416(2)(a)(iii) appears to imply that assets issued by credit institutions qualify for liquid asset reporting if they are explicitly guaranteed by a government.
Answer	Provided the additional requirements of Article 416(3) and Article 417 of Regulation (EU) No 575/2013 (CRR) are met, in addition to the assets reported in accordance with Article 416(2)(a)(i) and (ii), assets that are issued by credit institutions shall be reported as liquid assets if they fulfil one of the following conditions: i. the credit institution has been set up by a Member State central or regional government and that government has an obligation to protect the economic basis of the institution and maintain its viability throughout its lifetime; or ii. the asset is explicitly guaranteed by that government (that is central or regional government)... ; or iii. at least 90% of the loans granted by the institution are directly or indirectly guaranteed by that government and that asset is predominantly used to fund promotional loans granted on a non-competitive, not for profit basis in order to promote that government's public policy objectives. In accordance with Article 416(2)(c), assets issued by an investment firm, insurance undertaking or other entities covered by this provision shall not be considered liquid assets.

Question ID	2013_280
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Liquidity risk
Article	417
Paragraph	c
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	NA
Published as Final Q&A	24/01/2014
Subject matter	Assets controlled by a liquidity management function
Question	Would only those assets which are directly controlled by the liquidity management function fall within the definition of liquid asset holdings (subject to meeting the other conditions) under Regulation (EU) No 575/2013 (CRR), or do those assets which are not directly controlled by the liquidity management function also qualify?
Background on the question	The institution's liquidity management function has full access to the unencumbered position of the bank in moments of stress, although the positions might not sit within a Treasury (liquidity management function) department.
Answer	Article 417(c) of Regulation (EU) No. 575/2013 (CRR) states that liquid assets, which fulfil the conditions set out in Article 416(3), shall be controlled by a liquidity management function. In order to ensure effective monetisation in case liquidity outflows have to be met through the liquidation of liquid assets, these need to be under the control of a liquidity management function. In this respect larger institutions may have more than one such function. Such a function should have the continuous authority, and legal and operational capability, to monetise any asset in the stock in case needed and the proceeds shall be readily available to the function. Further, under Article 509(5)(c) of the CRR, the EBA published a report on the operational requirements for the holdings of liquid assets which concludes in a similar way that assets of extremely high and high liquidity and credit quality do not have to be held in a separate book to fulfil this operational requirement.

Question ID	2013_189
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Liquidity risk
Article	423
Paragraph	4
Subparagraph	N/A
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	31/01/2014
Subject matter	Outflows associated with shorts - net or gross
Question	Can you clarify whether Article 423(4) of Regulation (EU) No 575/2013 (CRR) requires firms to: 1) assess long and short positions gross per ISIN and to treat shorts gross by ISIN, reporting an outflow under Article 423(4) corresponding to the sum of all the gross short positions per ISIN (not covered >30 days); or 2) assess shorts net of any longs currently used to cover shorts via stock collateralised stock borrow e.g. a long in one ISIN (not qualifying as liquid assets per Article 416) that is currently used as collateral to cover a short in another ISIN (stock collateralised stock borrowing) and maturing inside 30 days, can continue to be eligible as collateral to cover shorts thus reducing the outflow reported under Article 423 (4).
Background on the question	This is fundamental to the European equity markets since: 1) European stock borrowing is by its nature short term or open, given the trading nature of short positions; 2) European stock borrowing is predominantly stock collateralised (off balance sheet) equity for equity. A requirement to treat shorts gross by ISIN would gross up balance sheets.
Answer	According to Article 423(4) of Regulation (EU) No. 575/2013 (CRR), institutions shall report an additional outflow per ISIN, corresponding to the market value of securities sold short and to be delivered within the 30 day horizon, unless the institution owns the securities to be delivered or has borrowed them at terms requiring their return only after the 30 day horizon, and the securities do not form a part of the institution's liquid assets. Thus, if an institution has sold short a security on terms requiring delivery within the 30 day horizon, and the institution at the same time owns or has borrowed the very same security for more than 30 days, the institution should not report an outflow, provided the security owned or borrowed is not already reported as a liquid asset. In other words, the outflow on a security sold short cannot be offset by the collateral provided through a different security. If the security owned or borrowed is reported as a liquid asset, the institution should report an additional outflow for the short position to avoid double counting of the

	liquid assets.

Question ID	2013_305
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Liquidity risk
Article	422
Paragraph	3-4
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	na
Published as Final Q&A	31/01/2014
Subject matter	Outflows on other liabilities for Operational Accounts (Basel para 93 -104)
Question	a. CRR in addition to clearing, custody and cash management CRR considers "other comparable services" eligible for a 5% run off. Are correspondent banking and prime brokerage services included in the definition? b. How does one prove that the client is unable to withdraw without compromising client's operational functioning over a 30 day horizon? c. How often do you need to check if an account is meeting the criteria for operational accounts?
Background on the question	BCBS 238 §99 says deposits arising from correspondent banking and prime brokerage have no operational activity (The footnote says correspondent banking refers to arrangements under which one bank (correspondent) holds deposits owned by other banks (respondents) and provides payment and other services in order to settle foreign currency transactions. This would imply for example that a Euro deposit from a US bank placed with a French bank could not be considered for operational account treatment. However, Article 422(4) of Regulation (EU) No. 575 states that operational accounts shall not merely consist in correspondent banking or prime brokerage services. This implies that, whereas Basel excludes Nostro accounts, there is the potential within the Nostro accounts provided that they meet the other criteria.
Answer	According to Article 422(4) of Regulation (EU) No. 575/2013 (CRR), clearing, custody or cash management activities do not include correspondent banking or prime brokerage services alone. Only those activities of correspondent banking or prime brokerage that comprise clearing, custody or cash management may be eligible as operational deposits. Other comparable services shall be eligible for the 5% or 25% run-off as appropriate, provided there is evidence that the client is unable to withdraw amounts legally due over a 30 day horizon without compromising its operational functioning (i.e. the institution should be aware that the customer does not have adequate back-up arrangements). These services shall be provided under a contractual agreement. Article 422(4) second subparagraph of the CRR states that, pending a uniform definition of an established operational relationship, institutions shall themselves establish the criteria to identify an established operational relationship for which they have evidence that the client is unable to draw amount legally due over 30 days without compromising its operational functioning. The institution shall report these criteria to the competent authority. In the absence of a uniform definition, competent authorities may provide general guidance.

	Please see also related question QA 2013_135 for further information. It should be noted that according to Article 509(2)(l) of the CRR, the EBA assessed the calibration of the outflow rate applicable to correspondent banking and prime brokerage services and came to the conclusion that the specific outflow rate on these types of deposits should not be recalibrated (from 100%) to 0%. The EBA report on this can be read here.

Question ID	2013_306
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Liquidity risk
Article	425
Paragraph	2
Subparagraph	c
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	21/02/2014
Subject matter	20% inflow on assets with an undefined contractual end date
Question	What is the practical interpretation of 20% inflow on assets with an undefined contractual end date?
Background on the question	For example, credit card balances have an undefined end date but have minimum repayment requirements. Is it proposed to ignore the minimum repayment and replace it with the 20% inflow? While the application of the 20% inflow rate seems to be straightforward for revocable loans, European banks would particularly welcome more clarity on specific products with committed loan facilities, as well as the treatment of credit cards balances.
Answer	Article 425(2)(c) of Regulation (EU) No. 575/2013 (CRR) states that a 20% inflow rate shall be applied only to the assets with an undefined contractual end date where the contract allows the bank to withdraw and request payment within 30 days. Moreover, these contractual inflows shall come from exposures that are not past due and for which the institution has no reason to expect non-performance within the 30-day time horizon. A higher inflow rate of 50% can be applied to monies due from non-financial customers for the purposes of principal payment (which could include, for example, minimum monthly repayments on credit cards, repayments on overdrafts) in accordance with Article 425(2)(a) of the CRR, i.e. they shall be reduced by 50% of their value or by the contractual commitments to those customers to extend funding, whichever is higher.

Question ID	2013_355
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Liquidity risk
Article	424
Paragraph	4
Subparagraph	N/A
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	21/02/2014
Subject matter	LCR outflow to report for shorts under Article 423(4) of Regulation (EU) No. 575/2013 (CRR)
Question	We assume we should be symmetrical in terms of the outflow reported for shorts (to be delivered within 30 days) and the inflows reported for the corresponding short covering trades (reverse repo/stock borrow) that mature within 30 days, since the two transactions are reported gross and independently of each other, and it is the maturity of the reverse repo/stock borrow that gives rise to the need to deliver within 30 days. We believe that the outflow to report under Article 423(4) of the CRR should be weighted consistently in line with reverse repo inflows per Article 425(2)(d): 0% for assets listed under Article 416(1)(a), (1)(b) and (1)(c) At least 15% for assets listed reported under Article 416(1)(d) 100% for any other asset not qualifying under Article 416(1)
Background on the question	Set out above
Answer	Article 423(4) of Regulation (EU) No. 575/2013 (CRR) specifies that "an institution shall add an additional outflow corresponding to the market value of securities or other assets sold short and to be delivered within the 30 days horizon unless the institution owns the securities to be delivered or has borrowed them at terms requiring their return only after the 30 day horizon and the securities do not form part of the institutions liquid assets". In accordance with Article 425(2)(d) of the CRR, monies due from secured lending and capital-market driven transactions, as defined in Article 192(3), if they are collateralised by liquid assets as referred to in Article 416(1), shall not be taken into account up to the value net of haircuts of the liquid assets and shall be taken into account in full for the remaining monies due.

EBA EUROPEAN BANKING AUTHORITY

Question ID	2013_480
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Liquidity risk
Article	422
Paragraph	3/4
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	21/02/2014
Subject matter	Cash outflows on other liabilities
Question	What are the general mandatory requirements for clearing, custody and cash management deposits for the beneficial run-off factors of 5%(with deposit insurance scheme) and 25%(without deposit insurance) respectively? How can it be proved that a client is compromised in its operational functioning upon withdrawal of funds within the 30 day horizon? Can you give us an example?
Background on the question	Despite the fact that there clearly exist dependencies of clients on single banks (so called "Hausbanken"), especially for small and medium sized entities, there may be difficulties in systematically identifying those clients. We would expect the existence of adequate data to be a major obstacle in spotting the considered counterparties.
Answer	In accordance with Article 422(3)(a) of Regulation (EU) No. 575/2013 (CRR) institutions shall multiply liabilities resulting from deposits that have to be maintained by the depositor in order to obtain clearing, custody or cash management or other comparable services from the institution by 5% to the extent to which they are covered by a Deposit Guarantee Scheme in accordance with Directive 94/19/EC or an equivalent deposit guarantee scheme in a third country, and by 25% otherwise. In accordance with Article 422(4) sub paragraph 1 of the CRR, clearing, custody or cash management or other comparable services referred to in point (a) and (d) of paragraph 1 of that article only covers such services to the extent that they are rendered in the context of an established relationship on which the depositor has substantial dependency, meaning that the client shall be unable to withdraw amounts legally due over a 30 day horizon without compromising its operational functioning. Moreover, they shall not merely consist in correspondent banking or prime brokerage services. The institution shall have evidence that the client is unable to withdraw amounts legally due over a 30 day horizon without compromising its operational functioning. Article 422(4) second subparagraph of the CRR states that, pending a uniform definition of an established operational relationship, institutions shall themselves establish the criteria to identify an established operational relationship for which they have evidence that the client is unable to draw amounts legally due over 30 days without compromising its operational functioning. The institution shall report these criteria to the competent authorities. In the absence of a uniform definition competent authorities may provide general guidance. It should be noted that the Report provided by EBA to the Commission under Article 509(1) of the CRR assesses the definition of established relationship for non-financial customer as referred to in Article 422(3)(c) of the CRR in accordance with paragraph (2)(k) of the Article 509(1).

	Notwithstanding the above mentioned articles and any guidance provided by competent authorities in the absence of a uniform definition, for deposits under Article 422(3)(a) and (d) of the CRR, institutions can provide different forms of evidence that a client cannot withdraw the deposited amount over a 30 day horizon without compromising its operational functioning. Q&A 135 provides some elements to inform institutions of the different forms of evidence they can provide to demonstrate that a client cannot withdraw the deposited amount. Furthermore, for reporting purposes, institutions are encouraged to consider the following criteria to identify qualifying activities in the context of clearing, custody or cash management or other comparable services activities: • the customer is reliant on the bank to perform these services as an independent third party intermediary in order to fulfil its normal banking activities over the next 30 days. For example, this condition would not be met if the bank is aware that the customer has adequate back-up arrangements; • these services must be provided under a legally binding agreement to institutional customers; and • the termination of such agreements shall be subject either to a notice period of at least 30 days or significant switching costs (such as those related to transaction, information technology, early termination or legal costs) to be borne by the customer if the operational deposits are moved before 30 days.

Question ID	2013_485
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Liquidity risk
Article	425
Paragraph	1
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	28/03/2014
Subject matter	Cash Inflows excluded from inflow cap
Question	Article 425(1) reads: "Capped inflows shall be the liquidity inflows limited to 75% of liquidity outflows. Institutions may exempt liquidity inflows from deposits placed with other institutions and qualifying for the treatments set out in Article 113(6) or (7) from this limit. Institutions may exempt liquidity inflows from monies due from borrowers and bond investors related to mortgage lending funded by bonds eligible for the treatment set out in Article 129(4), (5) or (6) or by bonds as referred to in Article 52(4) of Directive 2009/65/EC from this limit…" Is the interpretation correct that mortgages that are used as a cover pool for credit enhancing a covered bonds transaction can be excluded from the inflow cap? In contrast to the original Basel III papers it is not possible to identify the definition of the general provision, capping inflows at 75% of cash outflows. Is the inflow cap applicable to every item in the template or at the calculation of the summed amounts?
Background on the question	In contrast to the original Basel III papers we could not identify the definition of the general provision, capping inflows at 75% of cash outflows.
Answer	In accordance with Article 425 (1) of Regulation (EU) No. 575/2013 (CRR) institutions may exempt contractual liquidity inflows from borrowers and bond investors arising from mortgage lending funded by covered bonds eligible for preferential treatment as set out in Article 129 (4-6) of CRR or by bonds as referred to in Article 52(4) of Directive 2009/65/EC from the 75% inflow cap. As the mortgage lending must be funded by the relevant covered bonds, only inflows from relevant pass-through covered bonds may be eligible for this exemption up to the amount of outflows over the next 30 days related to the covered bonds. The liquidity inflows shall be measured over the next 30 days and fulfil all the conditions in accordance with Article 425(2). The inflow cap is applicable to the total amount of all inflows (excluding exempted inflows), i.e. first the total inflows are to be reduced by exempted inflows and then the 75% inflow cap is to be applied.

Question ID	2013_193
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Liquidity risk
Article	421
Paragraph	5
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	-
Published as Final Q&A	04/04/2014
Subject matter	Correct consideration of the saving accounts in the LCR calculation of outflows following Article 421 (5) of Regulation (EU) No 575/2013 (CRR)
Question	Is it correct that German "Savings Accounts" are to be considered in the LCR calculation only up to the threshold of EUR 2000,- penalty-free withdrawals per account?
Background on the question	Historically German "Savings Accounts" were legally subject to a preferential treatment. Though the appropriate regulation was abandoned customers still expect savings accounts that meet the following contractual conditions: The savings deposits have a 3 month advance notice for any amount to be withdrawn above EUR 2000,-. The depositor can withdraw a monthly maximum amount of EUR 2000,- per account without a penalty. Any amount over EUR 2000,- comes with a penalty that includes the loss of interests between the date of withdrawal and the contractual maturity date plus a material penalty. This penalty is called "Vorschusszinsen". Both are regulated in the "Specified conditions of saving deposits" and apply for every depositor. The price of "Vorschusszinsen" is regulated in the banks schedule of price and services which is 25% of the current debit interests. Article 421(5) CRR allows institutions to exclude from the calculation of outflows clearly circumscribed categories of retail deposits provided that a) the depositor is not provided to withdraw the deposit within 30 days, and b) in the case of early withdrawals within the 30-day period the depositor has to pay a penalty which includes loss of interest and a material penalty. Both conditions are met for the deposit amounts above the threshold value of EUR 2000,- for the German "Savings Account".
Answer	In calculating outflows on retail deposits under Article 421 (1) to (4) of Regulation (EU) No. 575/2013 (CRR), institutions may exclude from this calculation and report separately, in accordance with Article 421(5) of the CRR, any portion of retail deposits clearly circumscribed as a separate category. This is permissible as long as in each and every instance the institution rigorously applies the following conditions for the separate portion of those deposits unless in individually justified circumstances of hardship for the depositor which either: a. cannot be withdrawn by the depositor within 30 days; or b. where such deposits are permitted to be withdrawn within 30 days, such a withdrawal attracts both: i. a penalty that includes the loss of interest between the date of withdrawal and the contractual maturity date; and ii. a material penalty that does not have to exceed the interest due for the time elapsed between the date of deposit and the date of withdrawal.

Question ID	2013_483
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Liquidity risk
Article	18 (in conjunction with Art 8 and 11)
Paragraph	1
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	04/04/2014
Subject matter	Methods for prudential consolidation
Question	What is the meaning of the last sentence of Article 18(1) Regulation (EU) No 575/2013 (CRR)? Does it mean that the method of prudential consolidation (paragraphs 2 to 8) is not available for institutions that have to apply Part Six on the basis of their consolidated situation? When do institutions have to apply Part Six on the basis of their consolidated situation – is this only according to Article 11 of CRR or also in case of application for a liquidity sub-group according to Article 8(1)(a) of CRR?
Background on the question	Legal certainty and level playing field; Parent institutions in a Member State (which are not EU parent institutions) are not obliged to apply Part Six on the basis of their consolidated situation (unless the competent authority so requires according to Article 11(5) CRR). They may, however, apply for a liquidity sub-group according to Article 8(1) (a) CRR.
Answer	Paragraphs 2 to 8 of Article 18 of Regulation (EU) No. 575/2013 (CRR) describe alternatives to full consolidation. These alternatives do not apply where Part Six applies, i.e. to consolidation of the liquidity coverage requirement, liquidity reporting and reporting on stable funding. This means that for liquidity reporting on a consolidated basis, only full consolidation is permitted. EU parent institutions, institutions controlled by an EU parent financial holding company and institutions controlled by an EU parent mixed financial holding company shall comply with Part Six on the basis of the consolidated situation of that parent institution, financial holding company or mixed financial holding company provided that they fulfil the conditions mentioned in Article 11(3) of the CRR. Where, in accordance with Article 8(1) of the CRR, a competent authority waives the application of liquidity requirements to an institution and to all or some of its subsidiaries, and instead supervises them as single liquidity subgroup, the liquidity subgroup in question shall comply with Part Six on the consolidated basis of that subgroup.

Question ID	2013_486
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Liquidity risk
Article	425
Paragraph	2
Subparagraph	e
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	04/04/2014
Subject matter	Cash Inflows with symmetrical weights
Question	In Article 425(2)(e) of Regulation (EU) No 575/2013 (CRR) it states: "Monies due that the institution owing those monies treats in accordance with Article 422(3) and (4), shall be multiplied by a corresponding symmetrical inflow." Does this mean that assets stemming from cash management, clearing and custody services have to be treated with 5% and 25% factors, in case those factors are also applied to the corresponding deposits?
Background on the question	N/A
Answer	In accordance with Article 425(2) of Regulation (EU) No. 575/2013 (CRR) liquidity inflows shall be measured over the next 30 days. They are to be reported in full with the exception of specific inflows, as outlined in that paragraph 2, which are to be reported separately. Point (e) of Article 425(2) specifies that "monies due that the institution owing those monies treats in accordance with Article 422(3) and (4), shall be multiplied by a corresponding symmetrical inflow". Article 422(3) and (4) provides for liabilities resulting from specific deposits that have to be maintained by depositors that shall be multiplied by 25%. These specific deposits refer to deposits that have to be maintained: a) by the depositor in order to obtain clearing, custody or cash management or other comparable services from the institution; b) in the context of common task sharing within an institutional protection scheme meeting the requirements of Article 113(7) or as a legal or statutory minimum deposit by another entity being a Member of the same institutional protection scheme; c) by the depositor in the context of an established operational relationship other than that mentioned in point (a); d) by the depositor to obtain cash clearing and central credit institution services and where the credit institution belongs to a network in accordance with legal or statutory provisions. Deposits identified under (a) shall be multiplied by 5% to the extent to which they are covered by a Deposit Guarantee Scheme in accordance with Directive 94/16/EC or an equivalent scheme in a third country. Pursuant to Article 422(4) CRR "clearing, custody or cash management or other comparable services as referred to in points (a) and (d) of Article 422(3) of CRR only

	covers such services to the extent that they are rendered in the context of an established relationship in which the depositor has substantial dependency. They shall not merely consist in correspondent banking or prime brokerage services and the institution shall have evidence that the client is unable to withdraw amounts legally due over a 30 day horizon without compromising its operational functioning." In line with Article 425(2)(e) of the CRR, monies due that the institution owing those monies treats in accordance with Article 422(3) and (4), shall be multiplied by a corresponding symmetrical inflow rate, namely 5% or 25%. Deposits from credit institutions placed at central credit institutions that are considered as liquid assets in accordance with Article 416(1)(f) CRR shall not be counted as an inflow, to avoid any double counting. Please also see Q&A 135 and 305.

Question ID	2013_578
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Liquidity risk
Article	411
Paragraph	2
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	04/04/2014
Subject matter	Definition of a retail deposit
Question	According to Article 411(2) of Regulation (EU) No 575/2013 (CRR) a retail deposit means: • a liability to a natural person or to an SME, where the natural person or the SME would qualify for the retail exposure class under SA or IRB approaches; or • a liability to a company which is eligible for the treatment set out in Article 153(4), (plus the limit of 1 million EUR for deposits by enterprises). Article 153(4) relates to the treatment (the correlation formula) of the exposures to companies with the total annual sales (on a consolidated basis) less than 50 million EUR under the IRB approach. Does the criteria from Article 411(2) which relates to Article 153(4) mean that: • only institutions using the IRB approach and the above mentioned treatment in Article 153(4) can treat deposits from companies with the total annual sales (on a consolidated basis) less than 50 million EUR as retail deposit, or • all institutions, regardless of the approach implemented (SA or IRB), can treat deposits from companies with the total annual sales (on a consolidated basis) less than 50 million EUR as retail deposit?
Background on the question	The correct interpretation of the retail deposits regarding the treatment of liabilities to companies with the total annual sales (on a consolidated basis) less than 50 million EUR is crucial since this can have an important effect on the size of retail deposits for the purpose of the liquidity coverage requirement.
Answer	The categorisation of a liability to a company as a retail deposit is conditional on the liability being eligible for the treatment set out in Article 153(4) of Regulation (EU) No. 575/2013 (CRR) and where the aggregate deposits by all such enterprises on a group basis do not exceed EUR 1 million. The institution may include such a deposit as a retail deposit subject to meeting these conditions regardless of the approach to calculation of own funds requirements for credit risk implemented for this exposure class. Article 411(2) applies the criteria foreseen for the treatment of exposures to certain companies under Article 153(4) to liabilities. In this context the criteria are not limited to institutions using the IRB approach for the calculation of credit risk for certain companies in accordance with 153(4). The institution is to manage the deposit as a retail deposit, treat such deposits consistently through its internal risk management systems and in the same way as

	other retail deposits (i.e. not as it would treat a larger corporate deposit). As the treatment of such a deposit as a retail deposit results in a lower outflow rate, this beneficial treatment is subject to obtaining the background information required to classify them as such. As mentioned in Q&A 128, it should also be noted that under Article 8 (1)(d) of Directive 2005/60/EC institutions are obliged to conduct ongoing monitoring of the business relationship. This includes scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the institution's or person's knowledge of the customer, the business and risk profile, including, where necessary, the source of funds and ensuring that the documents, data or information held are kept up-to-date. These requirements should be helpful in providing an institution with information necessary for the purpose of classifying a client.

