

Question ID	2013_9
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	28, 36
Paragraph	1, 1
Subparagraph	-
COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations	Not applicable
Article/Paragraph	N/A
Date of submission	03/07/2013
Published as Final Q&A	31/10/2013
Disclose name of institution / entity	No
Type of submitter	Competent authority
Subject matter	Synthetic holdings
Question	<p>We are considering own regulatory capital instruments which are put in pledge to the issuing bank itself as collateral for loans to customers.</p> <p>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?</p> <p>2) Do such pledged regulatory capital instruments still meet the “fully paid up”-criterion <u>as per</u> Article 28 (1)(b) of CRR?</p>
Background on the question	Not given
Final answer	<p>1) The draft regulatory technical standards Commission Delegated Regulation (EU) No 241/2014 (RTS on Own Funds) that the EBA is mandated to prepare in accordance with Article 36(2) of Regulation (EU) No 575/2013 (CRR) will specify in Articles 15a to 15f the application of the deductions of direct, indirect or synthetic holdings as set out in Article 36(1)(f) of the CRR.</p> <p>Where criteria of the final adopted of the <u>RTS on Own Funds</u> are met and the</p>

	<p>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 <u>the</u> 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.</p> <p>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 <u>acquisition of ownership of the instruments is</u> are not considered as directly or indirectly funded in accordance with Article 28(1)(b) of the CRR as <u>further</u> specified in <u>Articles 8 and 9 of the final RTS on Own Funds</u> 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 <u>the</u> CRR would still be met. (See also Q&A 008)</p>
Link	https://www.eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2013_9

European Banking Authority, 03/10/2023
www.eba.europa.eu