

Question ID	2013_39
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	54
Paragraph	-
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	Credit institution
Subject matter	Local Regulations versus the CRR
Question	Will national regulations, maintained by domestic regulators (such as those in the Capital Principal Circular (7/2012) of the Bank of Spain, as an example) which set requirements for Tier 1 instruments compatible with, but in excess of, those set in Regulation (EU) No 575/2013 (CRR) for Additional Tier 1 instruments, continue to have force after the date (1st Jan 2014) at which CRR itself comes into force?
Background on the question	A number of jurisdictions (including especially those with specific banking crises such as Spain, Ireland, Portugal and Greece) have enacted (and then published regulations for) enhanced capital requirements, utilising the principle of super-equivalence under CRD II. In several cases, banks have been required to hold additional Tier 1 capital (including, but not limited to Core Tier 1 capital) with features such as write down triggers set at levels above.
EBA answer	While we will not comment on specific national measures, after the date of application of CRR (January 1, 2014) domestic regulators cannot lay down or maintain in force generally applicable rules (stricter or not) containing requirements for Tier 1 instruments that are already laid down in the CRR,

including the level of triggers under Article 54 of CRR.

DISCLAIMER:

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.

Link

https://www.eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2013_39

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