Single Rulebook Q&A

Question ID	2020_5292
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Market risk
Article	78
Paragraph	1
Subparagraph	2
COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations	Regulation (EU) No 241/2014 - RTS for Own Funds requirements for institutions
Article/Paragraph	28/2
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Disclose name of institution / entity	No
Type of submitter	Credit institution
Subject matter	Recognition of deducted items in calculation of own funds requirements for market risk
Question	Are positions in own capital instruments - held for market making purposes and which have been deducted from own funds in accordance with Article 78 CRR in conjunction with Article 28(2) of Regulation (EU) No 241/2014 - still to be considered in the calculation of market risk requirements?
Background on the question	Currently, the own capital instruments held for market making purposes in accordance with Article 78 CRR are deducted from the regulatory capital up to the full limit in accordance with Article 28(2) of Regulation (EU) No 241/2014 - RTS for Own Funds requirements for institutions, irrespective of the actual exposure held by the institution. Additionally, as soon as CET1, AT1 or T2 instruments are acquired for market making purposes, they are considered in the respective RWA calculations for market risk. This approach is contradicting the intentions of the Basel Committee's expectation as set e.g. in MAR 11.50. An appropriate treatment of market making positions of own funds instruments must recognize the fact that full deduction from the respective capital is already the highest degree of conservatism possible. Therefore, positions held for market making purposes should not be considered as either gross long or gross short positions under Article 327

	CRR. This is reflected also by the international standards on market risk capital requirements as set by the Basel Committee on Banking Supervision. In MAR 11.50 for example it is clearly stated that holdings “of capital instruments that are deducted from a bank’s capital or risk weighted at 1250% are not allowed to be included in the market risk frame-work.” Therefore, clearly the initial standard setters were not expecting institutions to hold additional capital requirements for instruments which are already deducted from capital, as it is currently the case for instruments held for market making in own funds. This treatment is also supported by the future international market risk standards as BCBS 457 (broadly known as FRTB). Paragraph 11.5, again, states that holdings of capital instruments already deducted from the institution’s capital shall not be included in the market risk framework. Contrary to the credit risk framework (see for example Article 113 CRR “unless deducted from own funds”), in the market risk framework there exists no clear definition of which positions are to be considered in the calculation of the capital requirements. It is essential to recognize that, analogous to credit risk, positions which are already deducted for prudential purposes are to be excluded from both gross long and gross short positions in market risk. A consistent interpretation of Article 327 CRR and following must, therefore, recognise that all positions which are already deducted from own funds, can no longer lead to additional capital requirements for market risk.
Final answer	Regulation (EU) No 575/2013 (CRR) does not include any exemption from the calculation of own funds requirements for market risk for positions that have been deducted from the own funds. On the contrary, it includes provisions clarifying that they are in scope – for example, Article 352(2) CRR clarifies that positions that are deducted from the own funds may be exempted from the own funds requirements for foreign-exchange risk as part of the structural-FX framework. Hence, those positions are in scope in the first place. Accordingly, the institution shall calculate market risk requirements for the holdings of own funds pursuant to article 326 CRR. In that context, when calculating the capital requirements for specific risk, Article 327(1) CRR specifies that institutions' holdings of their own debt instruments should be disregarded.
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