Question ID	2013_270
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Liquidity risk
Article	8
Paragraph	1
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	25/04/2014
Subject matter	Continuation of current liquidity waivers
Question	Clarification is needed as to the interim arrangements pending the introduction of the waiver/group treatments provided for under Article 8 of Regulation (EU) No. 575/2013 (CRR).
Background on the question	It is not clear how and whether waivers currently granted for the management of group liquidity will continue to apply pending the introduction of the new requirements and decision making mechanisms. If waivers did not continue to apply pending the introduction of the new approach then solo liquidity and reporting requirements might suddenly apply to all regulated entities in a group, involving substantial cost and disruption for no regulatory benefit.
Answer	Article 8 of Regulation (EU) No. 575/2013 (CRR) provides for a full or partial waiver to the individual application of liquidity requirements under Part Six of the Regulation, provided supervision is carried out on the basis of a single liquidity sub-group (SLSG). The conditions for the grant of this waiver are set out in Article 8 of the CRR. Where all the institutions in the SLSG are authorised within the same Member State, the waiver may be granted from 1 January 2014. Where the institutions in the SLSG are authorised in several Member States, the waiver may be granted from 1 January 2015 in accordance with Article 521(2)(a) of the CRR. The CRR does not provide for transitional arrangements for the application of Article 8. Pursuant to Article 412 (5) of the CRR, Member States may maintain or introduce provisions in the area of liquidity requirements before binding minimum standards for liquidity coverage requirements are specified and fully introduced in the Union in accordance with Article 460. The use by Member States of this national discretion should ultimately detail how national liquidity requirements and frameworks will apply, together with existing waivers to those national requirements if applicable, pending the full introduction of binding minimum standards for liquidity coverage requirements under Article 460 of the CRR. DISCLAIMER: This question goes beyond matters of consistent and effective application of the regulatory framework. A Directorate General of the Commission (Directorate General for Internal Market and Services) has prepared the answer, albeit that only the Court of Justice of the European Union can provide definitive interpretations of EU legislation. This is an unofficial opinion of that Directorate General, which the European Banking Authority publishes on its behalf. The answers are not binding on

	the European Commission as an institution. You should be aware that the European Commission could adopt a position different from the one expressed in such Q&As, for instance in infringement proceedings or after a detailed examination of a specific case or on the basis of any new legal or factual elements that may have been brought to its attention.

Question ID	2013_302
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Liquidity risk
Article	423
Paragraph	1
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	08/05/2014
Subject matter	treatment of cash collateral
Question	What is the treatment in LCR and NSFR of cash collateral given or received in derivative transactions?
Background on the question	Cash collateral should not be subjected to an additional outflow of 20%. We believe that this paragraph was written under the assumption that the collateral was in the form of securities whose price may alter from day to day which clearly not the case with cash collateral. Art [new] 423 (6) says that deposits (i.e. cash) shall not be considered liabilities. The case of NSFR is still more problematic. Let's assume we have a derivative margining set that reports a negative MTM back by cash collateral (given to the specific counterparty). In Balance Sheet, the negative MTM is reported in the Liabilities side, on the contrary the cash collateral is recorded in the Asset side. Where should the "cash collateral given" be allocated in the NSFR? If it would be allocated in the item "other assets", it should be assigned a ASF factor equal to 1; this means that the "cash collateral given" should be 100% funded by "stable funding". Is this the case? Same problems with derivative margining set with positive MTM back by "cash collateral received": should this "cash collateral received" weighted by a RSF factor of 0%?
Answer	With regard to the liquidity coverage requirement, Article 423(1) of Regulation (EU) No. 575/2013 (CRR) states that collateral other than assets referred to in Article 416(1) (a) to (c) shall be subject to a 20% outflow. Article 416(1)(a) include cash, therefore Article 423(1) of the CRR does not apply to cash collateral. Article 422 (6) states that institutions shall take outflows and inflows expected over the 30 day horizon from the contracts listed in Annex II into account on a net basis across counterparties and shall multiply them by 100% in the case of a net outflow. Net basis shall mean also net of collateral to be received that qualifies as liquid assets under Article 416. In respect of stable funding, Article 413(1) of the CRR requiring stable funding will not come into effect until 1 January 2016 according to Article 521(2)(b). Currently, Article 427 and Article 428 of the CRR detail only the reporting of certain assets and liabilities that may form items for the calculation of stable funding once factors for Available Stable Funding and Required Stable Funding have been decided.

Question ID	2013_481
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Liquidity risk
Article	425
Paragraph	2
Subparagraph	f
EBA technical standards & guidelines	Not applicable
Article/Paragraph	not applicable
Published as Final Q&A	16/05/2014
Subject matter	Cash Inflows from major index equity instruments
Question	Article 425(2)(f) of Regulation (EU) No 575/2013 (CRR) states "Monies due from positions in major index equity instruments provided there is no double counting with liquid assets". Which cash flows are included in this definition? Is it referred to monies due from expected dividends?
Background on the question	N/A
Answer	In accordance with Article 425(2) of Regulation (EU) No. 575/2013 (CRR) liquidity inflows shall be measured over the next 30 days. They are to be reported in full with the exception of specific inflows, as outlined in paragraph 2, which are to be reported separately. Point (f) of that paragraph refers to "monies due from positions in major index equity instruments provided there is no double counting with liquid assets". In line with paragraph 2, only contractual inflows from exposures that are not past due and for which the institution has no reason to expect non-performance within the 30 day time horizon are to be reported. Under point (f) of this paragraph, monies contractually due within the next 30 days, such as cash dividends on major index equity instruments and cash due from such instruments sold but not yet settled, may be included if not reported as a liquid asset in accordance with Article 416 of the CRR.

7. Market risk

Question ID	2013_359
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Market risk
Article	34, 105
Paragraph	
Subparagraph	
EBA technical standards & guidelines	Draft ITS on Supervisory Reporting
Article/Paragraph	Annex I, C01.00, r 290
Published as Final Q&A	08/11/2013
Subject matter	Own funds: Value adjustments for prudent valuation (Additional Value Adjustments)
Question	Article 34 of Regulation (EU) No 575/2013 (CRR) requires institutions to deduct from CET1 the amount of any additional value adjustments on all assets measured at fair value calculated in accordance with a prudent valuation of these assets based on the provisions specified in Article 105 of CRR. In this context, paragraph 14 of Article 105 of CRR specifies that EBA shall submit draft regulatory technical standards (RTS) to the Commission by 28 July 2013 (as per CRR corrigendum published on 2 August 2013). In this regard the EBA published a draft consultation paper (EBA/CP/2013/28) whereby it is specified that "as a consequence of the EBA decision to conduct a QIS, the EBA currently envisages to finalise the technical standard in Q2 2014". On 7 October 2013 the EBA published revised deadlines for the delivery of the technical standards to the European Commission; in particular it is specified that the revised deadline for the submission of the RTS on prudent valuation (Article 105(14) CRR) has been postponed to 1 June 2014. Therefore it is not clear as concerns the first reporting date on Q12014 whether institutions must: 1. not apply the prudential filter (i.e. the relative reporting item shall be valued zero) until the publication of the final EBA RTS 2. calculate the prudential filter in accordance with the Basel II framework (i.e. requirements for prudent valuation defined by each local regulator) 3. calculate the prudential filter in accordance with the draft EBA standards as defined in consultation paper EBA/CP/2013/28
Background on the question	The provisions contained in the CRR and the EBA RTS are not sufficiently clear with regard to the methodology to be used in order to complete the first reporting on Q1 2014.
Answer	A delay in the submission by EBA and consequently, in the European Commission's endorsement of the RTS on the conditions according to which the prudent valuation of trading book items shall be applied (Article 105 (14)), does not invalidate Article 105. As a result, institutions will have to apply Article 105 from 1 January 2014 onwards despite the absence of the RTS.

	DISCLAIMER: This question goes beyond matters of consistent and effective application of the regulatory framework. A Directorate General of the Commission (Directorate General for Internal Market and Services) has prepared the answer, albeit that only the Court of Justice of the European Union can provide definitive interpretations of EU legislation. This is an unofficial opinion of that Directorate General, which the European Banking Authority publishes on its behalf. The answers are not binding on the European Commission as an institution. You should be aware that the European Commission could adopt a position different from the one expressed in such Q&As, for instance in infringement proceedings or after a detailed examination of a specific case or on the basis of any new legal or factual elements that may have been brought to its attention.

EUROPEAN BANKING AUTHORITY

Question ID	2013_99
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Market risk
Article	382
Paragraph	
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	15/11/2013
Subject matter	Exclusion of provisioned counterparties from the CVA capital charge
Question	Could you confirm that a defaulted or doubtful counterparty that is subject to specific provisions/cost of risk shall not be subject to the CVA capital charge?
Background on the question	When a counterparty X with whom an institution has derivative contracts becomes doubtful or defaulted, then the practice is that the institution stops computing Credit Valuation Adjustments (incurred CVA) and starts computing specific provisions (Credit Valuation Impairment or cost of risk). The provisions are computed as the Mark-to-Market times a provisioning rate and floored at zero. Such counterparties either trade at extremely high spread levels or do not trade at all, which is the most frequent situation. They are removed from the B2 capital calculation for counterparty risk but are subject to a capital charge to account for the volatility of the loss given default.
Answer	For derivative contracts with a defaulted counterparty no CVA capital charge according to Part Three, Title VI of Regulation (EU) No. 575/2013 (CRR) is required, where, as a result of the default, these derivative contracts are converted into a claim of a fixed amount and therefore the derivative contract ceases to exist. In all other cases an own funds requirement for CVA risk has to be calculated.

Question ID	2013_130
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Market risk
Article	382
Paragraph	
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	15/11/2013
Subject matter	Scope of calculation of own funds requirements for CVA risk
Question	Can you provide some details on what criteria and/or thresholds are likely to apply in order to determine that securities financing transactions are material in the context of article 382(2)?
Background on the question	Article 382(2) of Regulation 575/2013 states: An institution shall include securities financing transactions in the calculation of own funds required by paragraph 1 if the competent authority determines that the institution's CVA risk exposures arising from those transactions are material.
Answer	Whether an institution's CVA risk exposures arising from securities financing transactions are considered material is not subject to any EBA guidance at this stage, thus remaining the discretion of the competent authorities. Pursuant to Article 456(2) of Regulation (EU) No. 575/2013, the EBA is mandated to monitor the own fund requirements for credit valuation adjustment risk and produce a report in respect of the items contained in that section, with possible impacts on the issue in question.

Question ID	2013_155
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Market risk
Article	339
Paragraph	1
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	15/11/2013
Subject matter	Scope of application of Articles 339 and 340 of Regulation (EU) No 575/2013 (CRR)
Question	Article 339 of Regulation (EU) No. 575/2013 starts with "In order to calculate own funds requirements against general risk all positions shall be weighted...". Does "all positions" also include positions in the banking book or are Articles 339 and 340 only valid for positions in the trading book?
Background on the question	Want certainty about the scope of application of Articles 339 and 340.
Answer	Articles 339 and 340 of Regulation (EU) No. 575/2013 (CRR), which specify the calculation of own funds requirements against general risk for debt instruments as part of the determination of own fund requirements for market risk, only refer to positions in debt instruments booked in the trading book. According Article 92(3)(b) of the CRR, the notion of 18position risk 19, used to determine the own fund requirements for positions in debt and equity instruments, is indeed applicable only to the trading book.

Question ID	2013_157
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Market risk
Article	341
Paragraph	1
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	15/11/2013
Subject matter	Scope of application of Articles 341 to 344 of Regulation (EU) No. 575/2013 (CRR)
Question	Article 341 starts with "The institution shall separately sum all its net long positions and all its net short positions in accordance with Article 327.". Does "all positions" also include positions in the banking book, or are Articles 341-344 only valid for positions in the trading book?
Background on the question	Would like certainty about the scope of application of Articles 341 to 344.
Answer	Articles 341 to 344 of Regulation (EU) No. 575/2013 (CRR), which specify the treatment of equity positions for market risk purposes, only refer to positions in equity instruments booked in the trading book According Article 92(3)(b) of the CRR, the notion of 18position risk 19 used to determine the own fund requirements for positions in debt and equity instruments, is indeed applicable only to the trading book.

Question ID	2013_163
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Market risk
Article	358
Paragraph	
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	15/11/2013
Subject matter	Treatment of commodity indices
Question	Must exposures to commodity indices be broken down into its underlying constituent commodities or can a commodity index be treated as if it were an individual commodity, just like stock indices (see Article 344 of Regulation (EU) No. 575/2013 (CRR))?
Background on the question	Article 344 states that stock index futures can be treated as if a future were an individual equity. Articles 355-361 concerning own funds requirements for commodities risk do not mention the same possibility for commodity index futures, which we have interpreted as commodity index futures must be broken down into positions in each of their constituent commodities. An example of a commodity index is the commodity index S&P GSCI which contains following 24 commodities: Gold Silver Aluminium Copper Lead Nickel Zinc Live Cattle Feeder Cattle Lean Hogs Crude Oil Brent Crude Oil Unleaded Gas Heating Oil GasOil Natural Gas Wheat Red Wheat Corn Soybeans Cotton Sugar Coffee Cocoa

	The exposure to this index must then be broken down into exposure for each of the 24 single commodities.
Answer	The institution has to break down the commodity-index or the commodity-index future into positions in each of its constituent commodities in order to be able to express each position in commodities or commodity derivatives in terms of the standard unit of measurement according to Article 357(1) of Regulation (EU) No. 575/2013 (CRR). Chapter 4, Title IV of Part Three of the CRR does not mention a specific treatment for commodity-indices or commodity-index futures comparable to the stock-index future treatment specified in Article 344 of the CRR that would allow an institution to treat commodity-indices or commodity-index futures as if they were individual commodities. Indeed, for the purpose of calculating own funds requirements according to the "Simplified Approach" in Article 360, an institution needs to break down the commodity-index or the commodity-index future into positions in each of its constituent commodities in order to determine its net position in the same commodity and identical commodity futures, options and warrants, according to Article 357(3). Derivative instruments shall furthermore be treated, as laid down in Article 358, as positions in the underlying commodity. For the purpose of calculating own funds requirements according to the "Maturity ladder approach" in Article 360 or the "Extended maturity ladder approach" in Article 361, an institution needs to break down the commodity-index or the commodity-index future into positions in each of its constituent commodities in order to be able to use a separate maturity ladder for each commodity, and to offset positions in the same commodity in line with Article 359(1) and (2). Nevertheless, Article 357(4) of CRR specifies the conditions under which similar commodities can be treated as positions in the same commodity, alternatively to a separate treatment for each (and to a single one) commodity. Thus, if all components of a commodity-index were able to meet the requirements of Article 357(4), the index could be considered as a position in a same commodity.

EBA EUROPEAN BANKING AUTHORITY

Question ID	2013_213
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Market risk
Article	34
Paragraph	
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	06/12/2013
Subject matter	Additional value adjustments
Question	According to the Article 34 of Regulation (EU) No 575/2013 (CRR), institutions shall apply the requirements of Article 105 to all their assets measured at fair value when calculating the amount of their own funds and shall deduct from Common Equity Tier 1 capital the amount of any additional value adjustments necessary. Does the provision “to all their assets measured at fair value” mean that this Article concerns all trading book positions or this Article concerns all trading and banking book positions?
Background on the question	According current binding regulations additional value adjustments concerns only trading book positions.
Answer	While Article 105 of Regulation (EU) No 575/2013 (CRR) refers to the prudent valuation standards being applicable to all trading book positions, Article 34 of CRR requires that institutions shall apply the standards of Article 105 to all assets measured at fair value when calculating the amount of their own funds. Therefore the prudent valuation requirements specified in Article 105 apply to fair valued positions for the purposes of Article 34 regardless of whether they are held in the trading book or banking book.[i] [i] N.B This treatment is in line with paragraph 24 of the final revisions to the Basel II framework as published on 13.07.2009, whereby prudent valuation guidelines shall apply to *"positions that are accounted for at fair value, whether they are in the trading book or in the banking book."*

Question ID	2013_471
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Market risk
Article	382
Paragraph	1
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	21/02/2014
Subject matter	Calculation of own funds requirements for CVA risk on a consolidated basis
Question	How shall the own funds requirement for CVA risk be calculated for consolidated group of institutions?
Background on the question	We see two possibilities to do so: 1. Sum of individual own funds requirements of all single institutions within the consolidated group; 2. Prepare the consolidated portfolio of all OTC derivative instruments within the consolidated group and then run a separate group CVA calculation
Answer	The own funds requirement for CVA risk on a consolidated group level is calculated by running a calculation using the advanced or standardised method, as appropriate, on the consolidated portfolio of all OTC derivative transactions between all members of the group and an external counterparty (i.e. a counterparty which is not a member of the group). Intragroup transactions (i.e. between two members of the group) according to Article 382(4)(b) of Regulation (EU) No. 575/2013 (CRR)(including intragroup transactions that are eligible hedges under Article 386), must be excluded from this calculation. The offsetting of positions which are held against the same counterparty depends on the scope of the individual netting agreement. Positions of different legal entities within the consolidated group may be offset against each other if the netting agreement allows this, e.g. covers the group rather than individual legal entities. Where the netting agreement covers only one legal entity, offsetting is only possible within that legal entity.

Question ID	2013_134
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Market risk
Article	273
Paragraph	6
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	28/03/2014
Subject matter	Counterparty Credit Risk
Question	Article 273(6) outlines that "For a given counterparty, the exposure value for a given netting set of OTC derivative instruments listed in Annex II calculated in accordance with this Chapter shall be the greater of zero and the difference between the sum of exposure values across all netting sets with the counterparty and the sum of CVA for that counterparty being recognised by the institution as an incurred write-down" In the event that an institution does not fulfil the conditions outlined in Article 296 & Article 297 and as a result does not benefit from the recognition of contractual netting agreements, can this institution then reduce the exposure value by the amount of the CVA for that counterparty that has been recognised as an incurred write down when calculating exposure value?
Background on the question	The institution does not meet all of the requirements set out in Article 296 & 297 and as a result does not currently apply the benefit of netting arrangements when calculating regulatory capital for Counterparty Credit Risk. The institution does calculate CVA which is recognised as an incurred write-down. The purpose of this question is to clarify whether the institution can reduce the exposure value for all derivatives with a given counterparty by the CVA charge that has been applied to that counterparty.
Answer	According to Article 272(4) of Regulation (EU) No. 575/2013 (CRR) "each transaction that is not subject to a legally enforceable bilateral netting arrangement which is recognised under Section 7 shall be treated as its own netting set for the purposes of this Chapter". Where an institution has at least one OTC derivative instrument listed in Annex II for which the exposure value is calculated in accordance with this Chapter with a given counterparty, the exposure value for all netting sets with the counterparty shall be the greater of zero and the difference between the sum of exposure values across all netting sets with the counterparty and the CVA for that counterparty being recognised by the institution as an incurred write-down. The credit valuation adjustments shall be calculated without taking into account any offsetting debit value adjustment attributed to the own credit risk of the firm that has been already excluded from own funds under Article 33(1)(c) of the CRR. This follows from interpreting the second sub-paragraph of Article 273(6) of the CRR, taking into account that it cannot be the exposure value "for a given netting set of OTC derivative instruments" that is determined from the "sum of exposure values across all netting sets with the counterparty". DISCLAIMER: This question goes beyond matters of consistent and effective application of the regulatory framework. A Directorate General of the Commission (Directorate General

	for Internal Market and Services) has prepared the answer, albeit that only the Court of Justice of the European Union can provide definitive interpretations of EU legislation. This is an unofficial opinion of that Directorate General, which the European Banking Authority publishes on its behalf. The answers are not binding on the European Commission as an institution. You should be aware that the European Commission could adopt a position different from the one expressed in such Q&As, for instance in infringement proceedings or after a detailed examination of a specific case or on the basis of any new legal or factual elements that may have been brought to its attention.

Question ID	2013_422
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Market risk
Article	357
Paragraph	3
Subparagraph	-
EBA technical standards & guidelines	Not applicable
Article/Paragraph	-
Published as Final Q&A	28/03/2014
Subject matter	Stock financing
Question	Could you please clarify if the positions that are purely 'stock financing', as defined in Article 3(1)(l) of Directive 2006/49/EC, but not defined in Regulation (EU) No. 575/2013 (CRR), may be excluded from the calculation of own funds requirements for commodities risk under Part three, Title IV, Chapter 4 of the CRR, as was allowed under Directive 2006/49/EC.
Background on the question	Under Directive 2006/49/EC, positions which are purely 'stock financing' as defined in Article 3(1)(l) may be excluded from the commodities risk calculation for the purposes of Annex IV (calculating capital requirements for commodities risk), as stipulated in Annex IV, article 3: "For the purposes of this Annex, positions which are purely stock financing may be excluded from the commodities risk calculation only." Article 3(1)(l) of Directive 2006/49/EC: " 'stock financing' means positions where physical stock has been sold forward and the cost of funding has been locked in until the date of the forward sale;" Annex IV (correlation table) of the CRR points to Article 357 (positions in commodities) paragraph 3, which does not explicitly mention the exclusion of positions that are purely stock financing.
Answer	Regulation (EU) No. 575/2013 (CRR) does not contain any specific treatment for commodities risk from stock financing. Such commodities' risk is therefore not excluded from the calculation of own funds requirements for commodities risk under Part Three, Title IV, Chapter 4 of the CRR. DISCLAIMER: This question goes beyond matters of consistent and effective application of the regulatory framework. A Directorate General of the Commission (Directorate General for Internal Market and Services) has prepared the answer, albeit that only the Court of Justice of the European Union can provide definitive interpretations of EU legislation. This is an unofficial opinion of that Directorate General, which the European Banking Authority publishes on its behalf. The answers are not binding on the European Commission as an institution. You should be aware that the European Commission could adopt a position different from the one expressed in such Q&As, for instance in infringement proceedings or after a detailed examination of a specific case or on the basis of any new legal or factual elements that may have been brought to its attention.

Question ID	2013_472
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Market risk
Article	382
Paragraph	4
Subparagraph	a
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	11/04/2014
Subject matter	Determination of clearing threshold of non-financial counterparties
Question	Who decides if a non-financial counterparty exceeds a clearing threshold and therefore has to be included in the CVA calculation? Is this the responsibility of the counterparty? Is this only relevant for counterparties in third countries or also for counterparties in member states?
Background on the question	Determination of clearing threshold of non-financial counterparties.
Answer	According to Article 382(4)(a) of Regulation (EU) No. 575/2013 (CRR), transactions with non-financial counterparties as defined in Article 2(9) of Regulation (EU) No. 648/2012 (EMIR), or with non-financial counterparties in third countries, shall be excluded from the own funds requirements for CVA risk where those transactions do not exceed the clearing threshold specified in Article 10(3) and (4) of EMIR. The institution itself is responsible for taking the necessary steps to identify all non-financial counterparties that qualify for the exemption under Article 382(4)(a) of the CRR and calculate their own funds requirements for CVA risk with respect to those eligible non-financial counterparties accordingly (regardless of whether they are located within the EU or in a third country). Institutions should define appropriate arrangements with non-financial counterparties to ensure they remain informed of their status as regards the clearing threshold on an ongoing basis. Please note that this does not prejudice the mandate of the EBA under Article 382(5) of the CRR to develop, in cooperation with ESMA, draft regulatory technical standards to specify the procedures for excluding transactions with non-financial counterparties established in a third country from the own funds requirements for CVA risk charge further to its review of international regulatory developments. Where an institution has no information as to whether a non-financial counterparty exceeds the clearing threshold, the institution shall calculate an own funds requirement for CVA risk for all transactions with that counterparty.

Question ID	2013_589
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Market risk
Article	359
Paragraph	2
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	CRR 359
Published as Final Q&A	30/04/2014
Subject matter	Own funds requirements for commodities risk
Question	Article 359(2) of Regulation (EU) No. 575/2013 states: "Positions in the same commodity may be offset and assigned to the appropriate maturity bands on a net basis for the following: (a) positions in contracts maturing on the same date; (b) positions in contracts maturing within 10 days of each other if the contracts are traded on markets which have daily delivery dates." A Fair Value Option is applied to the positions in the Banking Book. The positions are hedged "back-to-back" in terms of cash flows that are exactly offsetting each other and represent thus a perfect economic hedge. Due to discounting effects positions are not however perfectly netted in terms of market values, and thus in terms of net delta weighted equivalents. Does that still mean that the institution shall assign zero values to all the maturity bands in the Table 1 referring to the Maturity ladder approach, or must the netted cash deltas be assigned to each the maturity band instead?
Background on the question	A Fair Value Option is applied to the positions in the Banking Book. The positions are hedged "back-to-back" in terms of cash flows that are exactly offsetting each other and represent thus a perfect economic hedge. Due to discounting effects positions are not however perfectly netted in terms of market values, and thus in terms of net delta weighted equivalents. We are not sure how we shall interpret the maturity ladder approach for the back-to-back hedged commodity positions.
Answer	In accordance with Article 359 of Regulation (EU) No. 575/2013, the institution shall assign netted cash deltas to each of the maturity bands.

