

# Single Rulebook Q&A

<b>Question ID</b>	2022_6398
<b>Status</b>	Final Q&A
<b>Legal act</b>	Regulation (EU) No 575/2013 (CRR)
<b>Topic</b>	Own funds
<b>Article</b>	49
<b>Paragraph</b>	1
<b>Subparagraph</b>	e
<b>COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations</b>	Regulation (EU) No 241/2014 - RTS for Own Funds requirements for institutions
<b>Article/Paragraph</b>	15a/2(a)
<b>Date of submission</b>	14/03/2022
<b>Published as Final Q&amp;A</b>	31/03/2023
<b>Disclose name of institution / entity</b>	No
<b>Type of submitter</b>	Competent authority
<b>Subject matter</b>	Deduction of indirect holdings of own funds instruments in insurance and reinsurance undertakings which are subsidiaries of insurance holding company from own funds
<b>Question</b>	Should indirect holdings of own funds instruments in insurance and reinsurance undertakings which are subsidiaries of insurance holding company be subject to the exemption provided for in Article 15a(2)(a) of Commission delegated regulation No 241/2014?
<b>Background on the question</b>	Article 36(1)(i) CRR states that Institutions shall deduct the following from Common Equity Tier 1 items [...] the applicable amount of direct, indirect and synthetic holdings by the institution of the Common Equity Tier 1 instruments of financial sector entities where the institution has a significant investment in those entities. A similar deduction requirement from AT1 and T2 items of an institution is applicable under Articles 56(d) and 66(d) CRR in respect of institution's direct, indirect and synthetic holdings of AT1 and T2 instruments of financial sector entities. As for the definition of indirect holdings (Article 4(1)(114) CRR), Article 15a(2)(a) CDR 141/2014 states that: Without prejudice to point (h) of paragraph 1, an 'intermediate entity' as referred to in Article 4(1)(114) of Regulation (EU) No 575/2013 does not comprise: (a) mixed activity holding companies, institutions, insurance

undertakings, reinsurance undertakings; It is not clear why insurance holding companies are not mentioned in such provision and instead considered as an 'intermediate entity' as referred to in Article 4(1)(114) CRR while mixed activities holding companies are explicitly mentioned. The exclusion of insurance holding companies may have adverse effects on the application of Article 49(1) CRR. The conditions under the letter (a) and (e) of Article 49(1) CRR are the following: (a) the financial sector entity is an insurance undertaking, a reinsurance undertaking or an insurance holding company (e) the holdings in the entity belong to one of the following: (i) the parent credit institution; (ii) the parent financial holding company; (iii) the parent mixed financial holding company; (iv) the institution; (v) a subsidiary of one of the entities referred to in points (i) to (iv) that is included in the scope of consolidation pursuant to Chapter 2 of Title II of Part One

Therefore, from the current wording of the CRR and RTS, it seems that an institution may be exempted from deduction from own funds of its direct holdings in an insurance undertaking, a reinsurance undertaking or an insurance holding company, while on the other hand it seems that indirect holdings in insurance and reinsurance undertakings which are subsidiaries of an subsidiary insurance holding company would not fulfil the condition for an exemption under Article 49(1)(e) CRR given that insurance holding companies are not included in the scope of consolidation pursuant to Chapter 2 of Title II of Part One as they do not meet the definition of financial institutions (Article 4(1)(26) CRR) and would therefore always need to be deducted, subject to thresholds in Article 48 CRR. On the contrary, indirect holdings of own funds instruments in insurance and reinsurance undertakings which are subsidiaries of mixed activity holding companies, institutions, insurance undertakings, reinsurance undertakings would not qualify as indirect holdings under Article 15a(2)(a) CDR 241/2014 and therefore would not need to be deducted from own funds.

**Final answer**

Although not mentioned explicitly in Article 15a(2)(a) of Commission Delegated Regulation (EU) No 241/2014, insurance holding companies generally (but without prejudice to Article 15a(1)(h) of CDR (EU) No 241/2014) do not qualify as intermediate entities as referred to in Article 4(1)(114) CRR. This is because they are captured by the more general exemption provided for in Article 15a(2)(c) of CDR (EU) No 241/2014.

The main prudential objective of the exemption provisions in Article 15a(2) of CDR (EU) No 241/2014 is to limit the double deduction of direct and indirect holdings in financial sector entities (i.e. deduction of the direct position in an intermediate financial sector entity and any further financial sector entity positions held by this intermediate financial sector entity itself). Such double deduction is not necessary in cases where double gearing of own funds is prevented at the level of the intermediate financial sector entity, be it through explicit deduction rules for FSE holdings or via capital

	<p>consolidation in the course of prudential consolidation.</p> <p>The specific conditions set out in Article 15a(2)(c) of CDR (EU) No 241/2014 are fulfilled in the case at hand: Firstly, insurance holding companies qualify as financial sector entities according to Article 4(1)(27) CRR. Secondly, they are supervised on a consolidated basis under European law. Lastly, the provisions on the supervision of group solvency in Directive 2009/138/EC rule out the double gearing of own funds within insurance groups. Such double gearing of own funds under Directive 2009/138/EC has to be prevented either via capital consolidation (which implies deduction of intragroup capital positions) in the course of prudential consolidation or via explicit own funds deductions.</p> <p>As a result, insurance holding companies do not qualify as intermediate entities as referred to in Article 4(1)(114) CRR and positions in own funds instruments of insurance or reinsurance undertakings which are held by a subsidiary insurance holding company need not be deducted from the own funds of the parent institution.</p>
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European Banking Authority, 29/05/2023  
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