



**Single
Rulebook
Q&A**

Question ID	2013_20
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Other issues
Article	11
Paragraph	5
Subparagraph	-
COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations	Not applicable
Article/Paragraph	N/A
Date of submission	03/07/2013
Disclose name of institution / entity	No
Type of submitter	Competent authority
Subject matter	Application of requirements on a sub-consolidated basis
Question	Does Article 11 (5) allow competent authorities to apply the provisions of Regulation (EU) No 575/2013 and Directive 2013/36/EU to an institution on its sub-consolidated basis in cases other than where the structural separation of activities is required under national laws, and in cases other than those provided for in Article 11 (1) to (3), and Article 22 of Regulation (EU) No 575/2013?
Background on the question	Because of the asymmetrical structure of the sentence, - which in its first part clearly refers to two different situations (i) when it is justified for

	<p>supervisory purposed by specificities of the risk or of the capital structure of an institution and (ii) where Member States enact national laws requiring the structural separation of activities within a banking group. - While in its second part it only refers to the case of a structural separation of activities, This asymmetrical structure leads to an ambiguity on whether the supervisor has the power to apply the requirements on a sub-consolidated basis to an institution when it assesses it is justified in other cases than the structural separation of activities.</p>
<p>EBA answer</p>	<p>Institutions may be required to comply with the prudential requirements laid down in CRR on a sub-consolidated basis in the following cases:</p> <ul style="list-style-type: none"> Ø where Member States adopt national laws requiring the structural separation of activities within a banking group Ø when it is justified for supervisory purposes by the specificities of the risk or of the capital structure of an institution <p>Cases for supervisory purposes are not limited to those specified in Article 22 or Article 11 (1) to (3) of Regulation (EU) No 575/2013.</p> <p>The application on a sub-consolidated basis is without prejudice to application of the requirements on consolidated and individual bases (unless waivers apply).</p> <p>DISCLAIMER:</p> <p>This question goes beyond matters of consistent and effective application of the regulatory framework. A Directorate-General of the Commission (Directorate General for Internal Market and Services) has prepared the answer, albeit that only the Court of Justice of the European Union can provide definitive interpretations of EU legislation. This is an unofficial opinion of that Directorate General, which the European Banking Authority publishes on its behalf. The answers are not binding on the European Commission as an institution. You should be aware that the European Commission could adopt a position different from the one expressed in such Q&As, for instance in infringement proceedings or after a detailed examination of a specific case or on the basis of any new legal or factual elements that may have been brought to its attention.</p>
<p>Link</p>	<p>https://www.eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2013_20</p>