8. Operational risk

Question ID	2013_358
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Operational risk
Article	Art 95
Paragraph	(3)
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	08/11/2013
Subject matter	Operational risk
Question	Article 95 (3) in Regulation (EU) No 575/2013 (CRR) has a reference to Title VII, Chapter 3, Section II, Sub-section 1 of Directive 2013/36/EU. From reviewing Directive 2013/36/EU (CRD) there are no sub-sections of the above mentioned Section II. Section II which starts with Article 119 regards Financial holding companies etc. In light of this the reference to the CRD in Article 95 (3) of the CRR does not seem to be correct, could the EBA please provide guidance?
Background on the question	Trying to understand the requirements for an investment firm referred to in article 95(1) of the CRR.
Answer	Indeed, the reference is not correct. The correct reference in CRR article 95(3) should be to: "Title VII, Chapter 2, Section II, subsection 2 of Directive 2013/36/EU". The correction will be made in the upcoming Corrigendum. DISCLAIMER: This question goes beyond matters of consistent and effective application of the regulatory framework. A Directorate General of the Commission (Directorate General for Internal Market and Services) has prepared the answer, albeit that only the Court of Justice of the European Union can provide definitive interpretations of EU legislation. This is an unofficial opinion of that Directorate General, which the European Banking Authority publishes on its behalf. The answers are not binding on the European Commission as an institution. You should be aware that the European Commission could adopt a position different from the one expressed in such Q&As, for instance in infringement proceedings or after a detailed examination of a specific case or on the basis of any new legal or factual elements that may have been brought to its attention

Question ID	2014_706
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Operational risk
Article	Recital (52) / Article 323
Paragraph	
Subparagraph	
EBA technical standards & guidelines	Draft ITS on Supervisory Reporting
Article/Paragraph	4.1.2 of Annex II
Published as Final Q&A	14/03/2014
Subject matter	Taking into account insurance effect on operational risk
Question	Recital 52 of Regulation 575/2013/EU (CRR) suggests insurance should be taken into account for the determination of own funds requirements with respect to operational risks, including in simple approaches. How can insurance be taken into account in the basic indicator and standardised approaches of operational risk?
Background on the question	Insurance has a real and effective impact on operational risk. However, Article 323 of the CRR, which allows institutions to take into account such insurance to the extent competent authorities allow, seems to only apply to the advanced measurement approaches, as it is located in a chapter devoted to the advanced measurement approaches. This creates an incentive for small- and middle-sized institutions to reduce their insurance coverage, as it has no effect on their own funds requirements while reducing their own funds from the regular payment of premiums which are proportional to said coverage. Whether they do so or not, this will have an adverse effect on the diversity of the European banking system, strongly inciting mergers and thus the emergence of additional systemic risk.
Answer	Insurance can be recognised as a mitigant for operational risk only under the Advanced Measurement Approach. DISCLAIMER: This question goes beyond matters of consistent and effective application of the regulatory framework. A Directorate General of the Commission (Directorate General for Internal Market and Services) has prepared the answer, albeit that only the Court of Justice of the European Union can provide definitive interpretations of EU legislation. This is an unofficial opinion of that Directorate General, which the European Banking Authority publishes on its behalf. The answers are not binding on the European Commission as an institution. You should be aware that the European Commission could adopt a position different from the one expressed in such Q&As, for instance in infringement proceedings or after a detailed examination of a specific case or on the basis of any new legal or factual elements that may have been brought to its attention.

9. Other topics

Question ID	2013_20
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Other topics
Article	11
Paragraph	5
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	04/03/2013
Subject matter	Application of requirements on a sub-consolidated basis
Question	Does Article 11 (5) allow competent authorities to apply the provisions of Regulation (EU) No 575/2013 and Directive 2013/36/EU to an institution on its sub-consolidated basis in cases other than where the structural separation of activities is required under national laws, and in cases other than those provided for in Article 11 (1) to (3), and Article 22 of Regulation (EU) No 575/2013?
Background on the question	Because of the asymmetrical structure of the sentence, - which in its first part clearly refers to two different situations (i) when it is justified for supervisory purposed by specificities of the risk or of the capital structure of an institution and (ii) where Member States enact national laws requiring the structural separation of activities within a banking group. - While in its second part it only refers to the case of a structural separation of activities, This asymmetrical structure leads to an ambiguity on whether the supervisor has the power to apply the requirements on a sub-consolidated basis to an institution when it assesses it is justified in other cases than the structural separation of activities.
Answer	Institutions may be required to comply with the prudential requirements laid down in CRR on a sub-consolidated basis in the following cases: • where Member States adopt national laws requiring the structural separation of activities within a banking group • when it is justified for supervisory purposes by the specificities of the risk or of the capital structure of an institution Cases for supervisory purposes are not limited to those specified in Article 22 or Article 11 (1) to (3) of Regulation (EU) No 575/2013. The application on a sub-consolidated basis is without prejudice to application of the requirements on consolidated and individual bases (unless waivers apply). DISCLAIMER: This question goes beyond matters of consistent and effective application of the regulatory framework. A Directorate–General of the Commission (Directorate General for Internal Market and Services) has prepared the answer, albeit that only the Court of Justice of the European Union can provide definitive interpretations of

	EU legislation. This is an unofficial opinion of that Directorate General, which the European Banking Authority publishes on its behalf. The answers are not binding on the European Commission as an institution. You should be aware that the European Commission could adopt a position different from the one expressed in such Q&As, for instance in infringement proceedings or after a detailed examination of a specific case or on the basis of any new legal or factual elements that may have been brought to its attention.

Question ID	2013_76
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Other topics
Article	95
Paragraph	2
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	27/08/2013
Subject matter	Application of article 95 (2) of Regulation (EU) No 575/2013
Question	Shall firms referred to in point (2)(c) of Article 4(1) of the CRR meet the requirements in Article 92(1) and (2) based on the total risk exposure amount referred to in Article 95(2) if they: • provide both the investment services and activities listed in points (2) and (4) of Section A of Annex I to Directive 2004/39/EC? or • provide one or both of the investment services and activities listed in points (2) and (4) of Section A of Annex I to Directive 2004/39/EC?
Background on the question	Take an investment firm domiciled in one Member State that provides: 1) portfolio management services (point (4) of Section A of Annex I to Directive 2004/39/EC); 2) ancillary foreign exchange services connected to the provision of portfolio management services (point (4) of Section B of Annex I to Directive 2004/39/EC). The company is not authorised to provide the ancillary service referred to in point (1) of Section B of Annex I to Directive 2004/39/EC, i.e. safekeeping and administration of financial instruments for the account of clients, including custodianship and related services such as cash/collateral management. Nor is the company is authorised to provide services referred to in point (2) of Section A of Annex I to Directive 2004/39/EC (execution of orders on behalf of clients) although when providing portfolio management services it places orders on the market in the name of its client on the basis of powers of attorney.
Answer	The condition set out in the second sub-paragraph of Article 95(2) of Regulation (EU) No 575/2013 (CRR) applies to investment firms that provide any of the services listed in points (2) and (4) of Section A of Annex I to Directive 2004/39/EC. In other words, a firm that only provides services listed in point (4) is still subject to the requirement laid down in the aforementioned sub-paragraph. DISCLAIMER: This question goes beyond matters of consistent and effective application of the regulatory framework. A Directorate General of the Commission (Directorate General for Internal Market and Services) has prepared the answer, albeit that only the Court of Justice of the European Union can provide definitive interpretations of EU legislation. This is an unofficial opinion of that Directorate General, which the European Banking Authority publishes on its behalf. The answers are not binding on the European Commission as an institution. You should be aware that the European Commission could adopt a position different from the one expressed in such Q&As,

	for instance in infringement proceedings or after a detailed examination of a specific case or on the basis of any new legal or factual elements that may have been brought to its attention.

Question ID	2013_190
Status	Final Q&A
Legal act	Directive 2013/36/EU (CRD)
Topic	Other topics
Article	N/A
Paragraph	
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	08/11/2013
Subject matter	Notifications of agents and subagents of credit institutions in the European Economic Area (EEA)
Question	1. Is it allowed for a credit institution to provide money remittance services via agent cross-border in the EEA? 2. Do agents have to be notified to the home-/host authority and if so under which directive? 3. Do agents have to be notified by way of freedom of establishment or by way of freedom to provide services? 4. Are agents to be treated as branches? 5. Is it allowed for an agent of a credit institution which provides money remittance services cross-border in the EEA to use subagents? If yes: a. Does a sub-agent have to be notified? b. On which legal basis? c. To which Authority? d. Does the credit institution or the agent provide notification and, if so, freedom of establishment or by way of freedom to provide services?
Background on the question	Some credit institutions in the EEA offer money remittance services through agents and subagents. The European Authorities agree that EC legislation on The right of establishment and on the freedom to provide services Directive 2013/36/EC (formerly Directive 2006/48/EC) neither defines nor contains any provisions as regards agents and subagents of credit institutions. Due to this circumstance the FMA and other European Authorities have different opinions in this matter. In the opinion of other European Authorities, credit institutions within the meaning of Article 3, subsection 1, para 1 of Directive 2013/36/EC (formerly Article 4, subsection 1 of Directive 2006/48/EC) can exercise the right of establishment and the freedom to provide services in another Member state only in accordance with Articles 35 et seq of Directive 2013/36/EC (formerly Article 25 et seq of Directive 2006/48/EC). Payment institutions, on the other hand, can exercise the right of establishment and the freedom to provide services in another Member State in accordance with Article 25 of Directive 2007/64/EC. The European Authorities support the view that agents of credit institutions could be treated similarly only to agents as defined in Article 4, subsection 22 of Directive 2007/64/EC. The understanding of those European Authorities is that Directive 2007/64/EC is the latest and the most comprehensive European legal act governing the provision of payment services and money remittance services in particular within the European Community, and it applies to credit institutions also by virtue of their

	qualification as payment service providers in Article 1, subsection a of Directive 2007/64/EC and, point 4 of Annex I of Directive 2013/36/EC (formerly point 4 of Annex I of Directive 2006/48/EC) as amended with Article 92 of the Directive 2007/64/EC, which also refers to „payment services" as defined in Article 4, subsection 3 of Directive 2007/64/EC. The European Authorities brought to the attention of the FMA that Directive 2007/64/EC and its corresponding national legal acts do not provide for the use of subagents to carry out money remittance business. Therefore, in order to ensure legality of agent/subagents business and its compliance with the relevant EU legal framework, which requires a notification from the competent authorities of a Home Member State to the competent authorities of a Host Member State, all agents/subagents acting on the territory of a Host Member State need to be notified or confirmed by the authority of the Home Member State to the authority of the Host Member State.
Answer	According to Articles 17 and 25 of Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market, any authorised payment institution wishing to provide payment services in another Member State by engaging an agent shall inform the competent authorities in its home Member State, which in turn shall take account of the opinion of the competent authorities of the host Member State before registering the agent. Neither Directive 2007/64/EC nor Directive 2013/36/EC (or currently Directive 2006/48/EC) contain any provisions as regards agents of credit institutions, meaning that they neither forbid credit institutions from offering money remittance services through agents or subagents. In the absence of provisions in the EU legislative texts, the decisions of whether and how to authorise and regulate agents and subagents are left to the discretion of Member States. This discretion is however limited; the provision of services by agents should still be possible under the general framework established by the EU Treaties; a control by the host Member State is possible insofar as it complies with certain requirements (such as general interest and proportionality). When (if) limiting the free provision of services for agents mandated by credit institutions established in another Member State, the host Member State shall take into account what has already been done in terms of control by the home Member State. In any case, a Member State cannot use Articles 17 and 25 of Directive 2007/64/EC as a legal basis to require the application of the procedures set out in these articles to agents acting on behalf of a credit institution: • Articles 17 and 25 of Directive 2007/64/EC clearly specify that the provisions of these articles only apply to payment institutions and not to credit institutions; otherwise, both articles would have referred to "payment service providers" instead of "payment institutions"; "payment service providers" is the general term referring to all financial entities which are allowed to carry out payment services, including credit and payment institutions; Article 1 of Directive 2007/64/EC also makes a clear distinction between "credit institutions" and "payment institutions". As other provisions also distinguish between payment institutions and credit institutions, there is no reason to consider that the same treatment should necessarily apply to all agents irrespective of whether or not these agents act on behalf of a credit institution or a payment institution on the grounds that this would ensure equal treatment between credit institutions and payment institutions. In a

	similar way, a Member State cannot use Articles 35 and seq. of Directive 2013/36/EU as a legal basis to require the application of the procedures set out in these articles to agents acting on behalf of a credit institution; • Articles 35 and seq. of Directive 2013/36/EU only specify the notification requirements for the establishment of a branch in another Member State without referring to any agent; these articles cannot be interpreted so that agents would be automatically included in the scope of application of these requirements; • It is not because Directive 2007/64/EC provides for the same treatment for both agents and branches in its articles 17 and 25 that agents acting on behalf of a credit institution should be treated as branches; an agent is different from a branch, given that the former is a separate natural or legal person from the credit institution although acting on behalf of this credit institution; a branch is not a separate legal entity and forms a dependent part of the credit institution; another difference between these two types of banking offices is that branches may accept deposits, while agents cannot. DISCLAIMER: This question goes beyond matters of consistent and effective application of the regulatory framework. A Directorate General of the Commission (Directorate General for Internal Market and Services) has prepared the answer, albeit that only the Court of Justice of the European Union can provide definitive interpretations of EU legislation. This is an unofficial opinion of that Directorate General, which the European Banking Authority publishes on its behalf. The answers are not binding on the European Commission as an institution. You should be aware that the European Commission could adopt a position different from the one expressed in such Q&As, for instance in infringement proceedings or after a detailed examination of a specific case or on the basis of any new legal or factual elements that may have been brought to its attention.

Question ID	2013_310
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Other topics
Article	4
Paragraph	26
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/a
Published as Final Q&A	15/11/2013
Subject matter	Prudential Consolidation of Financial Institutions
Question	'Financial Institution' means an undertaking other than an institution, the principle activity of which is to acquire holdings or to pursue one or more of the activities listed in points 2 to 12 and point 15 of Annex 1 to Directive 2013/36/EU, including a financial holding company, a mixed financial holding company, a payment institution within the meaning of Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market (1), and an asset management company, but excluding insurance holding companies and mixed-activity insurance holding companies as defined in point (g) of Article 212(1) of Directive 2009/138/E. The definition in Article 4(26) Regulation 575/2013 is in line with the definition of financial institution under Article 4(5) of Directive 2006/48/EC in that it encompasses firms whose principle activity is to acquire holdings or to perform the activities under Annex 1 of Directive 2013/36/EU. The EU had issued guidance on its Your Question on Legislation ('YQOL') site that indicated that, for Article 4(5) of 2006/48/EC it was correct to consider holding companies as financial institutions. We understand that this has been interpreted differently by different regulators in the EU, in particular, where a bank owns shares in a holding company that owns a non-financial group (i.e. a group that does not undertake an Annex 1 activity), certain regulators have taken the view that the holding company as a legal entity should be consolidated for regulatory capital purposes whilst the non-financial subsidiaries are deconsolidated. However, other regulators have considered the nature of the activities of the group (holding company plus non-financial subsidiaries) and determined that the holding company need not be consolidated. Could the EBA please clarify which interpretation is correct?
Background on the question	As per the strict definition all holding companies, even those that are not parents of financial institutions or institutions, or any other financial sector entity, will be captured as financial institutions.
Answer	Article 18(1) of Regulation (EU) No. 575/2013 (CRR) requires institutions to carry out a full consolidation of all institutions and financial institutions which are its subsidiaries for the application of prudential requirements on a consolidated basis. Undertakings, other than institutions and financial institutions which neither acquire holdings nor pursue any of the activities listed in points 2 to 12 and point 15 of Annex I to Directive 2013/36/EU (CRD), are excluded from the scope of prudential consolidation irrespective of whether or not these undertakings are directly or indirectly held by the parent entity. As a result:

	• Non-financial subsidiaries are excluded from the scope of prudential consolidation regardless of whether these subsidiaries are fully held by a holding company. On the other hand, the holding company is included for prudential consolidation purposes; • Conversely, any holding company needs consolidating even when it holds no participation in a financial subsidiary. However, all its participations are excluded for prudential consolidation purposes. DISCLAIMER: This question goes beyond matters of consistent and effective application of the regulatory framework. A Directorate General of the Commission (Directorate General for Internal Market and Services) has prepared the answer, albeit that only the Court of Justice of the European Union can provide definitive interpretations of EU legislation. This is an unofficial opinion of that Directorate General, which the European Banking Authority publishes on its behalf. The answers are not binding on the European Commission as an institution. You should be aware that the European Commission could adopt a position different from the one expressed in such Q&As, for instance in infringement proceedings or after a detailed examination of a specific case or on the basis of any new legal or factual elements that may have been brought to its attention.

Question ID	2013_240
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Other topics
Article	431
Paragraph	4
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	06/12/2013
Subject matter	How shall an institute explain a rating decision?
Question	Article 431, paragraph 4 says that "institutions shall, if requested, explain their rating decisions to SMEs and other corporate applicants for loans, providing an explanation in writing when asked." Shall this be interpreted as institutions shall show the exact probability of default for the applicants or the applicants rating on the institutions internal rating scales or in any other way?
Background on the question	Unclear meaning of the paragraph.
Answer	Article 431(4) of Regulation (EU) No 575/2013 (CRR) requires institutions, if requested, to explain their rating decisions to SMEs and other corporate applicants for loans, providing an explanation in writing when asked. To this end, institutions should take a pragmatic, proportional and common sense approach when dealing with these requests, and provide information such as: the rating, the applied methodology, and, where relevant, information on probability of default or PD bands.

Question ID	2013_366
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Other topics
Article	305
Paragraph	2
Subparagraph	b
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	28/03/2014
Subject matter	Treatment of clients' exposures
Question	Is it a requirement for the criteria in Article 305, paragraph 2, subparagraph (b) to be fulfilled that the client has an agreement with a clearing member in place, which, while not guaranteeing porting, has been identified to the relevant CCP as a back-up clearing broker for that client?
Background on the question	Pursuant to Article 305, paragraph 2, one of the requirements for a client to be allowed to calculate own funds requirements for its trade exposures for CCP-related transactions with its clearing member in accordance with Article 306 (i.e. as CCP exposures) is that in the event of default or insolvency of the original clearing member, applicable laws, regulations, rules and contractual arrangements facilitate transfer of the client's positions and transactions, and of the corresponding collateral to another clearing member within a certain stipulated period. However, it is not clear from the provision whether this requirement may be fulfilled, whether or not the client has an arrangement in place of some kind (short of a guarantee) with such other (back-up) clearing member, or whether the requirement may be fulfilled even in the absence of such arrangement, provided otherwise applicable laws, regulations, rules and contractual arrangements binding on the client institution or the CCP facilitate such transfer.
Answer	Article 305 (2)(b) of Regulation (EU) No.575/2013 (CRR) requires that the applicable laws, regulations, rules and contractual arrangements binding on the client institution or the CCP, facilitate transfer of the client's positions and transactions, and of the corresponding collateral to another clearing member within the applicable margin period of risk in the event of default or insolvency of the original clearing member. It is not a specified requirement of Article 305(2)(b) of the CRR that a back-up clearing member is in place. However, such an arrangement is considered a practical and acceptable means of ensuring that clients' positions and transactions and the corresponding collateral can be transferred to another clearing member within the applicable margin period of risk.

Question ID	2013_500
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Other topics
Article	94
Paragraph	1
Subparagraph	letter (b)
EBA technical standards & guidelines	Not applicable
Article/Paragraph	0
Published as Final Q&A	23/05/2014
Subject matter	Calculating capital requirement for trading book positions - Derogation for small trading book business
Question	According to article 94(1) of Regulation (EU) No 575/2013 (CRR), institutions which meet specific conditions are allowed to use an exception in calculating capital requirements considering trading book exposures. In letter (b) of abovementioned article it states that the size of institution's on- and off-balance sheet trading-book business should never exceed 6 % of total assets and EUR 20 million. It does not specify a time horizon for such an event. Should the institution calculate the trading-book business values starting from January 1st 2014 or from the day that it started their trading-book activity? For an example, if the institution's trading-book business exceeded 6% of total assets only once on June 24 2013, could the derogation be applicable on January 2nd 2014? If not, for how long is the institution restricted from making use of the derogation specified in article 94(1)(b)?
Background on the question	Would not it be too restrictive to forbid the exception of small trading-book activities for the institution that exceed the condition once relevantly long time ago?
Answer	According to Article 521(2) of Regulation (EU) No 575/2013 (CRR) the requirements in Article 94(1) of the CRR apply from 1 January 2014. Therefore, an institution only needs to immediately notify its competent authority in cases where the conditions in Article 94(1)(b) of the CRR are not met after that date. If, following assessment by the competent authority, the competent authority determines and notifies the institution that the requirement of Article 94(1)(a) of the CRR is not met, the institution shall cease to make use of the derogation available under Article 94(1). In this case, the derogation for a small trading book business cannot be applied again without the express permission of the competent authority.

10. Own funds

Question ID	2013_12
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	483
Paragraph	
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	04/03/2013
Subject matter	Grandfathering of own funds instruments
Question	Will preference shares issued in 2009 subscribed by the government and currently accepted as Core Tier 1 qualify for grandfathering of State aid?
Background on the question	N/A
Answer	These instruments subscribed by the State will fall under Article 483 of Regulation (EU) No 575/2013and will be grandfathered as Core Equity Tier (CET) 1 instruments until 31 December 2017 since they were issued before the date of application of Regulation (EU) No 575/2013.

Question ID	2013_13
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	484
Paragraph	
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	04/03/2013
Subject matter	Grandfathering of own funds instruments
Question	Will old style Tier 2 issuances without a reference to the proposals for a Directive Establishing a Framework for the Recovery and Resolution of Credit Institutions and Investment Firms / Point of Non-viability (PON) fully qualify upon entry into force of Regulation (EU) No 575/2013?
Background on the question	N/A
Answer	In the absence of a PON eligibility criterion in Regulation (EU) No 575/2013, the reference to PON, or absence thereof, will not be conditioning the eligibility of instruments. Capital instruments will be fully eligible provided that they meet all eligibility criteria applicable to the category of instruments they belong to.

Question ID	2013_14
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	48
Paragraph	
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	04/03/2013
Subject matter	Grandfathering of own funds instruments
Question	How shall the 15% threshold referred to in Article 48 of Regulation (EU) No 575/2013 be calculated?
Background on the question	N/A
Answer	The calculation shall follow the methodology described in the Annex 2 of the Basel rules text.

Question ID	2013_15
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	489
Paragraph	
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	04/03/2013
Subject matter	Grandfathering of own funds instruments
Question	What will be the treatment of an Additional Tier 1 (AT1) instrument structured with a first call date and one step up after 5 years prior to 1 January 2013, callable quarterly thereafter at every interest payment date without any step up (subject to supervisory approval)? Is the instrument eligible for grandfathering if not called at the first call date? If the instrument is derecognized as AT1 on 1 January 2013, can it be included into Tier 2 and, if so, what amount will be eligible (full amount or gradually phased out amount)?
Background on the question	N/A
Answer	The eligibility for grandfathering of both innovative and non innovative instruments is determined in accordance with the provisions of Regulation (EU) No 575/2013. For instruments with an incentive to redeem, Article 489 applies. As a general principle, instruments formerly issued with an incentive to redeem shall be eliminated from regulatory own funds at their effective maturity date (the first call date) if they do not fully comply with the criteria of Article 52 after the effective maturity date. The fact that the instrument is not called does not mean that the instrument may be reclassified as an instrument without an incentive to redeem. Due to the existence of subsequent quarterly calls, the instrument does not meet fully the criteria of Article 52 and in accordance with the provisions of Article 489 (4) of Regulation (EU) No 575/2013, the instrument described above will be fully disqualified from AT1 after the first call date. As an exception to the general principle outlined above, instruments where the first call date associated with an incentive to redeem took place before 31 December 2011 but the institution did not exercise the call on the instrument, will be grandfathered according to provisions foreseen by Article 489 (6) and phased out according to Article 486 (5) of Regulation (EU) No 575/2013. The same reasoning holds true for Tier 2 instruments with similar features (Article 490 (6) of Regulation (EU) No 575/2013). In addition, because in particular of the quarterly call, the instrument would not meet the eligibility criteria for inclusion in fully eligible Tier 2 capital. It would also not meet the eligibility criteria for inclusion in grandfathered Tier 2 capital as foreseen under Article 484 (5) of Regulation (EU) No 575/2013.

Question ID	2013_16
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	484
Paragraph	
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	04/03/2013
Subject matter	Grandfathering of own funds instruments
Question	Would a contractual change of a capital instrument terms and conditions (T&C) issued before December 31, 2011 allow a bank to keep the instrument in the own funds within the limits provided for in Articles 484 and 486 (grandfathering eligibility and limits of capital instruments that are not State aid) if the amendments to the T&C would not make the instrument entirely compliant with the provisions of Regulation (EU) No 575/2013 but are limited to remove the contractual conditions that would determine the disqualification of the instrument during the grandfathering period (e.g.: deletion from the T&C of a Tier 2 capital instrument of the call option and of the incentive to redeem clause)?
Background on the question	N/A
Answer	A material change in the terms and conditions of a pre-existing instrument shall be considered in the same way as the issuance of a new instrument, meaning that the changes shall aim at ensuring a full eligibility under the provisions of Regulation (EU) No 575/2013 but shall not aim at allowing a grandfathering of the instrument. This reasoning holds true for all types of capital instruments.

