Single Rulebook Q&A

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Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	28
Paragraph	1
Subparagraph	-
COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations	Not applicable
Article/Paragraph	N/A
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Disclose name of institution / entity	No
Type of submitter	Competent authority
Subject matter	Direct / indirect funding of own shares
Question	According to ~~In~~ Articles 8 and 9~~3~~ of Commission Delegated Regulation (EU) No 241/2014 ~~(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 items (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	Not given
Final 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 fully paid up and the~~ir purchase~~ acquisition of ownership of those instruments is not funded directly or indirectly by the institution. The last subparagraph of ~~this~~ Article 28(1) CRR further~~ also~~ clarifies that for the purposes of Article 28(1)(b) CRR only the part of a capital instrument that is fully paid up shall be eligible to qualify as a CET1 instrument.The purpose of this condition is to ensure that the institution has genuinely received new funds at issuance. Articles 8 and 9 of the Commission Delegated Regulation (EU) No 241/2014 (RTS on Own Funds) specify~~ies~~ the applicable forms and nature of direct and indirect funding. ~~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, t~~The following treatment ~~should ~~appl~~y~~ies if the acquisition of ownership of shares involves direct or indirect funding: At issuance firms exclude the accounting value of the instruments (and associated share premium accounts) in accordance with Article 28(1)(b) of the CRR as further specified in Articles 8 and 9 of the RTS on Own Funds; this reflects that there is no real increase of capital to add onto the

	institution's balance sheet. On the basis of the above at issuance the questions 1) to 4) are answered as follows: CET 1 instruments contribute to CET 1 capital at their accounting value and only in relation to the amount that has been fully paid-up. In the case an instrument does not meet the CET 1 criteria in Article 28 of the CRR, or ceases to meet CET 1 criteria, as set out in Article 30 of the CRR, the accounting value of the instrument shall be excluded from contributing towards the CET 1 capital of the institution. 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 the 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 applies ~~will have to be applied~~. After initial issuance, 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.
Link	https://www.eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2013_8

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