

# Single Rulebook Q&A

<b>Question ID</b>	2020_5668
<b>Status</b>	Final Q&A
<b>Legal act</b>	Regulation (EU) No 575/2013 (CRR)
<b>Topic</b>	Supervisory reporting - FINREP (incl. FB&NPE)
<b>Article</b>	430
<b>Paragraph</b>	-
<b>Subparagraph</b>	-
<b>COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations</b>	Regulation (EU) 2021/451 - ITS on supervisory reporting of institutions
<b>Article/Paragraph</b>	Annex V, part 3
<b>Date of submission</b>	21/12/2020
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<b>Disclose name of institution / entity</b>	No
<b>Type of submitter</b>	Consultancy firm
<b>Subject matter</b>	Prudential consolidation of special funds
<b>Question</b>	Strictly following the instructions for presenting fully owned CIUs in FINREP leads to possibly unwanted outcomes as compared to IFRS accounts. Can competent authorities allow for fully owned CIUs to be consolidated in order to allow for the use of a look-through approach for FINREP?
<b>Background on the question</b>	As per Annex V Part 3 of the ITS on supervisory reporting of institutions and EBA Q&A 2019_4894, investments in collective investment undertakings (CIUs) shall be classified as equity instruments in FINREP, regardless of whether the CRR allows a look-through approach or not. We fully agree that this classification is correct for minority interest in mutual funds (i.e. funds open to the public). However, we would like to hear the EBA's opinion on a client's special case where an entity has full participation (i.e. 100%) and exercises total control over an AIF whose only purpose is to hold financial instruments (mainly securities) and where collected capital is not used for any operational activities. As the AIF is a special fund in accordance with Art 163 of the Austrian Investment Fund Act 2011, it is not subject to the UCITS Directive. The AIF in question has no other assets, employs no staff, carries out no business operations or services and makes no business decisions. All decisions, esp. decisions regarding the AIF's investment strategy as well as

	<p>purchases or sales of securities, are made by the credit institution’s treasury or risk management departments. Considered in its entirety, the CIU is a special purpose vehicle not engaging in any actual entrepreneurial activity. For group accounting purposes, the AIF is fully consolidated (due to the element of control in IFRS 10); the bonds held by the CIU are presented in the group’s balance sheet measured at fair value through OCI. Regarding FINREP, we do not believe that it is appropriate to treat this special fund in the same way as a minority interest in a mutual fund (i.e. presented as an equity instrument measured at fair value with no look through) because such a presentation does not reflect the economic substance and is misleading. We kindly ask the EBA to clarify if special funds with the above described characteristics may be consolidated in order to reflect the economic substance and, at the same time, to provide more transparency. We believe that Article 18(8) CRR 2 may provide a legal basis to allow (or require, subject to decision by the CA) such a consolidation, especially as material published in connection with this regulation explicitly addresses investment funds, amongst others (e.g., BCBS 423). Does the EBA share our point of view?</p>
<p><b>EBA answer</b></p>	<p>FINREP templates shall be prepared using the prudential scope of consolidation in accordance with Section 2 of Chapter 2 of Title II of Part 1 Regulation (EU) No 575/2013 (CRR).</p> <p>As indicated in the feedback table of the <a href="#">Final Draft RTS on the methods of prudential consolidation</a> (p. 59-60), “CIUs are normally not expected to qualify as financial sector entities and, as such, according to the Level 1 text, they are excluded from the scope of regulatory consolidation, unless the conditions for the application of the provisions of Article 18(8) of the CRR are met and in the opinion of the competent authority there is a substantial risk of step-in. However, the EBA is of the view that, in the specific case of CIUs, the dedicated treatment established in Article 132 and 152 of the CRR for exposures in the form of units or shares in CIUs is generally deemed to be appropriate and any residual risk of step-in may be mitigated through the application of the EBA Guidelines on limits on exposures to shadow banking entities.”</p> <p>In this context, the instruction of Annex V Part 3 of Regulation (EU) No 2021/451 (ITS on supervisory reporting) defines the classification of a CIU as equity instruments in FINREP when it is not consolidated for regulatory purposes.</p> <p>The classification as equity instrument shall follow the accounting rule, regardless the prudential treatment used for credit risk purpose (i.e., look-through method).</p>
<p><b>Link</b></p>	<p><a href="https://www.eba.europa.eu/single-rule-book-qa/qna/view/publicId/2020_5668">https://www.eba.europa.eu/single-rule-book-qa/qna/view/publicId/2020_5668</a></p>