Question ID	2013_18
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	484
Paragraph	
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	04/03/2013
Subject matter	Grandfathering of own funds instruments
Question	May capital instruments be adjusted stepwise with the unadjusted part still being eligible for grandfathering? Take the following example: - An institution has issued a hybrid Tier 1 instrument that does not meet the requirements of Article 52 but is eligible for grandfathering; - starting in 2013, the bank adjusts in each year the terms and conditions of 10% of the nominal amount in order to make it fully eligible as Additional Tier 1 (AT1) under Regulation (EU) No 575/2013; - the terms and conditions of the remaining nominal amount of the capital instrument are kept unchanged. May the institution recognize the remaining part of the capital instrument as AT 1 under the grandfathering rules of the Regulation (EU) No 575/2013 given that only the nominal amount but not the terms and conditions of this remaining part are adjusted or does the change of the nominal amount also constitute a change of the whole contract, making the whole instrument no longer eligible for grandfathering since the new contract is concluded after the cut-off date mentioned in Article 484 (1)?
Background on the question	N/A
Answer	The change in the nominal amount would be considered as the issuance of a new instrument. In the specific case above, the instrument would be disqualified after the change in the nominal amount since the new contract is concluded after the cut-off date mentioned in Article 484 (1) and the instrument does not meet the requirements of Article 52 of Regulation (EU) No 575/2013.

Question ID	2013_19
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	92
Paragraph	
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	04/03/2013
Subject matter	Recognition of Additional Tier 1 and Tier 2
Question	Article 92 of Regulation (EU) No 575/2013 introduces minimum ratios for CET 1 (4,5 %), Tier 1 (6%) and total capital (8 %). Setting aside any buffer requirements, this means that an institution that holds a total capital ratio of 8% can have at most: - 18,75 % of AT 1 capital, and - 25% of Tier 2 capital, as a percentage of its total regulatory own funds. Are these percentages a cap for the recognition of AT 1 and Tier 2 in regulatory capital that may not be exceeded at any time regardless of the capital ratio the institution actually holds (similar to what is currently set out in Article 66 of Directive 2006/48/EC (Capital Requirements Directive)) or does the Regulation (EU) No 575/2013 repeal the gearing limits used in Directive 2006/48/EC (Capital Requirements Directive), giving institutions freedom to decide on the composition of their regulatory capital as long as they meet the minimum requirements mentioned in Article 92?
Background on the question	N/A
Answer	Additional Tier 1 instruments and Tier 2 instruments can be taken into account in total own funds without limits under Regulation (EU) No 575/2013

Question ID	2013_67
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	478
Paragraph	2
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	31/07/2014
Subject matter	Transitional provision for deferred tax assets that rely on future profitability
Question	Article 478.2 of the CRR states "By way of derogation from paragraph 1, for the items referred in point (c) of Article 36(1) that existed prior to …, the applicable percentage for the purpose of point (c) of Article 469(1) shall fall within the following ranges" It is not clear to me what to read instead of "..." or how this date will be disclosed.
Background on the question	The text is unclear
Answer	The missing date in the English version of Art. 478 of Regulation (EU) No 575/2013 (CRR) on applicable percentages for deduction from Common Equity Tier 1, Additional Tier 1 and Tier 2 items is a mistake, as well as the wrong date of 31 December 2017 in other language versions of the same article. These mistakes have been amended to 1 January 2014 by a corrigendum that has been published in the Official Journal of the EU (http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:208:0068:0072:EN:PDF). DISCLAIMER: This question goes beyond matters of consistent and effective application of the regulatory framework. A Directorate 13General of the Commission (Directorate General for Internal Market and Services) has prepared the answer, albeit that only the Court of Justice of the European Union can provide definitive interpretations of EU legislation. This is an unofficial opinion of that Directorate General, which the European Banking Authority publishes on its behalf. The answers are not binding on the European Commission as an institution. You should be aware that the European Commission could adopt a position different from the one expressed in such Q&As, for instance in infringement proceedings or after a detailed examination of a specific case or on the basis of any new legal or factual elements that may have been brought to its attention.

Question ID	2013_8
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	4, 28
Paragraph	1 (b)
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	31/10/2013
Subject matter	Direct / indirect funding of own shares
Question	In Article 3 of the draft RTS on Own Funds, what is the amount to be deducted / not to be considered eligible. If a subscription/acquisition of the institution's shares has been financed by it, what should be the impact and by which amount? There are two possibilities: A) The amount of the funding/loan granted is to be deducted from CET1 (irrespective of the current accounting value of the shares acquired). B) The "# of shares subscribed/acquired" times the "per share accounting amount of total equity" is not to be given recognition as a positive item of CET1 In case the instruments are not given recognition, what is the amount not to give recognition: A) Amount of the funding given to buy the shares (at the market value); or, B) Corresponding accounting amount of the shares bought (which is different from A if the book value is different from the market capitalization of the institution)? Example: An institution issues capital at par, i.e., book value per share = 100 and market value per share = 100. The share drops in price and is now valued at 80 (new market price). However, this market devaluation does not have a correspondence in the accounting value which remains at 100. The institution finances a customer to buy 2 shares, so finances with 160. Questions 1) Should the institution not recognize as a positive item: 160 (funding given to buy the 2 shares) or 200 (accounting value of the 2 shares whose purchase was financed by the institution) 2) In the example the credit to the issuer is higher than the stock financed and the share increases in value. What amount has to be considered?

	3) In the example above, there is collateral posted. What amount has to be considered? Does the treatment change depending on whether the collateral is junior or senior to the delivery of the own shares? 4) In the example above, there is impairment associated with the funding provided (though this one is broadly covered in the article). What is the treatment when the funding provided is higher than the share bought)?
Background on the question	N/A
Answer	Under Article 28 (1)(b) of Regulation (EU) No 575/2013 (CRR), capital instruments shall qualify as Common Equity Tier 1 (CET 1) instruments only if the instruments are paid up and their purchase is not funded directly or indirectly by the institution. The purpose of this condition is to ensure that the institution has genuinely received new funds at issuance. The EBA is mandated in accordance with Article 28 (5) (a) of CRR to develop draft regulatory technical standards (RTS) to specify the applicable forms and nature of indirect funding. The example laid out in this question will have to be assessed against the future RTS to determine whether it has to be considered as direct or indirect funding. If the criteria set out in the final adopted RTS are met, the following treatment should apply: **<u>At issuance</u>** firms exclude the accounting value of the instruments (and associated share premium accounts) in accordance with Article 28 (1)(b) of CRR; this reflects that there is no real increase of capital to add onto the institution's balance sheet. On the basis of the above **<u>at issuance</u>** the questions 1) to 4) are answered as follows: CET 1 instruments contribute to CET 1 at their accounting value. In the case an instrument does not meet the CET 1 criteria in Article 28 of CRR, or ceases to meet CET 1 criteria, as set out in Article 30 of CRR, the accounting value of the instrument shall be excluded from contributing towards CET 1. Therefore, where direct or indirect funding has occurred at issuance, the accounting value of the instrument purchased with direct or indirect funding shall be excluded from contributing to CET 1. 1) The amount that the institution shall exclude from CET 1 is the accounting value of the shares, which in this example is 200. 2) Since the amount that is excluded is the accounting value, a change in the market value of the shares has no bearing. Likewise, the amount of the loan relative to the share value has no bearing. So, in the example, the relevant amount to exclude is still 200. 3) The posting of collateral is not a relevant consideration when judging whether or not direct or indirect funding has occurred. The holding of collateral could become relevant to the extent that the operation qualifies as a synthetic holding under Article 4 (126) of CRR, which is the subject of a separate question (Q&A 2013 009). 4) At issuance, impairment should, in principle, not be of relevance to the extent that

	the funding/loan cannot be subject to impairment at inception. Where impairment arises, the treatment below will have to be applied. ***<u>After initial issuance,</u>*** where firms directly or indirectly fund the purchase of their own fund instruments, likewise the accounting value of the shares is to be eliminated/derecognised since the issue revolves around the eligibility of the instruments rather than the loan exposure. Accordingly, the answers to scenarios (1) to (3) would be the same as above. For scenario (4), where the funding/loan is subject to impairment, the amount deducted should be net of any impairment allowance associated with the funding provided. Accordingly, the amount to be excluded from CET 1 shall be the accounting value of the instrument funded, less any impairment allowance associated with the funding, up to the point that the amount to be excluded nets to zero. In case the amount of funding provided is higher than the accounting value of the instrument, the impairment amount to be considered should be proportionate to the share of the impairment in the funding.

Question ID	2013_9
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	4, 28
Paragraph	126, 1
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	31/10/2013
Subject matter	Synthetic holdings
Question	We are considering own regulatory capital instruments which are put in pledge to the issuing bank itself as collateral for loans to customers. 1) Do banks have to deduct those pledged own regulatory capital instruments under Regulation (EU) No 575/2013 (CRR) although the related loans are not granted for the purchase of these instruments (i.e. no direct funding), potentially as a synthetic holding (Article 4 (1) (126) of CRR? 2) Do such pledged regulatory capital instruments still meet the "paid up"-criterion (Article 28 (1)(b)) of CRR?
Background on the question	N/A
Answer	1. The draft regulatory technical standards (RTS) that the EBA is mandated to prepare in accordance with Article 36 (2) of Regulation (EU) No 575/2013 (CRR) will specify the application of the deductions of direct, indirect or synthetic holdings as set out in Article 36(1)(f). Where criteria of the final adopted RTS are met and the operation qualifies as an indirect or synthetic holding, the value of the pledged own regulatory capital instruments will have to be deducted under Article 36(1)(f) of CRR. The value of the capital instruments that will have to be deducted in that case is the accounting value of the instruments that are counted towards regulatory own funds. 2. Notwithstanding the fact that the value of the shares put in pledge will be deducted, they can still be considered as paid up to the extent that the corresponding amount has not been reimbursed, and provided the instruments are not considered as directly or indirectly funded in accordance with Article 28(1)(b) as specified in the final RTS the EBA is mandated to produce under Article 28(5)(a) of CRR regarding the applicable forms and nature of indirect funding. Subject to these conditions, the paid-up criterion in Article 28(1)(b) of CRR would still be met. (See also Q&A 008)

Question ID	2013_11
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	483
Paragraph	
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	31/10/2013
Subject matter	Grandfathering of own funds instruments
Question	Is there any grandfathering applicable to instruments of state aid that are initially subscribed by the state but are then sold a) before 31 December 2017 and b) after that date?
Background on the question	N/A
Answer	State aid instruments issued prior to 1 January 2014 and initially subscribed by the Member State that comply with the provisions of Article 483 may be grandfathered fully in accordance with this Article during the period from 1 January 2014 to 31 December 2017. The subsequent sale of those instruments to private investors does not alter the grandfathering arrangements applicable to those instruments which are still considered state aid instruments for the purposes of the Article 483 of CRR. They will be disqualified from regulatory own funds from 1 January 2018 unless they are fully eligible to either Common Equity Tier 1, Additional Tier 1 or Tier 2 in their own right. DISCLAIMER: This question goes beyond matters of consistent and effective application of the regulatory framework. A Directorate General of the Commission (Directorate General for Internal Market and Services) has prepared the answer, albeit that only the Court of Justice of the European Union can provide definitive interpretations of EU legislation. This is an unofficial opinion of that Directorate General, which the European Banking Authority publishes on its behalf. The answers are not binding on the European Commission as an institution. You should be aware that the European Commission could adopt a position different from the one expressed in such Q&As, for instance in infringement proceedings or after a detailed examination of a specific case or on the basis of any new legal or factual elements that may have been brought to its attention.

Question ID	2013_17
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	486
Paragraph	
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	31/10/2013
Subject matter	Grandfathering of own funds instruments
Question	Where an Additional Tier 1 (AT1) instrument qualified as original own funds according to Article 154(9) of Directive 2006/48/EC with the excess amount considered as part of the additional own funds, will the excess amount be included in the base used to calculate the cap for AT1 items during the transitional period under Regulation (EU) No 575/2013 (CRR)?
Background on the question	N/A
Answer	Under Article 484 (4) of Regulation (EU) No. 575/2013 (CRR), instruments qualifying as original own funds under Article 57(ca) and Article 154(8) and (9) of Directive 2006/48/EC shall qualify as Additional Tier 1 items subject to the limits set in Article 486(3) of CRR. On the basis of Articles 486 (3)(c) and (d) of CRR, the amounts of instruments exceeding the limits specified in the national transposition measures for point (a) of Article 66(1) and Article 66(1a) of Directive 2006/48/EC, as well as the related share premiums cannot be included for the calculation of the limit for the grandfathering of instruments in AT1 (the base used to calculate the cap). However, if such an excess amount was included in additional own funds under Directive 2006/48/EC, it can qualify as grandfathered Tier 2 items if it complies with Article 484 (5). It can also be included for the calculation of the limit for the grandfathering of instruments in Tier 2 according to articles 486(4) of CRR and provided the conditions in particular under Article 486(4)(e) are met.

Question ID	2013_21
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	52
Paragraph	
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	31/10/2013
Subject matter	Deferral of Tier 2 coupons
Question	Can Tier 2 instruments include terms according to which coupons would be mandatorily deferred or cancelled if coupons were not paid on Additional Tier 1 instruments?
Background on the question	Some existing Tier 2 instruments include such terms. Institutions may therefore raise the issue of consistent treatment. In addition, coupons deferral for Tier 2 instruments may become more common for ratings purposes as certain rating agencies may give more equity credit for Tier 2 instruments with coupons deferral.
Answer	If Tier 2 instruments include such terms, this would undermine coupon flexibility on Additional Tier 1 instruments (as a decision to cancel Additional Tier 1 coupons would automatically lead to the deferral or cancellation of coupons on Tier 2 instruments). The criterion referred to in Article 52 (1) (l) (v) of Regulation (EU) No 575/2013 (CRR), which requires that "the cancellation of distributions imposes no restrictions on the institution" would then not be met by outstanding Additional Tier 1 instruments of the institution. Those instruments would then have to be disqualified from regulatory Tier 1 capital, although Tier 2 instruments including the above mentioned terms would themselves be eligible as regulatory Tier 2 capital.

Question ID	2013_39
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	54
Paragraph	
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	31/10/2013
Subject matter	Local Regulations versus the CRR
Question	Will national regulations, maintained by domestic regulators (such as those in the Capital Principal Circular (7/2012) of the Bank of Spain, as an example) which set requirements for Tier 1 instruments compatible with, but in excess of, those set in Regulation (EU) No 575/2013 (CRR) for Additional Tier 1 instruments, continue to have force after the date (1st Jan 2014) at which CRR itself comes into force?
Background on the question	A number of jurisdictions (including especially those with specific banking crises such as Spain, Ireland, Portugal and Greece) have enacted (and then published regulations for) enhanced capital requirements, utilising the principle of super-equivalence under CRD II. In several cases, banks have been required to hold additional Tier 1 capital (including, but not limited to Core Tier 1 capital) with features such as write down triggers set at levels above.
Answer	While we will not comment on specific national measures, after the date of application of CRR (January 1, 2014) domestic regulators cannot lay down or maintain in force generally applicable rules (stricter or not) containing requirements for Tier 1 instruments that are already laid down in the CRR, including the level of triggers under Article 54 of CRR. DISCLAIMER: This question goes beyond matters of consistent and effective application of the regulatory framework. A Directorate General of the Commission (Directorate General for Internal Market and Services) has prepared the answer, albeit that only the Court of Justice of the European Union can provide definitive interpretations of EU legislation. This is an unofficial opinion of that Directorate General, which the European Banking Authority publishes on its behalf. The answers are not binding on the European Commission as an institution. You should be aware that the European Commission could adopt a position different from the one expressed in such Q&As, for instance in infringement proceedings or after a detailed examination of a specific case or on the basis of any new legal or factual elements that may have been brought to its attention.

Question ID	2013_51
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	467, 468
Paragraph	
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	31/10/2013
Subject matter	Unrealised Gains and Losses
Question	Under to Article 467 and 468 of Regulation (EU) No 575/2013 (CRR), what is the appropriate level of aggregation with respect to unrealised gains or losses at which the percentages have to be applied respectively? Please indicate the appropriate level of application.
Background on the question	According to Article 467 and 468 of CRR, during the period from 1 January 2014 to 31 December 2018 institutions shall include in the calculation of their CET1 items only the applicable percentages of unrealised gains and losses related to assets or liabilities measured at fair value, and reported on the balance sheet. During 2014, the applicable percentage of unrealised losses to be included is between 20% and 100%. The applicable percentage of gains is 0% (equals removing 100% of unrealised gains according to Article 468 of Regulation 575/2013). Consequently, there are two positions to be considered in COREP: {CA5.1;r120;c060} and {CA5.1;r130;c060}.
Answer	The level of application of unrealised gains and losses - i.e. whether to apply the percentages of unrealised gains and losses under Articles 467 (2) and 468 (2) and determined by competent authorities according to Articles 467 (3) and 468 (3) on a portfolio basis (for instance distinguishing between categories of assets or liabilities) or on an item by item basis- is not specified as part of Regulation (EU) No 575/2013 (CRR). For the transitional arrangements the level of application is expected to follow current national practices applied for prudential filters (based on the Guidelines on Prudential Filters for Regulatory Capital established by the former Committee of European Banking Supervisors in 2004). Reporting of unrealised losses and unrealised gains in CA1 and CA5.1: In CA1, all capital items and deductions shall be reported without effects of transitional provisions. The adjustment effects of the transitional provisions are shown only in the nine rows in aggregated terms (see instructions for CA templates, ANNEX II of instructions on own funds, part II, 1.1, explanation in paragraph 13). The adjustments to be made according to the transitional provisions shall be reported in CA5.1. The EBA will look more closely into this issue as part of its mandate to provide by 1 January 2014 a technical advice to the European Commission on unrealised gains in accordance with article 80 (4).

Question ID	2013_54
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	62, 63
Paragraph	
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	31/10/2013
Subject matter	Treatment of Upper Tier 2 instruments under CRR
Question	Can existing Upper Tier 2 instruments with a provision such as "the institution has the right to defer the payment of interest because the institution has not paid dividends on ordinary shares (Core Equity Tier 1 – CET1) and on hybrid instruments (Additional Tier 1 – AT1)" qualify as fully eligible Tier 2 instruments under Regulation (EU) No 575/2013 (CRR)?
Background on the question	Some existing Upper Tier 2 instruments include such terms which are more stringent than those provided for Tier 2 instruments under the CRR. However, including such a provision in terms and conditions of instruments raises the question of eligibility of CET 1 and AT1 instruments as the provisions for CET1 instruments (Art. 28 (1) (h) (vii) of the CRR) and AT1 instruments (Art. 52 (1) (l) (v) of the CRR) require that "the cancellation of distribution imposes no restrictions on the institution".
Answer	While a provision as the one in the question would not disqualify existing Upper Tier 2 instruments as fully eligible Tier 2 instruments under Regulation (EU) No 575/2013 (CRR), it could have an effect on the CET 1 and AT1 instruments it refers to. In the example described in the question, a decision not to make a distribution on CET1 or AT1 instruments gives the institution the right to defer on certain Tier 2 instruments. This 'right to defer' would generally not represent an indirect restriction on the institution according to the Article 28(1)(h)(vii)) of the CRR for CET1 instruments or according to Article 52(1)(l)(v) of the CRR for AT1 instruments. The assessment of the whether this 'right to defer' amounts to a such a restriction depends on the exact terms and conditions of the contract. In that respect this example is different from the mandatory deferral or cancellation of distributions in Q&A 2013 021.

Question ID	2013_28
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	484 & 486
Paragraph	
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	15/11/2013
Subject matter	Grandfathering of capital instruments
Question	This question concerns two types of non-innovative Hybrid Tier 1 instruments (both issued before 31 December 2011): • Type A: securities with first call date occurred in year 5, and before 31 December 2012; • Type B: securities with first call date occurred in year 5, and after 31 December 2012. Questions: 1. For both A and B, is it correct to follow Article 484(4) & Article 486(3) for grandfathering guidelines? 2. For both A and B, is it correct to assume that the amount in excess of the applicable Tier 1 grandfathering percentage limit will be treated as grandfathered Tier 2 capital, i.e. being subject to the Tier 2 cap, as per Article 487(2)? 3. Alternatively, for both A and B, can the amount in excess of the applicable Tier 1 grandfathering percentage limit be treated as Tier 2 in full from 1 January 2014? Since they are meeting all the criteria for Tier 2 capital under Regulation (EU) No. 575/2013, as per Article 63 post the call date?
Background on the question	Many issuers have non-step Tier 1 outstanding.
Answer	See QA 2013 31.

Question ID	2013_31
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	489
Paragraph	
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	15/11/2013
Subject matter	Grandfathering of Tier 1 instruments
Question	In your response to the following question "What will be the treatment of an Additional Tier 1 (AT1) instrument structured with a first call date and one step up after 5 years prior to 1 January 2013, callable quarterly thereafter at every interest payment date without any step up (subject to supervisory approval)? Is the instrument eligible for grandfathering if not called at the first call date? If the instrument is derecognized as AT1 on 1 January 2013, can it be included into Tier 2 and, if so, what amount will be eligible (full amount or gradually phased out amount)?", you mention that: "because in particular of the quarterly call, the instrument would not meet the eligibility criteria for inclusion in fully eligible Tier 2 capital. It would also not meet the eligibility criteria for inclusion in grandfathered Tier 2 capital as foreseen under Article 484 (5) of Regulation (EU) No 575/2013." Does that mean that an existing non-innovative (i.e. non-step) Tier 1 instrument with quarterly calls will also not be grandfathered in Tier 2 capital because of the quarterly calls?
Background on the question	Further clarification regarding your response from 03/07/2013
Answer	The eligibility for grandfathering of both innovative and non-innovative instruments is determined in accordance with the provisions of Regulation (EU) No. 575/2013 (CRR). For instruments issued under national transposition measures of Article 57(ca) of Directive 2006/48/EC, Article 484(4) of the CRR applies. The limits for grandfathering applicable to those instruments are determined in accordance with Article 486(3) and (5) of the CRR. The conditions for the inclusion of hybrid instruments with a call and incentive to redeem are further specified in Article 489, and were also clarified in QA 2013_15. Tier 1 instruments issued under national transposition measures of Article 57(ca) of Directive 2006/48/EC without an incentive to redeem shall be included in Additional Tier 1 subject to the limits referred to in Article 486 (3) and (5), regardless of the frequency of subsequent calls. Amounts of such instruments exceeding the applicable percentage referred to in Article 486(3) may be treated as items referred to in Article 484(5) if they comply with the conditions of Article 487(2).

	Provided the instrument meets all the criteria of Article 63 of the CRR, amounts of such instruments in excess of the limit referred to in Article 486(3) may also be treated as fully eligible Tier 2. It should be noted that the Regulation does not prohibit subsequent calls after the first call date, but also that dividend pusher and stopper clauses that are common in instruments issued under national transposition measures of Article 57(ca) of Directive 2006/48/EC may interfere with the institution's flexibility to cancel distributions on other classes of capital instruments (see related QA 2013_21 and QA 2013_54 for further information).

Question ID	2013_40
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	486 and 62
Paragraph	
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	15/11/2013
Subject matter	Treatment of non-step Tier 1 hybrids post grandfathering
Question	This query concerns “non-innovative” (i.e. non step) hybrid Tier 1 instruments that fully qualified as original own funds which are now callable every quarter, which do not meet the requirements of Article 52 but are eligible for grandfathering under Article 484 of Regulation (EU) No. 575/2013 (CRR). Once they cease to be eligible (in part or in full) as AT1 due to the grandfathering limits, is the de-recognised amount eligible as Tier 2?"
Background on the question	Capital planning
Answer	See QA 2013_31.

Question ID	2013_52
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	484
Paragraph	
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	15/11/2013
Subject matter	Grandfathering of Non-Step Tier 1 instruments
Question	A Tier 1 instrument, with no incentive to redeem, was issued prior to 31 December 2011, and, at the time of issue, was not callable for 5 years. It reaches its first call date in May 2014, and is callable quarterly thereafter. It is not called at its first call date. It does not meet all of the requirements as T1 capital under Article 52. Subject to grandfathering limits, does the instrument continue to count as Tier 1 capital? If it does not count toward Tier 1, would it count as Tier 2?
Background on the question	The basis for the question stems from the answer to question 2013_15. If the same instrument, outlined in the hypothetical case noted above, had a singular incentive to redeem in May 2014, but was not called, it would be precluded from counting toward Tier 1 or T2 capital because of the quarterly call features after the step date. Why would the non-step instrument be treated any differently given that it too would not meet the 5 year non-call requirement under Article 52?
Answer	See QA 2013 15 and QA 2013 31.

Question ID	2013_56
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	489
Paragraph	
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	15/11/2013
Subject matter	Grandfathering on own funds instruments
Question	What will be the treatment of the "phased-out" amounts which exceed the applicable percentages according to Article 486 (5)) of grandfathered Additional Tier 1 instruments which are non-eligible due to an incentive to redeem (accord. to Art 489) or a coupon pusher (accord. to Art 53 (a)), during the grandfathering period (accord. to Art. 486 (5)). Will the phased-out amounts flow into grandfathered Tier 2 amounts (subject to applicable limits) or will they lose their regulatory recognition completely (i.e. are these amounts entirely eliminated from regulatory own funds)?
Background on the question	N/A
Answer	See QA 2013 15 and QA 2013 31.

EUROPEAN BANKING AUTHORITY

Question ID	2013_24
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	28
Paragraph	1
Subparagraph	(h)(i)
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	29/11/2013
Subject matter	Anerkennung der Kapitalrücklage "zugehörig zu" deutschen Vorzugsaktien als Kernkapital - Recognition as Tier 1 equity of share premiums related to German preference shares
Question	Kapitalinstrumente dürfen gem. Art. 28 Abs. 1 Buchstabe h Ziffer i CRR keine Vorzugsbehandlung erfahren. In Ziffer vi wird bestimmt, dass keine Ausschüttungspflicht bestehen darf. Deutsche Vorzugsaktien genügen diesen Anforderungen bislang nicht, da sie einen nachzuzahlenden Vorzug beinhalten. Deswegen sind sie bislang als Ergänzungskapital nach KWG anerkannt. Die Kapitalrücklage "zugehörig zu" den Vorzugsaktien gilt bislang als Kernkapital. Gem. Artikel 26 Abs. 1 Buchstabe b soll nur das mit dem Kapitalinstrument verbundene Agio als Kernkapital gelten, d.h. die Kapitalrücklage die mit dem Ergänzungskapital "verbunden" ist, gehört gem. Art. 62 Buchstabe b mit Inkrafttreten der CRR zum 01.01.2014 zum Ergänzungskapital. Am 28. Juni 2013 hat der Deutsche Bundestag die Aktienrechtsnovelle beschlossen. Der Sechste Unterabschnitt des Aktiengesetzes (Vorzugsaktien ohne Stimmrecht) wird in § 139 dahingehend geändert, dass das Wort "nachzuzahlenden" gestrichen wird, somit also nur noch von "Aktien, die mit einem Vorzug bei der Verteilung des Gewinns ausgestattet sind" die Rede ist. Weiterhin muss die Satzung dahingehend geändert werden, dass der Vorzug nicht nachgezahlt wird. Damit dürften deutsche Vorzugsaktien grundsätzlich kernkapitalfähig sein. Die Reihenfolge der Ausschüttungen wird in Art. 28 Abs. 1 Buchstabe h Ziffer i der CRR ebenfalls ausgeschlossen. Dort steht: "es gibt keine Vorzugsbehandlung in Bezug auf die Reihenfolge der Ausschüttungen, auch nicht im Zusammenhang mit anderen Instrumenten des harten Kernkapitals, und in den für das Instrument geltenden Bestimmungen sind keine Vorzugsrechte für die Auszahlung von Ausschüttungen vorgesehen". Weiterhin steht in § 28 Abs. 4 CRR: Für die Zwecke des Absatzes 1 Buchstabe h Ziffer i dürfen Unterschiede bei der Ausschüttung nur Ausdruck von Unterschieden bei den Stimmrechten sein. Hierbei darf eine höhere Ausschüttung nur für Instrumenten des harten Kernkapitals vorgenommen werden, an die weniger oder keine Stimmrechte geknüpft sind." Zu der Bedeutung des Begriffs „Vozugsausschüttung“ gem. Art. 28 Abs. 5 Buchstabe c CRR soll die EBA einen technischen Regulierungsstandard erarbeiten. Im RTS 2013/01 (Own funds) habe ich diesbezüglich keine Besonderheiten gefunden.

	Sind deutsche Vorzugsaktien nach der Aktienrechtsnovelle kernkapitalfähig, so dass auch das Agio, das mit dem Instrument "verbunden" ist, im Kernkapital anerkannt werden kann? Translation to EN: Under Article 28(1)(h)(i) of CRR, there must be no preferential distribution treatment regarding the order of distribution payments in respect of Common Equity Tier 1 instruments. Item h(vi) specifies that there must be no obligation to pay distributions. German preference shares do not yet meet these requirements, because they entail a cumulative preferential distribution. For this reason they have hitherto been recognised as supplementary capital under the Banking Act (Kreditwesensgesetz). The capital surplus comprising German preference shares has always counted as Tier 1 equity. Under Article 26(1)(b) of CRR, only the share premium accounts related to the capital instrument are to be regarded as a Common Equity Tier 1 item, which means that, under Article 62(b), capital surplus 'related to' supplementary capital will be a Tier 2 item when the CRR enters into force on 1 January 2014. On 28.06.13, the Bundestag adopted a revision of company law. The sixth subsection of the Companies Act (Aktiengesetz), headed 'Non-voting preference shares', was amended in Section 139, the word 'cumulative' being deleted, leaving only a reference to 'shares that carry the benefit of a preference right with regard to the distribution of profits'. In addition, the company's instruments of incorporation must be amended to the effect that preferential distributions are not payable on a cumulative basis. This ought to ensure that German preference shares qualify, in principle, as Tier 1 capital. An order of distribution is also ruled out by Article 28(1)(h)(i) of CRR, which states that 'there is no preferential distribution treatment regarding the order of distribution payments, including in relation to other Common Equity Tier 1 instruments, and the terms governing the instruments do not provide preferential rights to payment of distributions'. Moreover, Article 28(4) of CRR states that 'For the purposes of point (h)(i) of paragraph 1, differentiated distributions shall only reflect differentiated voting rights. In this respect, higher distributions shall only apply to Common Equity Tier 1 instruments with fewer or no voting rights.' Article 28(5)(c) of CRR states that the EBA should develop a draft regulatory technical standard to specify the meaning of preferential distributions. In RTS 2013/01, on institutions' own funds, I have not found any particularly relevant provisions. Do German preference shares qualify as Tier 1 capital under the amended Companies Act, which would mean that share premium accounts 'linked to' the instrument may be recognised as part of Tier 1 capital?
Background on the question	Wir benötigen Rechtssicherheit und einen Handlungsrahmen, um notwendige Änderungen bis 01.01.2014 umzusetzen. Die verbleibende Zeit und die anstehenden Kosten, die in nicht unerheblichen Maße - ohne Not - auf uns zukommen können, benachteiligen uns. Translation to EN: We need legal certainty and a framework within which we can act if the essential changes are to be implemented by 01.01.14. The shortage of time and the not insignificant costs that may await us – unnecessarily – place us at a disadvantage.
Answer	In der Verordnung (EU) Nr 575/2013 (CRR) wird in Zusammenhang mit Kernkapital

	zwischen hartem und zusätzlichem Kernkapital unterschieden. 1. Im derzeitigen Stadium kann im Rahmen des Frage- und Antwortverfahrens nicht bestätigt werden, ob deutsche Vorzugsaktien aufgrund der vorgelegten Informationen als hartes Kernkapital akzeptiert werden. Gemäß Artikel 26 Absatz 3 CRR bewerten die zuständigen Behörden, ob die Emission von Instrumenten des harten Kernkapitals den Kriterien des Artikels 28 oder gegebenenfalls des Artikels 29 genügt. Nach dem 28. Juni 2013 begebene Kapitalinstrumente werden nur dann als Instrumente des harten Kernkapitals eingestuft, wenn die zuständigen Behörden, gegebenenfalls nach Konsultation der EBA, zuvor die Erlaubnis gegeben haben. Auf der Grundlage der Angaben jeder zuständigen Behörde erstellt, führt und veröffentlicht die EBA ein Verzeichnis sämtlicher Arten von Kapitalinstrumenten in jedem Mitgliedstaat, die als hartes Kernkapital akzeptiert werden. Da sich die Frage speziell auf Vorzugsausschüttungen bezieht, dürfte die endgültige Antwort von dem technischen Regulierungsstandard abhängen, den die EBA zur Bedeutung des Begriffs Vorzugsausschüttung (gemäß Artikel 28 Absatz 5) vorlegen soll. Wenn die deutschen Vorzugsaktien als hartes Kernkapital anerkannt werden, dann wird auch das damit verbundene Agio gemäß Artikel 26 Absatz 1 Buchstabe c als hartes Kernkapital akzeptiert. 2. Falls deutsche Vorzugsaktien nicht zum harten Kernkapital zählen, könnten sie jedoch als Instrumente des zusätzlichen Kernkapitals anerkannt werden, falls die in Artikel 52 Absatz 1 genannten Bedingungen erfüllt werden. In diesem Fall würde auch das damit verbundene Agio gemäß Artikel 51 Buchstabe b als zusätzliches Kernkapital anerkannt. 3. Das Agio in Verbindung mit den vor dem 31. Dezember 2010 begebenen Instrumenten zählt zu den Posten des harten Kernkapitals, wenn die in Artikel 485 genannten Bedingungen erfüllt werden, d. h. wenn das Agio mit Kapital im Sinne des Artikels 22 der Richtlinie 86/635/EG verbunden ist und die Instrumente im Rahmen von nationalen Umsetzungsmaßnahmen gemäß Artikel 57 Buchstabe a der Richtlinie 2006/48/EG zu den Basiseigenmitteln zählen. Gemäß dem deutschen Kreditwesengesetz werden Vorzugsaktien derzeit nur als Ergänzungskapital anerkannt. Daher erfüllt das damit verbundene Agio die in Artikel 485 genannten Bedingungen nicht und kann daher auch nicht als hartes Kernkapital eingestuft werden. Translation to EN: Regulation (EU) 575/2013 (CRR) distinguishes between Common Equity Tier 1 and Additional Tier 1 within Tier 1 capital. 1. It is not possible to confirm at this stage and as part of the Q&A process whether German preference shares qualify as Common Equity Tier 1 on the basis of the information supplied. In accordance with Article 26 (3) of CRR competent authorities shall evaluate whether issuances of Common Equity

	Tier 1 instruments meet the criteria set out in Article 28 or where applicable Article 29. With respect to issuances after 28 June 2013, institutions shall classify capital instruments as Common Equity Tier 1 instruments only after permission is granted by the competent authorities, which may consult EBA. On the basis of the information from each competent authority, the EBA will establish, maintain and publish a list of all the forms of capital instruments in each Member State that qualify as Common Equity Tier 1. More specifically, as the question relates to preferential distributions, the final answer may depend on the Regulatory Technical Standard the EBA is mandated to submit on the meaning of preferential distributions (as per Article 28 (5)). If the German preference shares qualify as CET1, then the related share premium accounts will also qualify as CET1 pursuant Article 26(1) (c). 2. If German preference shares do not qualify as Common Equity Tier 1, they could however qualify as Additional Tier 1 instruments if the conditions laid down in Article 52(1) are met. In that case, the related share premium accounts would also qualify as Additional Tier 1 pursuant Article 51(b). 3. Share premium accounts related to instruments issued prior to 31 December 2010 shall qualify as Common Equity Tier 1 Items if the conditions laid down in Article 485 are met i.e. the share premium accounts are related to capital within the meaning of Art. 22 of Directive 86/635/EC and the instruments qualify as original own funds under national transposition measures for point (a) of Article 57 of Directive 2006/48/EC. Under the German Banking Act, preference shares currently only qualify as Tier 2 capital. Therefore the related share premium accounts do not meet the conditions laid down in Article 485 and cannot be classified as CET1.

Question ID	2013_29
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	54
Paragraph	3
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	29/11/2013
Subject matter	Recognised amount as regulatory capital for an Additional Tier 1 with a write-down mechanism
Question	According to Regulation (EU) No 575/2013 (CRR) Article 54(3): "The amount of Additional Tier 1 instruments recognised in Additional Tier 1 items is limited to the minimum amount Common Equity Tier 1 items that would be generated if the principal amount of the Additional Tier 1 instruments were fully written down or converted into Common Equity Tier 1 instruments". Given the fact that a write-down may be seen as a profit under local accounting GAAP, and hence taxable (NB: true should the issuer be supposed to pay taxes at this time. However, it is unlikely that the issuer records a profit at a time where a write-down is operated), one can think that the recognized amount as Additional Tier 1 at the issue date is the nominal amount less the foreseeable paid tax amount in case of write-down. What's the final view of EBA? Can the entire nominal issue amount be recognized as Additional Tier 1 at the issue date or only a reduced amount (i.e. the nominal amount - the foreseeable paid tax amount in case of write-down)?
Background on the question	Answer to Question 12 of the Near Final Version of the Technical Standards explains that tax effect cannot be addresses through capital requirement regulations and that discussions are still on-going at the EBA level on the practical implementation of the provisions of the CRR due to tax effects.
Answer	Application of Article 54(3) of Regulation (EU) No. 575/2013 requires that for Additional Tier 1 (AT1) instruments only the minimum amount of Common Equity Tier 1 items is recognised that would be generated at the conversion or write-down of the instruments, after deduction of any foreseeable tax liability or tax payment resulting from the conversion or write-down or any other foreseeable tax liability or tax payment due related to the instruments at the moment of conversion or write-down. Institutions shall assess and justify the amount of any foreseeable tax liabilities or tax payments to the satisfaction of their competent authorities, taking into account in particular the local tax treatment and the structure of the group.

Question ID	2013_30
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	486
Paragraph	5
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	29/11/2013
Subject matter	Grandfathering limit
Question	Once applicable percentages in the range are specified by the local regulator, would it be applied: (1) at the beginning of the period; (2) at the end of the period or (3) on a straight-line basis throughout the 12 months period?
Background on the question	Impact on capital planning for issuers
Answer	Competent authorities may choose to apply the applicable percentages they have chosen stepwise from the beginning of the period (the percentage chosen would be applicable during 12 months) or on a straight line basis throughout the 12 month period.

Question ID	2013_44
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	465
Paragraph	
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	29/11/2013
Subject matter	Grandfathering, cascading and phasing out limits
Question	In the case of an issuer whose outstanding Tier 2 instruments as at December 2012 are fully CRR compliant (i.e. bullet Tier 2 bonds), should Article 486(4) apply? To put it simply: can an issuer still have some disqualified parts of Tier 1 instruments (for limit reasons) cascaded into Tier 2 even if the issuer has no phased out Tier 2 amount as at December 2012 (and hence no phased out limits for Tier 2) ?
Background on the question	A lot of issuers have seen their bullet Tier 2 instruments being fully recognized under CRR (because there is no need to have a non viability language in the existing documentations). Are they still able to cascade the portion of disqualified Tier 1 instruments into the Tier 2 phasing out limits?
Answer	Items referred to in Article 484(4) of Regulation (EU) No. 575/2013 (CRR) and exceeding the limits in Article 486(3) may only be treated as items referred to in Article 484(5) within the limits referred to in Article 486(4). If the amount referred to in Article 484(5) of the CRR is zero, it cannot be increased in the following years.

Question ID	2013_46
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	63
Paragraph	
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	29/11/2013
Subject matter	Old-style Tier 1 requalifying as CRR Tier 2 capital
Question	When an old-style Tier 1 instrument with an incentive to call passes its step-up date and ceases to be recognised as grandfathered Tier 1 capital under Regulation (EU) No 575/2013 (CRR), can it qualify as Tier 2 capital going forward if it were to meet all the requirements of Article 63 of CRR? For many existing instruments, the quarterly calls following the first call date of the Tier 1 instrument would prevent the inclusion in Tier 2 capital under CRR. If an old-style Tier 1 instrument had the Issuer's Call entirely removed from the instrument's documentation by the Issuer or Trustee, could it theoretically requalify as Tier 2 if it met all the other provisions for Tier 2 capital (Article 63 etc) after the removal of the Call provision?
Background on the question	To clarify the answer to question "2013_15" with regard to the implications for older Tier 1 instruments and Tier 2 instruments.
Answer	Any material change in the contract will be considered as a new issuance. The instrument will be fully eligible in Tier 2 in its own right if and only if, as a result of the changes in the contract, it complies fully with Article 63 of Regulation (EU) No 575/2013 (CRR). In particular, settlements of coupon payments in a form other than cash or an own funds instrument may only be effected provided the requirements of Article 73 (1) and (2) are met. In addition, dividend pusher and stopper clauses interfere with the institution's flexibility to cancel distributions on other classes of capital instruments (see related question QA 2013_21 for further information). For the avoidance of doubt, the answer to this question does not apply to the exercise of a substitution and variation clause in the case where said clause only allows non-material changes to the contract.

Question ID	2013_60
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	Article 486
Paragraph	3
Subparagraph	c
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	29/11/2013
Subject matter	Grandfathering
Question	Article 486(3)(c) of Regulation (EU) No 575/2013 (CRR) states: "the amount of instruments referred to in Article 484(4) which on 31 December 2012 exceeded the limits specified in the national transposition measures for point (a) of Article 66(1) and Article 66(1a) of Directive 2006/48/EC;.." is to be deducted from the amount eligible for inclusion." This same rule is also applied for Tier 1 grandfathering under CRR. This in effect preserves the current Tier 2 restrictions. Because that amount is at an aggregate level i.e. not by instrument, how then are the individual instruments to be treated under CRR? Each instrument may have different terms including maturity and so how should aggregated restricted amount be spread across instruments?
Background on the question	It poses a problem to our CRR planning models.
Answer	Articles 483 to 491 of Regulation (EU) No. 575/2013 provide for grandfathering of capital instruments. This grandfathering is based on amounts of grandfathered items assigned to the three capital tiers. While individual instruments may be eligible for grandfathering treatment, it is the amount of several instruments that is grandfathered, not the individual instrument itself. Hence the grandfathering rules do not determine or prescribe which instrument is exceeding any grandfathering limits if applicable.

Question ID	2013_49
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	489; 63; 490
Paragraph	
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	06/12/2013
Subject matter	Possibility to remove a Tier 1's call options to make the securities Tier 2 compliant
Question	Based on the answer to question 2013_16, if a step-up Tier 1 bond's terms were changed (which had a call date in, say, 2016) so that all call options were removed, this could not prolong its grandfathering as Tier 1, if that were the sole rationale for removing the calls. However, if a removal of calls is to make the Tier 1 bonds count as eligible Tier 2 (as there is no call feature), then could they be reclassified as Tier 2?
Background on the question	Extending question 2013_16 to the Tier 1 space.
Answer	The removal of call options would be considered a material change in the terms and conditions of the instrument, therefore the treatment laid down in QA 2013_16 would apply.

Question ID	2013_208
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	26
Paragraph	2
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	06/12/2013
Subject matter	Inclusion of year-end profit in Common Equity Tier1 Capital as of the end of first quarter of the following year.
Question	Can the year-end profit (reduced by the expected burdens and dividends), after verification by persons independent of the institution that are responsible for the auditing of the accounts of that institution, be included in Common Equity Tier1 Capital of the institution as of the end of first quarter of the following year without the prior permission of the competent authority in the situation in which the General Meeting of Shareholders approves the financial statements with the year-end profit (and approves the dividend in the amount reducing the year-end profit in the calculation) before the issuing date of the first quarter financial statements, but after the date of first quarter reporting period?
Background on the question	Example: 31.12.2013 - year-end reporting period, 28.02.2014 - issuance date of the year-end financial statements, 31.03.2014 - Q1 2014 reporting period, 15.04.2014 - the General Meeting of Shareholders approving yearly financial statements for 2013 (and dividend), 30.04.2014 – issuance date of Q1 2014 financial statements. The institution is a public company and has to report quarterly to the Stock Exchange. Additionally, according to the current binding regulation (Polish Banking Act) institutions in Poland are allowed to include in own funds calculation profit under authorization and net profit from the current reporting period, calculated in accordance with current accounting principles, reduced by the expected burdens and dividends, in the amounts not higher that the amounts of profit verified by external auditors, without additional permission of the competent authority. However according to the Article 26(2) of Regulation (EU) No 575/2013 (CRR) institutions may include the year-end profits in Common Equity Tier 1 capital only with the prior permission of the competent authority.
Answer	According to Article 26(2) of Regulation (EU) No 575/2013 (CRR), "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". A prior permission from the competent authority is thus compulsory up until a final decision has been taken by the Annual General Meeting confirming the final profit or loss of the institution for the year. This permission will be granted if the conditions detailed in points (a) and (b) of Article 26 (2) of the CRR are met.

EBA EUROPEAN BANKING AUTHORITY

Question ID	2013_248
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	486
Paragraph	
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	06/12/2013
Subject matter	Determination of the appropriate currency to be used for calculating the base for grandfathering and phase-out limits
Question	Can the base for grandfathering and phase out limits be calculated in the currency that the instrument eligible for grandfathering is denominated in?
Background on the question	On the basis of the formula given in Article 486(4) of Regulation (EU) No 575/2013 (CRR), the institution calculates the base to which phased-out limits refer, the so-called 'base for grandfathering'. Over the next 10 years this base will be used to calculate the maximum amount of subordinated debt that can be classified as Tier 2 despite its non-compliance with criteria set out in Article 63. Due to the fact that the institution's subordinated instruments are denominated in CHF in order to avoid the volatility of the maximum amount (resulting from fluctuations in foreign exchange rate CHF/PLN), the base shall be denominated in CHF. The reason for this is that the subordinated debt was issued to finance mortgage loans also granted in CHF. This 'natural hedge' reduces the volatility of the capital adequacy ratio. However, when the base for grandfathering is fixed in the bank's reporting currency (PLN), the benefit of this 'natural hedge' is eliminated. In such a case although the Tier 2 capital as well as capital charge are calculated in reporting currency, so that they co-move together with FX rate fluctuations, the absolute limit for grandfathering is fixed and does not change with FX rate movements.
Answer	The effects of the so called "natural hedge" should already be recognised in the income statement and therefore the fixing of the maximum amount as of 31 December 2012 should be done in the functional currency, which is normally the local currency, at the year-end middle exchange rate as required under accounting rules (see IAS 21). Otherwise, the transitional rules would have to be split-up for each currency used, which would be overly complex and work against the flexibility originally provided for institutions by applying the maximum amount to classes of capital instead of single instruments. Finally, using a stronger currency as a basis could lead to higher amounts to be recognised given the fact that the stronger currency could perform better in relation to functional currency.

Question ID	2013_105
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	63 & 490
Paragraph	
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	13/12/2013
Subject matter	Treatment of existing Tier 1 and Tier 2 instruments
Question	This question is a supplement to Question 2013_46. For Tier 1 or Tier 2 instruments with an incentive to redeem and quarterly/semi-annual/annual calls beyond the first call date, would these instruments qualify as Tier 2 capital if the issuer gave an undertaking to its regulator and the market that it would not exercise its call option for at least 5 years after the first call date? This would save the issuer the time and expense of having to modify the actual instrument documentation but would achieve a similar outcome in terms of its capital position/quality.
Background on the question	Further clarification of Questions 2013_15 and 2013_46
Answer	An undertaking by the issuer to give up its call right does not change the regulatory treatment because the undertaking does not form part of the provisions governing the instrument. Please note that the grandfathering of innovative Tier 1 instruments is addressed by QA 15.

Question ID	2013_47
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	489; 490
Paragraph	
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	20/12/2013
Subject matter	Treatment of non-grandfathered amount of bonds
Question	1. As of January 1, 2014, if an innovative Tier 1 security has more than 5 years to the first call date (e.g., a first call in 2020), does the non-grandfathered amount of bonds (i.e. 100%-80% = 20% in 2014) have any regulatory value? Could this be Tier 2 until 2015, given it will have at least 5 years to the first call date as per Article 63 Regulation (EU) No 575/2013 (CRR)? 2. In a similar vein, can the non-grandfathered part of non-innovative Tier 1 with no incentive to redeem count as Tier 2, either pre- or post-first call date?
Background on the question	Understanding how the non-grandfathered amount of a step-up Tier 1 and non-step Tier 1 would be accounted for.
Answer	In answer to the first point of the submitter, if an innovative Tier 1 security has more than 5 years to the first call date and is accompanied by a step up, then the security is not fully compliant under Article 63 of Regulation (EU) No. 575/2013 (CRR) and will therefore not be included in Tier 2 in its own right. In answer to the second point of the submitter, if a non-innovative Tier 1 security has more than 5 years to the first call date and the instrument otherwise complies with all the criteria under Article 63 of the CRR, then the instrument may be included in Tier 2 in its own right. If the instrument does not comply with Article 63 of CRR, the provisions of Article 487(2), for including items excluded from grandfathering in Additional Tier 1 in other elements of own funds, may nonetheless apply. The existence of dividend pusher and stopper clauses may interfere with an institution's flexibility to cancel distributions on other classes of capital instruments (as described in Q&A 2013_21).

Question ID	2013_245
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	159
Paragraph	
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	20/12/2013
Subject matter	Inclusion of incurred (IFRS) CVA in the IRB Provision shortfall calculation
Question	Can the incurred CVA charge related to IRB exposures be treated as an eligible provision for the purposes of calculating the own funds reduction for IRB provision shortfall (per Article 159 of Regulation (EU) No 575/2013 (CRR))?
Background on the question	Article 159 of CRR states that "other own funds reductions related to these exposures" can be included in the calculation of the IRB provision shortfall. The incurred CVA charge has gone through the P/L into the equity and hence has reduced the own funds.
Answer	Article 159 of Regulation (EU) No 575/2013 (CRR) states that institutions shall subtract the expected loss amount from the general and specific credit risk adjustment and additional value adjustment and "other own funds reductions related to these exposures". Incurred CVA is not considered as a general and specific credit risk adjustment and additional value adjustment that are subject to the provision defined in Article 159 of the CRR. Instead, incurred CVA shall be recognised as a reduction in exposure at default (EAD) when calculating the default risk capital as set out under Article 273(6). Accordingly, expected losses can be calculated in all the instances they are used based on the reduced outstanding EAD which reflects incurred CVA.

EBA EUROPEAN BANKING AUTHORITY

Question ID	2013_61
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	490
Paragraph	
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	24/01/2014
Subject matter	Grandfathering of own funds instruments
Question	Based on the answer to question 2013_16, if a step-up Tier 2 bond’s terms were changed so that all call options were removed – before the entry in force of the Regulation (EU) No 575/2013 (CRR) – could it be considered as fully eligible in Tier 2 capital assuming that the capital instrument meets the other conditions laid down in Article 63 of the Regulation?
Background on the question	N/A
Answer	Q&A 16 states that where there is a material change in the terms and conditions of a pre-existing instrument, the instrument shall be considered in the same way as the issuance of a new instrument. Further, if all call options are removed then the instrument will no longer include a call with an incentive to redeem, and therefore Article 490 of Regulation (EU) No 575/2013 (CRR) does not apply. Therefore, provided that the instrument meets the requirements laid down in Article 63 of the CRR, it shall be considered fully eligible Tier 2 capital.

Question ID	2013_174
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	Article 63
Paragraph	1
Subparagraph	(g)
EBA technical standards & guidelines	Not applicable
Article/Paragraph	Article 63
Published as Final Q&A	24/01/2014
Subject matter	Eligibility of Tier 2 after contractual change if already in amortisation phase
Question	This is a follow up question to 2013_16, where it is stated that "A material change in the terms and conditions of a pre-existing instrument shall be considered in the same way as the issuance of a new instrument, meaning that the changes shall aim at ensuring a full eligibility...". Does this principle apply only to changes that would lead to inclusion in grandfathering or also to instruments which after a contractual change (removal of call rights) would be fully eligible but already are within the last 5 years of their maturity and therefore recognized according to amortization rules?
Background on the question	An institution aims at changing the Terms & Conditions of Tier 2 instruments that have a residual maturity of less than 5 years.
Answer	The answer to Q&A 16 introduces the general principle that a material change in the terms and conditions of a pre-existing instrument shall be considered in the same way as an issuance of a new instrument. In particular, the removal of a call option is a material change in the terms and conditions governing the contract. Consequently, the eligibility of the 'new' instrument shall be assessed as if it had been issued from the date of the material change in accordance with Article 63 of Regulation (EU) No. 575/2013 (CRR). Any changes to the terms and conditions after 31 December 2011 which do not lead to the full eligibility of the instruments as own funds under the CRR will lead to the immediate disqualification of the instrument from own funds.

Question ID	2013_238
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	484
Paragraph	5
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	24/01/2014
Subject matter	Tap issues
Question	Article 484 and 486 of Regulation (EU) No. 575/2013 (CRR) provide for the grandfathering treatment of Tier 2 instruments that do not meet the criteria of Articles 62 and 63. Article 63 provides that callable Tier 2 should have a first call date not before five years after the date of issuance or raising (except Article 78(4)). When an institution has issued before 31/12/2011 a callable (non step) Lower Tier 2 bond with a first call date at year 5 and then has made a tap on that issue (i.e. increased the amount of the original issue a year later, for example), what is the grandfathering treatment of the amounts raised through the tap? Is it the same as the original bond (i.e. fully eligible) or should the tap be considered non fully eligible Tier 2 because, as of the tap date, the first call was before year 5, in which case the tap should be included in the amortized stock according to Article 86.
Background on the question	See question.
Answer	A 'tap issue' i.e. a further increase in the amount of an original issue of a capital instrument -, would be considered as a new issuance of own funds instruments. If a capital instrument is issued after the cut-off date for grandfathering as specified in Article 484 of Regulation (EU) No. 575/2013 (31 December 2011), then it shall not be eligible for the grandfathering treatment of Tier 2 instruments in the CRR. Consequently such an issue will have to fully comply with the Tier 2 eligibility requirements laid down in Article 63 of the CRR.

Question ID	2013_367
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	89
Paragraph	1
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	24/01/2014
Subject matter	Valuation of qualifying holdings outside the financial sector for the purposes of Article 89 of Regulation (EU) No. 575/2013
Question	What is the correct valuation to determine the 15% threshold of the eligible capital under Article 89(1) of Regulation (EU) No, 575/2013? Are the provisions of Article 4(77) also relevant for this purpose or should it be generally the amortized cost?
Background on the question	Article 89 of Regulation (EU) No. 575/2013 (CRR) should probably limit the taking of qualifying holdings outside the financial sector. Consequently, only the amortized cost can be used for the calculation of the qualifying holding. Otherwise it could have the undesirable effect that only changes in fair value or in the market price can lead to apply a 1250 % risk weight to the amounts in excess of the limits specified in Article 89 although the amortized cost of this qualifying holding are significantly and permanently below the 15 % threshold. As an alternative to applying a 1250 % risk weight the competent authorities may prohibit the institution from having these qualifying holdings. Above all, it must be considered that these conditions can be abolished again at the next valuation date.
Answer	According to Article 24(1) of Regulation (EU) No. 575/2013 (CRR), the valuation of assets shall be effected in accordance with the applicable accounting framework. By way of derogation from Article 24(1) of the CRR, paragraph (2) of the same Article establishes that competent authorities may require that institutions effect the valuation of assets and off-balance sheet items and the determination of own funds in accordance with International Accounting Standards as applicable under Regulation (EC) No 1606/2002. Therefore, the value used for the purposes of Article 89 of the CRR must be the same as that which the entity has used for the purposes of Article 24 of the CRR.

Question ID	2013_48
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	489
Paragraph	
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	31/01/2014
Subject matter	Treatment of Tier 1 securities with calls every 5 years (as opposed to quarterly calls)
Question	Could a Tier 1 security with an incentive to redeem and a first call date post January 1, 2014 (say, in 2016) and which is callable every 5 years after the first call date count as Tier 2 if not called at the first call date? This question is partly based on the answer to the question 2013_15, where the EBA gives clarity on the fact that non-called Tier 1 cannot count as Tier 2 post the first call date, as they are callable every quarter on so do not comply with Tier 2 requirement - which is not the case here.
Background on the question	This question is partly based on the answer to the question 2013_15, where the EBA gives clarity on the fact that non-called step-up Tier 1 cannot count as Tier 2 post the first call date, as they are callable every quarter on so do not comply with Tier 2 requirement - which is not the case in this specific case.
Answer	Under Article 489(5) of Regulation (EU) No 575/2013 (CRR), instruments referred to in Article 484(4), with a call and an incentive to redeem and where the institution was able to exercise a call with an incentive to redeem on or after 1 January 2013, shall not qualify as Additional Tier 1 from the date of their effective maturity if the conditions laid down in Article 52 of the CRR are not met from that date. For the instruments which do not qualify as Additional Tier 1 items under Article 489(5), the CRR does not provide for their inclusion in grandfathered Tier 2 items. In order for those instruments to be included in fully eligible Tier 2 items, all conditions of Article 63 of the CRR have to be met. The frequency of subsequent calls is not a relevant criterion in that regard. This is because a capital instrument with an incentive to redeem is still considered to have an incentive to redeem where it has future calls, even if it is not called at the first call date.

Question ID	2013_268
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	49
Paragraph	2, 4
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	31/01/2014
Subject matter	Holdings of own funds instruments issued by financial sector entities included in the scope of consolidated supervision not deducted from own funds on an individual basis
Question	According to Article 49(2) of Regulation (EU) No. 575/2013 (CRR) "for the purposes of calculating own funds on an individual basis and a sub-consolidated basis, institutions subject to supervision on a consolidated basis in accordance with Chapter 2 of Title II of Part One shall not deduct holdings of own funds instruments issued by financial sector entities included in the scope of consolidated supervision, unless the competent authorities determine those deductions to be required for specific purposes, in particular structural separation of banking activities and resolution planning. Such provisions mean, if understood correctly, that starting from 1 January 2014, all significant investments in financial entities of a bank subgroup will not be deducted from own funds on an individual basis, but according to Article 49(4) of the CRR will be risk weighted according to Article 133 (for standardised approach). With the above in mind, what risk weight should be applied for such exposures? According to Article 133(2) of the CRR "equity exposures shall be assigned a risk weight of 100 %, unless they are required to be deducted in accordance with Part Two, assigned a 250 % risk weight in accordance with Article 48(4), assigned a 1250 % risk weight in accordance with Article 89(3) or treated as high risk items in accordance with Article 128." In Article 133(2) of the CRR there is no reference to equity exposures treated under Article 49(2). Does this mean that such exposures should be treated simply with 100% risk weight?
Background on the question	According to the current Polish binding regulations, significant investments in financial entities of Bank Subgroup are deducted from own funds on an individual basis.
Answer	Where institutions do not deduct holdings of own funds instruments issued by financial sector entities included in the scope of consolidated supervision pursuant to Article 49(2) of Regulation (EU) No. 575/2013 (CRR), those holdings are risk weighted in accordance with Article 49(4). Where those institutions use the standardised approach for credit risk, Article 133 of the CRR applies. In that case, investments in equity or regulatory capital instruments issued by institutions shall be classified as equity claims and receive a risk weight of 100% in accordance with Article 133(2) of the CRR, unless they are treated as high risk items in accordance with Article 128.

Question ID	2013_382
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	18 and 19
Paragraph	1 and 1
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	04/04/2014
Subject matter	Inclusion of ancillary services undertakings in prudential consolidation
Question	Should the ancillary services undertakings be included in prudential consolidation according to Article 18 and 19 of Regulation (EU) No 575/2013 (CRR)?
Background on the question	According to Article 18(1) of CRR only "institutions and financial institutions" should be included in prudential consolidation. But in Article 19(1) of CRR is mentioned, that “an institution, financial institution or an ancillary services undertaking which is a subsidiary or an undertaking in which a participation is held, need not to be included in the consolidation” in some circumstances, which means that also ancillary services undertakings should be included in prudential consolidation if they do not meet the conditions mentioned in Article 19(1).
Answer	Where consolidated supervision is required pursuant to Article 111 of Directive 2013/36/EU, Article 18(8) of Regulation (EU) No. 575/2013 requires the inclusion of ancillary services undertakings within the scope of prudential consolidation in accordance with the methods laid down in Article 18. DISCLAIMER: This question goes beyond matters of consistent and effective application of the regulatory framework. A Directorate-General of the Commission (Directorate General for Internal Market and Services) has prepared the answer, albeit that only the Court of Justice of the European Union can provide definitive interpretations of EU legislation. This is an unofficial opinion of that Directorate General, which the European Banking Authority publishes on its behalf. The answers are not binding on the European Commission as an institution. You should be aware that the European Commission could adopt a position different from the one expressed in such Q&As, for instance in infringement proceedings or after a detailed examination of a specific case or on the basis of any new legal or factual elements that may have been brought to its attention.

Question ID	2013_590
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	489, 490 and 491
Paragraph	
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	-
Published as Final Q&A	30/04/2014
Subject matter	Application of transitional provisions to Additional Tier 1 and to Tier 2 instruments with an incentive to redeem
Question	When all the call options from an AT1 (or T2) instrument which has an incentive to redeem occur during the period that an institution is under state aid and, thus, subject to a ban on exercising call options on own funds instruments, should the AT1 (or T2) instrument be subject to the provisions of Article 489(5) (or 490(5) of Regulation (EU) No 575/2013 (CRR) assuming that the effective maturity date, as defined in Article 491, is the first call date after the referred ban has been removed?
Background on the question	When an institution receives state aid the European rules on competition policy, including DG COMP decisions, imply that this institution is subject to a ban on exercising any call options on its own funds instruments. If there is an AT1 (or T2) instrument with an incentive to redeem for the call options that might occur after the imposition of this ban it should be considered that, in fact, the institution is not able to exercise the call options. Thus, the call option implied in Article 489(5)(a) (or 490(5)), and analogously its effective maturity date, can be viewed as the first call option that occurs after the ban has been removed. This implies that the instrument has its recognition reduced in accordance with Article 484(4) (or 484(5)) until the date of their effective maturity.
Answer	Articles 489(5) and 490(5) refer to cases where the institution "was able" to exercise a call after a certain date. Where the institution was not able to exercise any such call with regard to the respective instrument before 1 January 2013, Article 489(5) and 490(5), respectively, will apply. The ability to exercise a call should be assessed only against legal constraints applying to the banks which are outside of the control of the institution (i.e. excluding amendments to the contract of the instrument) and not encompass economic or other considerations. The impossibility to exercise the call (during the whole period between 31 December 2011 and 1 January 2013) due to state aid rules may indeed be interpreted as a legal obstacle which is relevant for the purposes of Article 489(5)(a) for determining whether the institution was able to exercise the call. Article 491(a) refers to the date of the first call date of an instrument with an incentive to redeem occurring on or after 1 January 2013. Since Article 491(a) explicitly defines effective maturity for the purpose of Articles 489 and 490, it should be read in conjunction with those Articles. Therefore, a call date should be interpreted as a date on which an institution was able to exercise a call. DISCLAIMER:

	This question goes beyond matters of consistent and effective application of the regulatory framework. A Directorate-General of the Commission (Directorate General for Internal Market and Services) has prepared the answer, albeit that only the Court of Justice of the European Union can provide definitive interpretations of EU legislation. This is an unofficial opinion of that Directorate General, which the European Banking Authority publishes on its behalf. The answers are not binding on the European Commission as an institution. You should be aware that the European Commission could adopt a position different from the one expressed in such Q&As, for instance in infringement proceedings or after a detailed examination of a specific case or on the basis of any new legal or factual elements that may have been brought to its attention.

EBA EUROPEAN BANKING AUTHORITY

Question ID	2013_258
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	36
Paragraph	1
Subparagraph	c
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	30/04/2014
Subject matter	Applicable basis for determining deferred tax assets to be deducted from CET1
Question	Is the amount of deferred tax assets and liabilities relevant for the calculation of the amount to be deducted from Common Equity Tier 1 (CET1) according to Article 36(1)(c) of Regulation (EU) No. 575/2013 (CRR) to be determined based on the accounting values of deferred tax assets and liabilities as disclosed in the balance sheet?
Background on the question	According to Article 36(1)(c) of the CRR, deferred tax assets that rely on future profitability have to be deducted from CET1. According to Article 4(1)(106) and (108) of the CRR, deferred tax assets (DTA) and deferred tax liabilities (DTL) have the same meaning as under the applicable accounting framework; in Germany the German GAAP, Handelsgesetzbuch (HGB). With regard to the disclosure of deferred taxes on the balance sheet, institutions have - according to German GAAP - the discretion to apply two alternative approaches: 1. obligatory disclosure of a net surplus of DTL after netting gross DTA and gross DTL; optional disclosure of a net surplus of DTA after netting gross DTA and gross DTL, or 2. showing both the gross DTA and gross DTL on their balance sheet.
Answer	The amount of Deferred Tax Assets (DTA) to be deducted from Common Equity Tier 1 according to Article 36(1)(c) of Regulation (EU) No. 575/2013 (CRR) is the amount before any accounting netting (see Article 38(2) of the CRR). The only applicable netting rules for the purposes of this deduction are laid down in Article 38 of the CRR, in particular paragraphs 3, 4 and 5. The amount of net DTA calculated under the conditions of Article 38 of the CRR is independent of the relevant accounting framework (IFRS or national GAAP).

EBA EUROPEAN BANKING AUTHORITY

Question ID	2013_467
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	78
Paragraph	1
Subparagraph	a
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	30/04/2014
Subject matter	Supervisory permission for reducing own funds if the institution replaces the instruments with own funds instruments of equal or higher quality
Question	Are replacements of capital instruments also possible with other own funds items (e.g. retained earnings).
Background on the question	Retained earnings are part of the highest quality of own fund instruments. The dotation resp. documentation of new retained earnings should be also acknowledged as replacement of own funds instruments.
Answer	Generally, having regard to the conditions set out under Article 78(1) of Regulation (EU) No 575/2013 (CRR), competent authorities may permit an institution to reduce, redeem or repurchase Common Equity Tier 1 (CET1) instruments issued by the institution in a manner that is permitted under applicable national law, as set out in Article 77(a) of the CRR, to be understood as the relevant company law applicable in the jurisdiction. Article 78(1) of the CRR sets out two alternatives under which competent authorities shall grant permission for an institution to reduce, repurchase, call or redeem own funds instruments. Under Article 78(1)(b) of the CRR, the institution is required to demonstrate that its own funds, following the reduction, repurchase, call or the redemption exceed the requirements laid down in Article 92(1) of this Regulation and the combined buffer requirement as defined in Article 128(6) of Directive 2013/36/EU (CRD) by a margin that the competent authority may consider necessary on the basis of Article 104(3) of the CRD. In this case, no replacement of the instruments following the call or the redemption is required, but only items that are already included in own funds may be taken into account for the purpose of the demonstration by the institution. Under Article 78(1)(a) of the CRR, the institution is required to replace the instruments to be reduced, repurchased, called or redeemed with own funds instruments of equal or higher quality at terms that are sustainable for the income capacity of the institution. Under this alternative, the CRR effectively requires the institution to issue a new own funds instrument to investors. Retained earnings or other CET 1, Additional Tier 1 or Tier 2 items that are documented within the own funds planning of the institution are not sufficient to meet the requirement of Article 78 (1)(a) of the CRR.

Question ID	2013_527
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	46, 48, 470
Paragraph	
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	30/04/2014
Subject matter	Grandfathered Instruments and Deduction Threshold Exemptions
Question	When calculating the amount of Common Equity Tier 1 (CET 1) that is multiplied by 10%/17.65% for the purposes of threshold exemptions for deductions, should grandfathered instruments be included in the amount of CET1 to the extent that they qualify as CET 1 during the grandfathering period?
Background on the question	For example, if an institution had €10bn CET 1 (post deductions) excluding grandfathered instruments and had an additional €2bn grandfathered CET 1 that was eligible as a State aid instrument under Article 483 (or other instrument under Article 484), should the 10% threshold come to €1bn or €1.2bn until 31 December 2017?
Answer	Common Equity Tier 1 (CET1) instruments that are eligible for grandfathering under Articles 483 and 484 of Regulation (EU) No. 575/2013 may be included in CET1 items for the purposes of calculating thresholds for exemptions from deduction.

Question ID	2013_553
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	437
Paragraph	1
Subparagraph	b
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	30/04/2014
Subject matter	Requirement to disclose each individual instrument in the disclosure of capital instruments' main features
Question	For the requirement to disclose a description of the main features of the Common Equity Tier 1 and AT1 and T2 instruments issued by the institution under Article 437(1)(b) of Regulation (EU) No. 575/2013, does the disclosure template require each individual security to be disclosed in the main features template that entities are expected to produce on an external website (BCBS Composition of Capital disclosure requirements - June 2012 - Appendix III)? Would it possible to agree a "de minimis" threshold and allow small securities to be presented en masse given the same value date, maturity date and other terms and conditions?
Background on the question	N/A
Answer	Article 437(2) of Regulation (EU) No. 575/2013 (CRR) entrusts the EBA with the development of implementing technical standards to specify uniform templates for disclosure of, among others, the description of the main features of the Common Equity Tier 1 and Additional Tier 1 instruments and Tier 2 instruments issued by the institution. Article 4 of the ITS (Commission Implementing Regulation (EU) No 1423/2013) deals with the main features template, included in Annex II of the ITS. Annex III lays down the instructions for the disclosure in the templates in Annex II. In particular it provides the possibility for institutions to fill in one column for several instruments when those instruments have "identical features" in order to simplify a disclosure in cases of multiple but identical issuances. This provision is intended only for practical reasons and should not be used to avoid disclosure for instruments that would be considered as non-material. Indeed, Article 432 of the CRR expressly forbids the non-disclosure on the ground of non-materiality of any information required by Article 437 of the CRR, which covers information on the main features of capital instruments. By way of example as to how this provision may be used, if two issuances have identical features - but one is in euros and the other one in dollars - one may fill in only one column, with two ISIN codes. In addition, aggregation may also make sense for fungible instruments that are issued in a lot of small issuances.

Question ID	2013_588
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	481
Paragraph	1
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	-
Published as Final Q&A	30/04/2014
Subject matter	Application of specific national filters and deductions when computing threshold deductions
Question	When applying the transitional provisions calculation of Common Equity Tier 1, the threshold deductions exist: (a) associated with non-significant holdings in financial sector entities (FSE) which are covered by Articles 36(1)(h) and 46 of Regulation (EU) No 575/2013 (CRR); and, (b) the ones associated with the significant holdings in FSE and Deferred Tax Assets that arise from temporary differences that are covered in article 470 of CRR. Both take into account theoretical values for a “relevant Common Equity Tier 1” (or “aggregate amount of Common Equity Tier 1” in the wording of 46(1)(a) of CRR which serves as a base for the calculation of the threshold that determines the deductions arising from these assets. Assuming there are specific national deductions and filters subject to transitional provisions to be applied at the Common Equity Tier 1 level pursuant Article 481, how should these be incorporated when determining the “relevant CET1” for the thresholds calculations in both cases?
Background on the question	This issue influences the computation of the capital ratios according to transitional measures.
Answer	Article 481(1) of Regulation (EU) No 575/2013 (CRR) provides for a general derogation from Articles 32 to 36 of the CRR (Prudential Filters and Deductions) from CET 1 capital until 31 December 2017. The calculation of the "aggregate amount of Common Equity Tier 1" according to Article 46(1)(a) of the CRR and the "relevant Common Equity Tier 1 items" according to Article 470(1) of the CRR both include a reference to Articles 32 to 35 and certain elements mentioned in Article 36. Therefore, where institutions are required to make additional adjustments to CET 1 items according to Article 481(1), these shall also be taken into account for the purposes of calculating the "aggregate amount of Common Equity Tier 1" according to Article 46(1)(a) of the CRR and the "relevant Common Equity Tier 1 items" according to Article 470(1) of the CRR.

Question ID	2013_205
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	470
Paragraph	2
Subparagraph	b
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	08/05/2014
Subject matter	10% limit for significant investments (for threshold exemptions determination purposes)
Question	Could the EBA confirm that in a situation where the total amount of significant investment in a financial sector entity (the direct, indirect and synthetic holdings by the institution of the Common Equity Tier 1 instruments of that entity) exceed 10% of relevant Common Equity Tier1 items, such amount can be included in 15% threshold exemptions up to 10% of this amount and remaining surplus above 10% limit will be treated as a deduction of CET1. Example in background.
Background on the question	Example: 15% of CET1 = 150; 10% of CET1 = 100; Significant investment = 120; Deferred tax assets = 10 Result: Amount taken account in 15% threshold = 110 (Significant investment = 100 and Deferred tax assets = 10) Amount treated as RWA with 250% weight = 110 Amount deducted from CET1 = 20 (Significant investment = 120-100).
Answer (EBA)	Article 470 of Regulation (EU) No 575/2013 (CRR) allows institutions not to deduct from relevant CET1 items those items laid down in 470(2)(a) and (b) (i.e. deferred tax assets (DTAs) that are dependent on future profitability and arise from temporary differences and significant investments in a financial sector entity (SFIs)) where such items in aggregate are equal or less than 15% of the relevant Common equity Tier 1 items. The amount eligible to be included in the 15% threshold exemption are those amounts up to 10% of the relevant CET1 items for each of the referred DTAs and SFIs. Therefore, the applicable percentage of the following amounts shall be deducted from CET1 items: 1) the amount of the abovementioned DTAs that exceeds the 10% of the relevant CET1 items; 2) the amount of SFIs that exceeds the 10% of the relevant CET1 items; 3) the aggregate amount of the sum of SFIs and the referred DTAs that are not deducted in accordance with (1) and (2) that exceeds the threshold of the 15% of the relevant CET1 items The amounts under the abovementioned deduction thresholds shall be risk weighted at 250%. However, the amount of SFIs not deducted and that are part of the trading-book business of the institution shall instead be subject to the requirements for market risk (as per Part Three, Title IV of the CRR).

	Depending on the applicable percentages envisaged in article 478 of the CRR to the amounts above the abovementioned deduction thresholds, the residual amounts shall be treated according to article 472(5) or 472(11) of the CRR, as applicable. From 1st January 2018 onwards, the relevant items will be subject to the treatment set out in Art. 48 of the CRR.

Question ID	2013_408
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	28
Paragraph	1
Subparagraph	h
EBA technical standards & guidelines	Not applicable
Article/Paragraph	28
Published as Final Q&A	16/05/2014
Subject matter	Eligibility of CET 1 in case of an agreement for transfer of profit and coverage of losses
Question	As a requirement for Common Equity Tier 1 (CET1) instruments with regard to distributions, the conditions governing the instruments may not include any obligation for the institution to make distributions to their holders and the institution is not otherwise subject to such an obligation (Article 28 (1)(h) (v) of Regulation (EU) No 575/2013 (CRR)). Is a contract with the 100% mother company of an institution according to which distributable profits of the subsidiary need to be fully distributed to the mother company at the end of each year and losses of the subsidiary are to be compensated in full by the mother company to be regarded as an obligation hindering eligibility of the instrument as CET1?
Background on the question	There is a right of termination for both mother company and subsidiary with a notice period of 1 year. The subsidiary is allowed to build reserves if justified by the economic situation. Such contracts are common within groups.
Answer	Article 28(1)(h) of Regulation (EU) No. 575/2013 (CRR) sets out the conditions that must be met with respect to distributions in order to qualify as CET1 instruments. The purpose is to ensure that the issuer has full discretion over the payment of dividends so that the institution can retain capital as necessary. Article 28(1)(h)(v) of the CRR specifically prohibits CET1 instruments from including any obligation for the institution to make distributions. The instrument in question would therefore not be eligible as a CET1 item.

Question ID	2013_541
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	28
Paragraph	1
Subparagraph	i
EBA technical standards & guidelines	Not applicable
Article/Paragraph	Not applicable
Published as Final Q&A	16/05/2014
Subject matter	Eligibility of capital instruments for classification as Common Equity Tier 1 instruments when the instruments are supplemented by a contractual obligation of the majority-shareholder to pay a fixed yearly compensation to the minority shareholders
Question	Para 1 point (i) of Article 28 of Regulation (EU) No 575/2013 (CRR) states that "compared to all the capital instruments issued by the institution, the instruments absorb the first and proportionately greatest share of losses as they occur, and each instrument absorbs losses to the same degree as all other Common Equity Tier 1 instruments". The question is, whether a contractual obligation of the majority shareholder of a credit institution to pay a fixed yearly compensation to the minority shareholders even in loss years (by reason that the majority shareholder and the credit institution have entered into a profit and loss transfer agreement) is permissible according to para 1 point (i) of Article 28 CRR?
Background on the question	The majority-shareholder and the credit institution have concluded a profit and loss transfer agreement to make use of preferential tax regulations (group taxation). In the concerned case the minority-shareholders of the credit institution are the owners of the majority-shareholder of the credit institution.
Answer	Article 28(1)(i) of Regulation (EU) No. 575/2013 (CRR) states that Common Equity Tier 1 (CET1) instruments must absorb the first and proportionately greatest share of losses as they occur, and each instrument absorbs losses to the same degree as all other CET1 instruments. A profit and loss transfer arrangement between the majority shareholder and the credit institution, which results in a contractual obligation of the majority shareholder of the credit institution to pay a fixed compensation to the minority shareholder of the credit institution, does not meet this requirement. Such a profit and loss transfer arrangement could also result in an obligation on the credit institution to pay distributions if this is required to maintain the fixed compensation payment to the minority shareholder, which would be non-compliant with Article 28(1)(h) of the CRR.

Question ID	2013_696
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	486, 487, 488
Paragraph	
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	NA
Published as Final Q&A	23/05/2014
Subject matter	Grandfathering
Question	Linked to 2013_47, prior to the first call date, can the amount of a step up Tier 1 in excess of the Tier 1 grandfathering limit work in the Tier 2 grandfathering limit (if there is space) as is permitted for non-step Tier 1 instruments?
Background on the question	Clarification of 2013_47
Answer	Yes, the excess over the Tier 1 grandfathering limit could still be eligible as grandfathered Tier 2, subject to the applicable limit but only until the date of effective maturity of the instrument. Tier 1 instruments with an incentive to redeem and call date in the future are grandfathered under either Article 489(3) or (5) of Regulation (EU) No. 575/2013 (CRR), depending on whether the instrument will fully meet the conditions of Article 52 after its effective maturity date. Under both Article 489(3) and (5) of the CRR, recognition of the instrument in AT1 is reduced in accordance with Article 484(4) from the limit specified in Article 486(3) until the date of its effective maturity. All instruments eligible for the provisions of Article 484(4) of the CRR, including those with an incentive to redeem, are also eligible for the application of Article 487(2) until the date of the instrument's effective maturity.

Question ID	2014_723
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	36;56;66;472;474-478;481
Paragraph	
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	Not Applicable
Published as Final Q&A	23/05/2014
Subject matter	Application of phase-in regime
Question	What is the compatibility between Recital (117) of Regulation (EU) No 575/2013 (CRR) and the provisions of aforementioned Basel III Q&A with Articles 472, 475 and 477, which provide for the deduction of the share not deducted as an effect of the phase-in period (described in Articles 469, 474, 476 and 478)? Literal application of these provisions, which effectively impose a 100% deduction, to items which, under the current regulations (of the individual member states, enacting the Basel II regulations), would not be deducted, would appear to in contrast with very logic of the phase-in regime.
Background on the question	- Recital no. (117), CRR. "In order to ensure progressive convergence between the level of own funds and the prudential adjustments applied to the definition of own funds across the Union and to the definition of own funds laid down in this Regulation during a transition period, the phasing in of the own funds requirements of this Regulation should occur gradually. It is vital to ensure that this phasing in is consistent with the recent enhancements made by Member States to the required levels of own funds and to the definition of own funds in place in the Member States. To that end, during the transition period the competent authorities should determine within defined lower and upper limits how rapidly to introduce the required level of own funds and prudential adjustments laid down in this Regulation". - Question no. 1, p. 15 "Basel III definition of capital: frequently asked questions", which refers to "Basel III – A global regulatory framework for more resilient banks and banking systems", sections. 94-96 ("Q&A").
Answer	Articles 472, 475 and 477 of Regulation (EU) No 575/2013 (CRR) outline the treatment of items not deducted from CET1, AT1 and T2 items due to the application of Articles 469, 474 and 476 during the transitional phase. For example, Articles 475 (4)(a) and 477 (4)(a) of the CRR state that the amount relating to direct holdings required to be deducted in accordance with point (c) and (d) of Article 56 and Article 66 not deducted from AT1 or T2 due to the application of Articles 474(a) and 476(a) of the CRR is deducted half from Tier 1 items and half from Tier 2 items. As envisaged in the Recital (117) and the Articles of Chapter 1, Title I, Part X of the CRR, Competent Authorities are allowed to set different percentages during the transitional period in order to ensure a smooth transition towards the new framework.

Question ID	2013_542
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	52
Paragraph	l
Subparagraph	l
EBA technical standards & guidelines	Not applicable
Article/Paragraph	NA
Published as Final Q&A	28/05/2014
Subject matter	Grandfathering of own funds
Question	In question 2013_15 the EBA clarified that legacy step-up Tier 1 instruments with quarterly calls will not be eligible as fully CRR compliant Tier 2 instruments after their first call and step-up date. In question 2013_31 the EBA clarified that non-step-up Tier 1 instruments could be eligible, for the amounts exceeding the grandfathering limits, as fully eligible Tier 2 instruments with no time limit and independently of the frequency of calls, with an important caveat : should the terms of the legacy non-step-up Tier 1 instruments interfere with Articles 28(1)(h)(vii)) (CET1) and 52(1)(l)(v) (AT1), then such AT1 and CET1 instruments could be disqualified, while the legacy non-step-up Tier 1 instrument would remain in fully eligible Tier 2. By doing so the EBA referenced to questions 2013_21 and 2013_54. However, these two questions mainly dealt with "stopper provisions" and more precisely about cases where the legacy non-step-up Tier 1 instruments have terms that could prevent (optionally or in a mandatory way) coupons being paid if distributions are skipped on CET1 or AT1 instruments. I have several questions related to this : 1. My first question is to confirm that the same reasoning would apply during the grandfathering period independently of the fact that the bonds would still be within the grandfathering limit or not. Logically the answer should be yes as questions 2013_21 and 2013_54 clarify that the impact of the terms of the legacy instrument is not on the regulatory eligibility of this instrument but on the AT1 / CET1 instruments. The effect of the terms of the grandfathered bonds on the CET1 / AT1 bonds is obviously totally independent of the grandfathering status of the grandfathered bond (with the possible exception of contractual provisions that make an explicit reference to pushers / stoppers only on bonds that are included in regulatory capital.) 2. My second question is to confirm that the same reasoning would apply to step-up bonds as I see no reason why the impact of pusher / stopper provisions on CET1 / AT1 bonds would be different if there is a step up or not and application of articles 28(1)(h)(vii)) (CET1) and 52(1)(l)(v) (AT1) would be the same for step / non step bonds. 3. My third question is on pusher provisions. Many legacy Tier 1 instruments have pusher provisions saying that a coupon being paid on the legacy Tier 1 instrument forces a payment on "pari passu" bonds, such pari passu bonds being defined in the contract. Could the EBA confirm that, if an additional Tier 1 is included in the list of pari passu bonds defined in the legacy Tier 1 contract, then the AT1 instrument would not be eligible? This is because of the fact that [not paying on AT1 implies not paying on Legacy Tier 1] is logically strictly the same as [paying on Legacy Tier 1 implies

	paying on AT1], so in such cases not paying coupons on the AT1 would obviously trigger restrictions for the bank, the case specifically considered by the EBA in question 2013_21.
Background on the question	Clarification on grandfathering especially with respect to questions 2013_15, 2013_21 and 2013_31.
Answer	1. Answers to QA 2013_21 and QA 2013_54 refer to situations where grandfathered Tier 1 instruments may be included in own funds as fully eligible Tier 2 instruments. However, instruments eligible as own funds under the grandfathering provisions of Regulation (EU) No. 575/2013 are not subject to the requirements that apply to capital instruments that are fully eligible in their own right. Therefore grandfathered instruments may include clauses in their terms and conditions according to which the distribution on the instrument would be cancelled if the institution does not make a distribution on another capital instrument without that clause being regarded as interfering with the flexibility of payments required for the fully eligible instrument. 2. The treatment set out in the answer to question 1 applies to capital instruments with or without step-ups. 3. The interpretation cannot be confirmed for the reasons given in the answer to question 1.

EBA EUROPEAN BANKING AUTHORITY

Question ID	2014_800
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	437
Paragraph	1
Subparagraph	b
EBA technical standards & guidelines	Regulation (EU) No 1423/2013 - ITS on disclosure of own funds requirements
Article/Paragraph	NA
Published as Final Q&A	28/05/2014
Subject matter	Clarifications with respect to Commission Implementing Regulation (EU) No. 1423/2013 (ITS on disclosure of own funds requirements)
Question	1) Further guidance is requested on the disclosure relating to 'governing law of the instrument' as securities can be issued in one country (e.g. the USA) but governed or have subordination provisions based on the law of the country in which the issuing bank resides (e.g. the UK) The 'governing law of the instrument' is required to be populated in row 3 of Annex II. 2) More refined language is requested for the disclosure relating to 'If convertible, specify instrument type convertible into'. Specifically clarification on whether disclosure is required for conversion within the same category of capital (e.g. securities that qualify as AT1 and can convert into preference shares that would also qualify as AT1). This is required to complete row 28 of Annex II. 3) Possible options for specifying non-compliant features should be included in the guidance thereby ensuring consistency across banks. This is required to complete row 36 of Annex II. 4) Guidance is requested on the publishing mechanism. We would like to clarify whether there is a requirement to publish on the external website or in the printed financial statements. A possible date for publishing the table would ensure consistency across banks although this disclosure may need to tie to the date of results presentation. 5) Guidance is requested to provide the expected frequency of update. When a change in security is incorporated in the table is it expected that the value change (as at the last reporting date) for all securities is reported? (expected to arise when the update frequency is semi annual or less frequent). Also guidance is requested with respect to the time line within which the schedule is required to be updated. 6) Further guidance is requested for the type of Instrument (row 7). The current guidance under Annex III indicates 'menu options to be provided to institutions by each jurisdiction...' 7) Current guidance under Annex III for row 8 indicates '...total amount of the instrument recognised in regulatory capital before transitional provisions for the relevant level of the disclosure...'. Our interpretation of the text in the law requires disclosing the value of each security in the composition of regulatory capital prior to the grandfathering cap. Our interpretation, therefore requires disclosing within row 8

	the value of the security that is different from the value included in the calculation of regulatory capital (calculated post the application of the cap). This seems to be inconsistent with the purpose of EU 1423/2013 where all articles included therein are closely linked and therefore amounts disclosed in each of the schedules are expected to reconcile. Please advise if our interpretation is in line with your understanding of the regulation.
Background on the question	N/A
Answer	1. The governing law of the instrument refers to the law governing the contractual or statutory provisions of the instrument, which is in any way relevant to the legal status and related rights and duties of holders of that instrument. Each instrument listed should clearly distinguish which provisions are governed by the respective legal frameworks; e.g. "the instrument is governed by the laws of XX, except for the subordination provisions which are governed by the law of XX". 2. Explanations for row 28 of Annex II are provided in Annex III, same row. The type of instrument to which it is convertible into is specified and can be 'Common Equity Tier 1', 'Additional Tier 1', 'Tier 2' and 'Other'. Disclosures are therefore required for instruments that are convertible within the same category of capital, if such conversions are permissible. For instance, under Article 54(2) of Regulation (EU) No. 575/2013 (CRR), conversion of an Additional Tier 1 instrument shall, under the applicable accounting framework, generate items that qualify as Common Equity Tier 1 items. 3. Row 36 Annex II requires institutions to indicate whether there are non-compliant features. The nature of those non-compliant features is to be specified in row 37. Institutions should specify non-compliant features as free text and on a case by case basis. 4. Commission Implementing Regulation (EU) 1423/2013 only specifies the format of the disclosure requirements provided for by Article 437 of the CRR. As is the case with every disclosure requirement in Part Eight of the CRR, those requirements in Article 437 are subject to the provision laid down in Article 433 on frequency of disclosures and Article 434 on the means of disclosures. Accordingly, institutions are free to choose the medium for disclosure of the templates, but to the extent feasible, all disclosures should be provided in one medium or location, and cross-references should be used when information is disclosed in more than one media. Annual disclosures should be published in conjunction with the date of publication of financial statements. It should be kept in mind that the EBA is currently working on guidelines on institutions assessing more frequent disclosures, which are currently being drafted and will be consulted on in Q3 2014. Furthermore, Article 106 of Directive 2013/36/EU requires Member States to empower competent authorities to require institutions to disclose information more frequently than once per year, and to set deadlines for publication, as well as to use specific media and locations for publications other than the financial statements. If the table is disclosed on a public website, the location of this disclosure needs to be referred to in the last published or nearest published Pillar 3 report or document containing the disclosures required by Part Eight of the CRR. This could be the Pillar 3 report as at 31 December 2013, if it is published before the table is disclosed on the website.

	5. The information specified in this Standard has to be disclosed on at least an annual basis in accordance with Article 433 of the CRR. According to this article, institutions shall assess the need for more frequent disclosures. As stated above, the EBA is working on guidelines on institutions assessing more frequent disclosures, which are currently being drafted and will be consulted on in Q3 2014. As also mentioned previously, Article 106 of Directive 2013/36/EU requires Member States to empower competent authorities to require institutions to publish information referred to in Part Eight of the CRR more frequently than once per year and to set deadlines for publication, as well as to use specific media and locations for publications other than the financial statements. Annex II of the ITS does not contain any requirements regarding frequency or update of this template. Without prejudice to the guidelines which the EBA is mandated to develop under Article 433 of the CRR, where an institution decides to provide disclosures required by the ITS on a more frequent than annual basis, it is expected to revise each item that needs to be updated (i.e. each value that has changed in the reporting period must be updated). 6. The specific types of instruments to be reported in row 7 Annex II have to be provided by competent authorities to institutions in their jurisdictions, except for CET 1 instruments for which the EBA list applies. Each type of instrument should be linked to legal references in the CRR. 7. With respect to instruments that are eligible under the CRR, the amount included in regulatory capital for each individual instrument should be disclosed. For instruments subject to transitional arrangements, the amount to be disclosed is total amount of the instrument recognised in regulatory capital before the application of transitional provisions. The disclosure should also specify whether an instrument is recognised in part in more than one tier of capital, and if the amount recognised is different from the amount at issuance.

11. Passporting & Supervision of Branches

Question ID	2014_719
Status	Final Q&A
Legal act	Directive 2013/36/EU (CRD)
Topic	Passporting and supervision of branches
Article	34
Paragraph	3
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	23/05/2014
Subject matter	Passporting for financial institutions
Question	Article 34(3) of Directive 2013/36/EU (CRD) (same wording with 24(3) of the Banking Consolidation Directive) states that "Paragraphs 1 and 2 shall apply accordingly to subsidiaries of a financial institution as referred to in the first subparagraph of paragraph 1". We are trying to understand what this para. 34 (3) means. Let us assume that there is a financial institution (Institution A), as defined in point (26) of Article 4(1) of Regulation (EU) No 575/2013 CRR, which is not “a subsidiary of a credit institution or the jointly owned subsidiary of two or more credit institutions”. That financial institution then has a subsidiary (Institution B) that is itself a financial institution within the meaning of point (26) of Article 4(1) of Regulation (EU) No 575/2013. Would that subsidiary (Institution B) be able to passport itself into another member state, per the provisions of Article 34(3)?
Background on the question	If Alcimos becomes authorized to provide portfolio management and investment advice services under Annex I, Section A (4) and (5) of Directive 2004/39/EC (“Investment advice”) it is then a” financial institution” as defined in point (26) of Article 4(1) of Regulation (EU) No 575/2013, since it will be providing the activities listed in points 9 and 11 of Annex I to Directive 2013/36/EU. Let us now assume that Alcimos sets up a financial leasing company, authorized in is a home member state. Would that financial leasing subsidiary be able to passport itself into another member state by virtue of Article 34(3)?
Answer	The right to carry out relevant activities in other Member States, either by establishing a branch or by providing services, is under the Directive 2013/36/EC provided to a financial institution and its subsidiaries, if that financial institution is a subsidiary of a credit institution or is jointly held by two or more credit institutions and all conditions referred to in Article 34 of that Directive are met. Hence, financial institutions (and their subsidiaries) which are not subsidiaries of credit institutions or jointly held by two or more credit institutions do not fall under the scope of Article 34.

12. Remuneration

Question ID	2013_1
Status	Final Q&A
Legal act	Directive 2013/36/EU (CRD)
Topic	Remuneration
Article	75
Paragraph	1
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	04/03/2013
Subject matter	Scope of institutions subject to the data collection
Question	This Q&A deals with the scope of the institutions subject to the information collection foreseen by Article 75 (1) of Directive 2013/36/EU are specified by the EBA Guidelines on the Remuneration Benchmarking Exercise (EBA/GL/2012/4 of 27 July 2012). According to paragraph 2.1 of the EBA Guidelines the list of institutions to participate in the exercise, should be selected applying one of the two criteria (a) the institutions should represent 60% of the total banking sector or (b) by selecting the 20 largest institutions from the banking sector. Regardless of the chosen criteria the list will comprise institutions that have parent banks and whose data will be reported on a consolidated level by the home authority. This can lead to situations where data for institutions within one member state are only provided within the data for a banking group and no national benchmark can be calculated. Which data shall be provided to EBA?
Background on the question	N/A
Answer	The EBA Guidelines set out two options for the definition of the sample which can alternatively be chosen by the national authority. The Guideline deals only with the EBA remuneration benchmarking exercise and not with the national remuneration benchmarking. The latter has to be done under the responsibility of the competent authority. Within the EBA benchmarking exercise it is ensured that, with the respect of either of the two options, each member state's banking system is sufficiently covered. However, a country by country analysis is not intended. A member state opting for the 60 % coverage criteria selects large institutions until this percentage is covered. If those institutions are subsidiaries of groups already covered in the data collection by the home authority, please do not hand in the data for those institutions. A list of institutions was provided to National Competent Authorities. For subsidiaries which are not already covered by data collected for the parent institution, data is to be handed in on solo level. A member state opting to include the 20 largest institutions hands in only the information which is not yet included in data from groups listed by other authorities.

	It can well be that also under this method all banks are already covered or only data from a very limited number of institutions or subsidiaries needs to be collected.

Question ID	2013_2
Status	Final Q&A
Legal act	Directive 2013/36/EU (CRD)
Topic	Remuneration
Article	75
Paragraph	1
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	04/03/2013
Subject matter	Scope of consolidation of information collection
Question	This Q&A deals with the scope of consolidation for the information collection foreseen by Article 75 (1) of Directive 2013/36/EU specified by the EBA Guidelines on the Remuneration Benchmarking Exercise (EBA/GL/2012/4 of 27 July 2012). According to paragraph 3 of the EBA Guidelines institutions should provide data at the highest level of consolidation as set out in Directive 2006/48/EC (replaced by Directive 2013/36/EU). Shall data be provided only for bank and investment firms, including branches and subsidiaries which are banks and investment firms, or for all entities, for example, leasing companies, included in the scope of consolidation at bank level?
Background on the question	N/A
Answer	The scope for collecting data on remuneration should be the same as the scope for the application of the consolidated own funds requirements. Paragraph 3 of the EBA Guidelines sets out the scope of the exercise and data shall be collected at the highest level of consolidation as set out in the Directive 2013/36/EU (ex Directive 2006/48/EC). This includes credit institutions and investment firms, as well as financial institutions as defined in Article 4(26) of Regulation (EU) No 575/2013 (ex Article 4 (5) of Directive 2006/48/EC)) and according to Article 18 (8) of Regulation (EU) No 575/2013 (ex Article 134 (2) of Directive 2006/48/EC)) ancillary services undertakings as defined in Article 4(18) of Regulation (EU) No 575/2013 (ex Article 4 (21) of Directive 2006/48/EC).) and asset management companies as defined in Directive 2002/87/EC. This includes also undertakings the activity of which consists e.g. in leasing, factoring, management of unit trusts or management of data processing services. However, Article 19 of Regulation (EU) No 575/2013 (ex Article 73 of Directive 2006/48/EC) foresees specific conditions under which some firms may be excluded from the scope of consolidation.

Question ID	2013_3
Status	Final Q&A
Legal act	Directive 2013/36/EU (CRD)
Topic	Remuneration
Article	75
Paragraph	1
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	04/03/2013
Subject matter	Frequency of reporting, submission dates, reference year for information collection
Question	This Q&A deals with the reference year of the information collection foreseen by Article 75 (1) of Directive 2013/36/EU specified by paragraph 5.3 of the EBA Guidelines on the Remuneration Benchmarking Exercise (EBA/GL/2012/4 of 27 July 2012). How should "accounting year end numbers" be interpreted in the context of bonuses (as variable remuneration) paid during the year of submission of the information for performance during the preceding year?
Background on the question	N/A
Answer	In most cases the financial year is the same as the calendar year. Only figures already booked/accounted within the financial year which is reported will be included (see also paragraph 5.3 of the EBA Guidelines). If the financial year ends e.g. in June, the figures as of June 2010 and 2011 should be reported by the NSA to EBA beginning of 2013 and the figures for June 2012 should be reported by the institution to the NSA by end of June 2013.

Question ID	2013_4
Status	Final Q&A
Legal act	Directive 2013/36/EU (CRD)
Topic	Remuneration
Article	75
Paragraph	1
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	04/03/2013
Subject matter	Frequency of reporting, submission dates, reference year for information collection
Question	This Q&A deals with the currency exchange rates of the information collection foreseen by Article 75 (1) of Directive 2013/36/EU specified by paragraph 5 of the EBA Guidelines on the Remuneration Benchmarking Exercise (EBA/GL/2012/4 of 27 July 2012). What currency is to be used for bonuses paid during the year of submission of the information and are monthly currency exchange rates applicable for the conversion?
Background on the question	N/A
Answer	For this exercise figures as stated by the institution will be reported. A field for the currency was added to the templates. EBA will convert the figures to Euro using the exchange rate applicable at the end of the respective year.

Question ID	2013_5
Status	Final Q&A
Legal act	Directive 2013/36/EU (CRD)
Topic	Remuneration
Article	75
Paragraph	1
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	04/03/2013
Subject matter	Definition of retail and investment banking for information collection
Question	This Q&A clarifies the definition of retail and investment banking for the information collection foreseen by Article 75 (1) of Directive 2013/36/EU as set out in the Templates of Annexes I and II of the EBA Guidelines on the Remuneration Benchmarking Exercise (EBA/GL/2012/4 of 27 July 2012). It is not clear if wholesale lending should be included in retail lending or in the investment banking business. Could you specify more the activities included in the investment banking business area?
Background on the question	N/A
Answer	As set out in footnote 2 of the EBA Guidelines all lending, including wholesale lending, should be included in retail lending. For investment banking the Guidelines state that it includes corporate finance and trading and sales. Further guidance on the activities comprised in those business lines can be found in Article 317 of Regulation (EU) No 575/2013 (ex Annex X part 2 of Directive 2006/48/EC) within the table defining the business lines within the standardised approach for operational risk.

Question ID	2013_6
Status	Final Q&A
Legal act	Directive 2013/36/EU (CRD)
Topic	Remuneration
Article	75
Paragraph	1
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	04/03/2013
Subject matter	Definition of amounts to be reported
Question	This Q&A deals with the definition of amounts to be reported for the information collection foreseen by Article 75 (1) of Directive 2013/36/EU as set out by templates in annexes I and II of the EBA Guidelines on the Remuneration Benchmarking Exercise (EBA/GL/2012/4 of 27 July 2012). Some clarifications have been asked how to fill in certain fields of the Annex regarding: (a) Field: "total variable remuneration": (b) Field: "total amount of variable remuneration deferred in year N": (c) Field: "amount of explicit ex post performance adjustment applied in year N for remuneration awarded in previous years":
Background on the question	N/A
Answer	a) "Total variable remuneration" is the variable remuneration awarded for the performance year (e.g. 2010), both the upfront part and the deferred part. For the deferred part, maluses and claw-backs applied in the following year should not be taken into account within the figures which will be reported. For the reported variable remuneration it does not matter whether the deferred part has been paid in the end, but that it was granted in the first place. Maluses and clawbacks will be reported under: "Amount of explicit ex post performance adjustment applied in year N for remuneration awarded in previous years" (see letter c below). b) "Total amount of variable remuneration deferred in year N" is the deferred part of the total variable remuneration referred to under (a). c) "Amount of explicit ex post performance adjustment applied in year N for remuneration awarded in previous years" is the sum of clawbacks and maluses applied in the performance year (e.g. 2010) for remuneration awarded in previous years (e.g. 2007-2008-2009).

Question ID	2013_7
Status	Final Q&A
Legal act	Directive 2013/36/EU (CRD)
Topic	Remuneration
Article	75
Paragraph	1
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	04/03/2013
Subject matter	Scope of the institutions subject to the data collection
Question	This Q&A deals with the scope of application for the information collection foreseen by Article 75 (3) of Directive 2013/36/EU specified by EBA Guidelines on the Data Collection Exercise Regarding High Earners (EBA/GL/2012/5 of 27 July 2012). Should data also be collected from EEA Branches of non-EEA institutions?
Background on the question	N/A
Answer	It is indeed warranted to apply the EBA Guidelines also to EEA branches of non-EEA institutions for reasons of level playing field (also mentioned in paragraph 29 of the CEBS Guidelines), even if they are not explicitly included in the scope of the respective provisions of Directive 2013/36/EU (ex Directive 2006/48/EC) and the EBA Guidelines. Nevertheless, according to Article 47 (1) of Directive 2013/36/EU (ex Article 38 (1) of Directive 2006/48/EC) Member States shall not apply to branches of credit institutions having their head office outside the Community, when commencing or carrying on their business, provisions which result in more favourable treatment than that accorded to branches of credit institutions having their head office in the Community. Therefore competent authorities should apply the Guidelines also to EEA branches of non-EEA institutions to establish the same conditions for such branches as for EEA institutions regarding High Earners and to ensure a comprehensive data collection.

Question ID	2013_10
Status	Final Q&A
Legal act	Directive 2013/36/EU (CRD)
Topic	Remuneration
Article	94
Paragraph	1
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	31/10/2013
Subject matter	Retention bonuses
Question	Is a "retention bonus", i.e. a bonus solely granted for staying with a credit institution for a pre-defined time, still admissible in the light of remuneration principle Article 94(1)(e) of Directive 2013/36/EU (replacing Annex V, Section 11, point 23 (j) of Directive 2006/48/EC (CRDIII))?
Background on the question	Supervisory experience shows that "retention bonuses" are quite common in credit institutions. Especially institutions under restructuring (e.g. new ownership, partial or complete wind down) use this kind of additional remuneration to keep "key" staff members and thus to ensure orderly continuation of operations. A uniform application by all competent authorities is desirable since the result will have considerable impact on institutions´ remuneration policies.
Answer	"Retention bonuses" are a form of additional remuneration granted if an employee stays in the institution for a pre-defined period of time. The payment of such a bonus is therefore not necessarily linked to the staff member´s performance and/or results of the institution, but the fact that the staff member is still employed by the institution for a pre-defined time period. The principle in Article 94(1)(e) of Directive 2013/36/EU (CRD)(replacing Annex V, Section 11, point 23 (j) of Directive 2006/48/EC (CRD III)) referenced in the question notes that: *"guaranteed variable remuneration is exceptional, occurs only when hiring new staff and where the institution has a sound and strong capital base and is limited to the first year of employment;".* In the CEBS Guidelines on Remuneration, paragraph 69, it is clarified that: *"Guaranteed variable remuneration can take several forms such as a "guaranteed bonus", "welcome bonus", "sign-on bonus", "minimum bonus", etc. and can be granted either in cash or in instruments...".* In the CEBS Guidelines on Remuneration, paragraph 12, it is stated that *"A "retention bonus" is a form of variable remuneration and can only be allowed to the extent that risk alignment requirements are properly applied"*. Consequently, retention bonuses (as a form of variable remuneration), where paid to staff whose professional activities have a material impact on the institution's risk profile (identified staff), have to respect all the criteria applicable to variable remuneration under CRD (payment in instruments, deferral, retention, malus, claw back etc.). Failing this, such retention bonuses would not be admissible under Article 94(1) of CRD. Application of the criteria for variable remuneration, especially maluses and claw

	back, would mean in practice that the 'retention bonus' would be paid or vested in full "only if it is sustainable according to the financial situation of the institution as a whole, and justified according to the performance of the institution, the business unit and the individual concerned" (c.f. Article 94(1)(n) of CRD. Further, a retention bonus is only awarded on the condition that the staff member stays in the contract for the given time period, which is also a reason for not considering a retention bonus as guaranteed. In conclusion, under the provisions of Article 94 (1) of Directive 2013/36/EU (CRD), retention bonuses are only admissible as long as they are treated as variable remuneration, as provided in paragraph 12 in the CEBS Remuneration Guidelines, meaning that all criteria applicable to variable remuneration under CRD are applied. Any form of variable remuneration should always be in line with sound and effective risk management and the institution's remuneration policy, and therefore institutions should be able to substantiate their legitimate interest in awarding retention bonuses. For example, retention bonuses could be used under restructurings, in wind down or after a change of control, but also in other situations where the institution can provide a rationale for its legitimate interest in retaining a relevant staff member. However, retention bonuses would not be in accordance with remuneration principles, and therefore inadmissible, if they were awarded to merely compensate for bonuses not paid due to insufficient performance or the institution's (negative) financial situation, in a business-as-usual scenario, or in other non-legitimate situations.

Question ID	2013_41
Status	Final Q&A
Legal act	Directive 2013/36/EU (CRD)
Topic	Remuneration
Article	75
Paragraph	
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	31/10/2013
Subject matter	Which institution is responsible to provide the remuneration data if a subsidiary has been sold?
Question	Which institution is responsible to provide the remuneration data if a subsidiary has been sold?
Background on the question	Regarding the Remuneration Benchmarking Exercise (EBA/GL/2012/4), we will soon need to submit the remuneration data for 2012. If an institution has been merged/ was taken over by another institution in 2013, we would like to know which group has the responsibility to report the remuneration data of the subsidiaries that were part of the merger/take over.
Answer	According to Article 75(1) of Directive 2013/36/EU (CRD) competent authorities shall collect the information disclosed in accordance with the criteria for disclosure established in points (g), (h) and (i) of Article 450 (1) of Regulation (EU) No 575/2013 (CRR). Article 13 (1) to (3) of CRR specifies the application of the disclosure requirements on a consolidated basis for EU parent institutions, institutions controlled by EU parent (mixed) financial holding companies and for significant subsidiaries and subsidiaries of material significance for their local markets of EU parent institutions and EU parent (mixed) financial holding companies. Article 3.1 of the EBA Guidelines on the remuneration benchmarking exercise (EBA/GL/2012/4) provides that the exercise is conducted at the highest level of consolidation, i.e. the EEA consolidation level covering all subsidiaries and branches which have been established by EEA institutions in other Member States and in third countries. Article 5.3 provides that accounting year-end numbers should be submitted. It follows from the above that, subject to the application of Article 13(3) of CRR, the information has to be submitted on a EEA consolidated basis, containing information of all subsidiaries and branches which have been established by EEA institutions in other Member States and in third countries which were subject to the consolidation at the end of the financial year for which the information is reported. Any mergers or selling of shares in a subsidiary during the past year will thus be duly taken into account. Significant subsidiaries of EU parent institutions, EU parent financial holding companies or EU parent mixed holding companies and those subsidiaries which are of material significance for their local market shall disclose the information on an individual or sub-consolidated basis.

	If a subsidiary 'ab' of group 'A' is sold to group 'B' in April 2013, figures for 2012 (assuming that the financial is equal to the calendar year) will need to be reported by group 'A' including subsidiary 'ab' by the end of June to the competent authority (see Article 5.1 of the Guidelines). In 2014 figures for 2013 will be reported by group 'B' including subsidiary 'ab', assuming that both group A and B are included in the remuneration benchmarking exercise and that the subsidiary is included in the scope of consolidation of the relevant group.

Question ID	2013_103
Status	Final Q&A
Legal act	Directive 2013/36/EU (CRD)
Topic	Remuneration
Article	75
Paragraph	1, 3
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	15/11/2013
Subject matter	Information to be declared under the concept of "discretionary pension benefits" in the annex of EBA/GL/2012/5 and in annex 2 of EBA/GL/2012/4
Question	(1) What is the information to be declared by institutions under the concept of “total discretionary pension benefits” established in the annex of GL 5? A. Contributions made, during the year, by the credit institution to the company’s pension scheme, on behalf of the employee as part of their variable remuneration, or B. Amounts to be paid, or already satisfied, by the credit institution to the employees who have left the institution or got retired during the year. (2) What is the information to be declared by institutions under the concept of “total discretionary pension benefits” established in the annex 2 of GL 4? A. Contributions made, during the year, by the credit institution to the company’s pension scheme, on behalf of the employee as part of their variable remuneration, or B. Amounts to be paid, or already satisfied, by the credit institution to the employees who have left the institution or retired during the year.
Background on the question	(no background deemed necessary)
Answer	According to Article 4 (1)(73) of Regulation 2013/575/EU (CRR) 1c'discretionary pension benefits' means enhanced pension benefits granted on a discretionary basis by an institution to an employee as part of that employee's variable remuneration package, which do not include accrued benefits granted to an employee under the terms of the company pension scheme; 1d. Furthermore, Article 450 (1)(h)(ii) establishes that institutions must disclose "the amounts and forms of variable remuneration, split into cash, shares, share-linked instruments and other types;" Article 94 (1)(o) second subparagraph of Directive 2013/36/EU (CRD) establishes that 1c[i]f the employee leaves the institution before retirement, discretionary pension benefits shall be held by the institution for a period of five years in the form of instruments referred to in point (l). Where an employee reaches retirement, discretionary pension benefits shall be paid to the employee in the form of instruments referred to in point (l) subject to a five-year retention period 1d. According to the CRR, discretionary pension benefits form part of the variable remuneration of staff when they are granted to staff as part of their variable remuneration package, even if they are paid out according to the CRD provisions in

	bulk according to Article 94 of the CRD. According to Article 75 (1) of the CRD, remuneration data should be collected in accordance with the criteria for disclosure established in Article 450 of the CRR for benchmarking purposes, while Article 75 (3) of the CRD requires to collect the remuneration of High Earners per financial year in pay brackets of EUR 1 million, including their job responsibilities, the business area involved and the main elements of salary, bonus, long-term award and pension contribution. In response to Question 1, the information relating to total discretionary pension benefits to be declared in the annex of EBA/GL/2012/5 is the part of variable remuneration awarded as discretionary pension benefit as part of the variable remuneration package in the given year. Institutions have to disclose the information on the awarded remuneration of High Earners for each financial year. Remuneration includes variable remuneration awarded in the form of discretionary pension benefits as defined in Article 4 (1)(73) of the CRR. Competent authorities collect this information according to Article 75 (3) of the CRD using the templates provided by the Guidelines. The answer to the question posed is therefore A. Information regarding discretionary pension benefits awarded to employees, who have retired during the specific performance year, should, however, be included in the annex to the extent that the benefits are awarded for the specific financial year for which the information in the annex is provided. Discretionary pension benefits awarded to employees whose employment with the institution has been terminated before retirement are subject to a five year vesting period according to Article 94(1)(o) of the CRD. Those discretionary pension benefits paid out to these employees were awarded in previous financial years and should therefore not be included in the information provided in the annex. In the rare event that such discretionary pension benefits would be awarded for the financial year where that employee's contract terminates, the amounts awarded for this year should be included. In response to Question 2, the information relating to total discretionary pension benefits to be declared in annex 2 of EBA/GL/2012/4 is the part of variable remuneration awarded as discretionary pension benefit as part of the variable remuneration package in the given year. Institutions have to disclose information on the composition of awarded variable remuneration for each financial year. The answer to the question posed is therefore A. Information regarding discretionary pension benefits awarded to employees, who have retired during the specific financial year or whose employment has been terminated should be included in annex 2 according to the further explanations provided under Question 1.

EBA EUROPEAN BANKING AUTHORITY

13.Securitisation & Covered Bonds

Question ID	2013_42
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Securitisation and Covered Bonds
Article	129
Paragraph	1
Subparagraph	(b)
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	31/10/2013
Subject matter	Preferential risk weight of covered bonds containing securitisation positions of sovereign exposures as cover pool assets
Question	Would UCITS compliant covered bonds containing public sector securitisation exposures qualify for preferential risk weights under Article 129 of Regulation (EU) No 575/2013 (CRR)?
Background on the question	Article 129(1)(a) of CRR states that covered bonds can be collateralised, inter alia, by "…exposures to or guaranteed by central governments, central banks, public sector entities, regional governments and local authorities in the Union". However, the text does not mention that securitisation positions resulting from the securitisation of exposures to the public sector can qualify as covered assets, and a look through approach is not possible in this context. Only securitisation exposures to residential and commercial mortgages are explicitly mentioned in Article 129(1)(d) (ii) and (f) (ii) of CRR, and in each case there are specific criteria that must first be fulfilled for such securitisation exposures to qualify.
Answer	UCITS-compliant covered bonds containing public sector securitisation exposures do not qualify for preferential risk weights under Article 129 of Regulation (EU) No 575/2013 (CRR), as public sector securitisation exposures are not eligible assets under Article 129 (1) of the CRR.

Question ID	2013_53
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Securitisation and Covered Bonds
Article	264
Paragraph	1
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	31/10/2013
Subject matter	Applicability of the re-securitisation definition to securitisation positions being subject to tranched credit protection according to Article 264(1) of Regulation (EU) No 575/2013 (CRR)
Question	Do the portions of a securitisation position covered and uncovered by senior unfunded credit protection have to be treated as re-securitisation positions in accordance with Article 4(64) of CRR for the purposes of determining the risk-weighted exposure amounts of these portions in accordance with Article 264(1) and for other regulatory purposes?
Background on the question	In the case of senior unfunded credit protection, where risk-weighted exposure amounts of the securitisation position being subject to the credit protection are calculated using the Ratings Based Method, according to the rules set out in Article 264(1) institutions may amend the exposure value or the risk weight for such a securitisation position in accordance with the provisions of Part Three Chapter 4 as they apply for the calculation of risk weighted exposure amounts under Part Three Chapter 2. According to Article 234, which is the only Article addressing cases of tranched protection within Part Three Chapter 4, the rules set out in Part Three Chapter 5 shall apply in the event of partial protection and tranching. As the securitisation rules are in this case applied to a securitisation exposure, the question arises whether re-securitisation rules are applicable when the risk weighted exposure amounts of the portions covered and uncovered by the unfunded credit protection are determined. Assuming that an underlying pool of exposures may include only one exposure in accordance with paragraph 542 of the Basel Framework, the covered and uncovered portions of the securitisation could fall under the special treatment for re-securitisation positions as the covered and uncovered portions could both be regarded as an exposure to a securitisation where the risk associated with an underlying pool of exposures is tranched and at least one of the underlying exposures (the protected securitisation position) is a securitisation position. However, treating the portions covered and uncovered by the tranched credit protection as re-securitisation positions does not seem appropriate for the reason that Article 264 as lex specialis also sets out rules regarding the case of tranched protection of a single securitisation position which would be redundant if such tranched protection would generally result in the credit protection being directly regarded as a re-securitisation according to Article 4(63).
Answer	No, portions of a single securitisation position covered or uncovered by the senior unfunded credit protection do not have to be treated as re-securitisation positions for the purposes of determining the risk weighted exposure amount of these portions

	in accordance with Article 264(1) of CRR or for other regulatory purposes.

EBA EUROPEAN BANKING AUTHORITY

14. Supervisory Review & Evaluation (SREP) & Pillar 2

Question ID	2013_249
Status	Final Q&A
Legal act	Directive 2013/36/EU (CRD)
Topic	Supervisory review and evaluation (SREP) and Pillar 2
Article	79
Paragraph	b
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	20/12/2013
Subject matter	Meaning of Article 79 (b) of Directive 2013/36/EU (CRD)
Question	What should standardised banks do in order to live up to CRD Article 79 (b)? Should standardised banks make their own assessment of the risk weights assigned to unrated counterparts? I.e. If a banking counterpart (institution) in a 0 % risk weight country is unrated and therefore assigned a risk weight of 20 % according to Article 121of Regulation (EU) No 575/2013 (CRR), but an internal assessment shows that other comparable counterparts with a rating get assigned a 50 % risk weight according to Article 120 of CRR, what should the calculating institution do? Should the calculating institution overwrite the 20% with 50 % or should the calculating institution add the difference in risk weighted assets under Pillar II?
Background on the question	Clarification of what CRD Article 79 (b) means for standardised banks. Our understanding is that CRD Article 79 (b) has it origin in Basel III Para. 733 about incentives to avoid getting rated.
Answer	Article 79(b) of Directive 2013/36/EU (CRD) relates to the arrangements, processes and mechanisms of institutions and aims at ensuring that institutions have in place sound credit risk management practices. The provisions of this article applies to all institutions and is independent from the approach adopted by an institution to risk-weight its credit risk exposures. Accordingly, in the situation described in the question, the institution should not overwrite the risk-weight specified in CRR for the calculation of the capital requirements, but take into account its internal assessment in the allocation of internal capital as required by Article 79(b) of CRD.

EBA EUROPEAN BANKING AUTHORITY

15. Transparency & Pillar 3

Question ID	2013_515
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Transparency and Pillar 3
Article	431-455
Paragraph	
Subparagraph	
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	04/04/2014
Subject matter	Effective date of Part 8 of CRR – Disclosure by Institutions
Question	We would appreciate clarification of the date(s) by which we are required to meet the disclosure requirements detailed in Part 8 of CRR – Disclosure by Institutions. We note disclosure is to be made on the date of publication of the firm's financial statement, the year end for our firm is not the calendar year end but 31 March. The first year end, after the date CRR comes into force will be 31 March 2014. The disclosures detailed in Part 8 of CRR are dependent on associated EBA guidelines and draft implementing and regulatory technical standards with publication/submission dates ranging from 31 December 2014 to 1 January 2016.
Background on the question	N/A
Answer	In accordance with Article 521(2) of Regulation (EU) No 575/2013 (CRR), the disclosure requirements set out in Part Eight of the CRR shall apply from 1 January 2014. Article 433 2nd subparagraph of the CRR furthermore clarifies that annual disclosures shall be published in conjunction with the date of the publication of the financial statements. For annual disclosures that are made in conjunction with the publication of the financial statements, the disclosure requirements in Part 8 have to be applied for the first time to the one-year accounting period ending on or after 1 January 2014 (e.g. for institutions with a year-end date of 31 March, the first disclosure requirements would apply for the reporting date 31st March 2014). Disclosures that are made more frequently than annually (as set out in 3rd subparagraph Article 433 of the CRR 13 and not in conjunction with the date of publication of the annual financial statements) should be published from 1 January 2014 according to a schedule that leads to quarterly and/or semi-annual disclosures in relation to the year-end date of an institution's financial statements. The disclosure requirements set out in the CRR are applicable according to the guidelines and draft implementing and regulatory standards that the EBA has developed so far (as is the case with the ITS on Disclosures for Own Funds). Where the EBA is mandated to develop new guidelines/ITS in the future, those guidelines and standards, complementing or expanding upon the existing disclosure

	requirements of the CRR, will apply from the dates set out therein.

Question ID	2014_759
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Transparency and Pillar 3
Article	13
Paragraph	1 and 2
Subparagraph	-
EBA technical standards & guidelines	Not applicable
Article/Paragraph	N/A
Published as Final Q&A	30/04/2014
Subject matter	Disclosure of certain information of significant subsidiaries and those subsidiaries which are of material significance for their local market on an individual or sub-consolidated basis
Question	The disclosure information of regulatory groups is according to Article 13(1)/(2) first paragraph (each) of Regulation (EU) No. 575/2013 (CRR) to be done on a consolidated basis in any case. However, Article 13(1)/(2) second paragraph (each) of the CRR requires the disclosure of certain information by significant subsidiaries etc. as well. In the past, the implementation of that rule in Article 72 of Directive 2006/48/EC led in practice to the disclosure of only one consolidated report disclosing the required information also for all individual institutions or sub-groups which are of material significance. To our understanding, there exists a factual possibility for the entity in charge of the disclosure obligation on a consolidated level to either separately disclose the required information within one disclosure report or to take care for the issuance of separated individual disclosure reports of the significant subsidiaries and/or those subsidiaries which are of material significance for their local market. Is it possible to disclose also under CRR only a consolidated disclosure report with – in case need be – individual information per institution when requested? Is this particularly the case, where that practice has been used in the past and accepted by the national competent authorities?
Background on the question	According to the precise wording of Article 13(1)/(2) of the CRR, significant subsidiaries of EU parent institutions/EU parent financial holding companies/EU parent mixed holding companies and those subsidiaries which are of material significance for their local market shall disclose, on an individual or sub-consolidated basis, certain information. We are of the opinion that an individual report disclosing only the limited information requested but not embedded in a full disclosure report is hardly readable and not delivering the intended insight into that institution. Consequently, we read the text as there being the need to disclose at least the named information on an individual basis. This can be done either (a) within the consolidated report or (b) in addition to the consolidated report in a standalone disclosure report. In our opinion both options described above fulfil the requirements of Article 13 as they clearly address the intention of the rule to disclose the relevant information of significant institutions or sub-groups on an individual basis while being embedded in the context of a full disclosure report.
Answer	The first subparagraphs of Article 13(1) and (2) of Regulation (EU) No. 575/2013 (CRR) lay down the disclosure requirements that significant subsidiaries of either EU parent institutions or of institutions controlled by an EU parent financial holding company or EU parent mixed financial holding company and subsidiaries of those EU parent institutions or companies which are of material significance for their local market shall make on an individual or sub-consolidated basis, as applicable.

	The disclosure requirements in question are those specified in Articles 437, 438, 440, 442, 450, 451 and 453 of the CRR. Article 434 of the CRR prescribes that, to the degree feasible, all disclosures of Part VIII shall be provided in one medium or location. Although this provision applies to parent companies regarding information to be provided on a consolidated basis, it should also serve as good practice for the location of disclosures to be provided by significant subsidiaries or subsidiaries which are of material significance for their local market. Where parent institutions or companies include the disclosures to be provided by their significant subsidiaries or subsidiaries of material significance for their local market in their consolidated report, it should allow clear identification of the entity to which those disclosures relate. To the extent the disclosures requested under Article 13(1) and (2) of the CRR are not provided within the consolidated report of the parent company, but in one or more separate reports, cross-references between these disclosures and the disclosures of the EU parent institution or company should be provided. Where significant subsidiaries or subsidiaries of material significance for their local market provide the disclosures required under Article 13(1) and (2) separately from their parent's consolidated report, this information should be provided to the degree feasible in one medium or location. As before, if provided separately in one or more separate reports (as applicable), appropriate cross-references between these separate report(s) should be included.