Single Rulebook Q&A

Question ID	2013_50
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	63, 489, 490
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	Capital instruments that were issued with an incentive to redeem but no longer contain one
Question	In EBA Q&A Question: 2013_15 you state "The fact that the instrument is not called does not mean that the instrument may be reclassified as an instrument without an incentive to redeem". Was this meant specifically within the context of grandfathering or more broadly. For example, a T1 instrument with its first call prior to 31 December 2011 and therefore can be subject to grandfathering but also on a forward looking basis no longer contains an incentive to redeem, if this instrument has call resets every 5 years will this instrument be eligible for T2 qualification under CRR when it falls out of grandfathering. More specifically does the fact a bond was ISSUED with an incentive to redeem in the past specifically preclude it from being eligible for T2 treatment, even if following the call date and on a forward looking basis this incentive to redeem no longer exists?
Background on the question	Some instruments exist that do not have quarterly calls but did have an incentive to redeem, we would like to know whether these will get T2 capital treatment when they are derecognised as T1 capital. Is the EBA trying to phase out all the old style instruments and therefore looking at instruments based on how they looked when they were issued rather than how they look

	on a forward looking basis.
Final answer	The instruments considered are those that qualified as original own funds under national transposition measures for Article 57(ca) and Article 154(8) and (9) of Directive 2006/48/EC, and where the institution was able to exercise a call with an incentive to redeem only prior to or on 31 December 2011. Tier 1 instruments for which the institution was able to exercise a call with an incentive to redeem only prior to or on 31 December 2011, where no call was exercised and when the instrument is not eligible under Article 52 of Regulation (EU) No. 575/2013 (CRR) are grandfathered under Article 489(6). In accordance with Article 489(6) of the CRR, an instrument shall qualify as Additional Tier 1 in accordance with Article 484(4), subject to the limit laid down in Article 486(3). The amount of the instruments not included in additional Tier 1 can be grandfathered in Tier 2 under Article 490(6) of the CRR, having regard to Article 487. Following the conclusions stated in Q&A 2013_15, an incentive to redeem will be deemed to continue to exist, regardless of the fact that the instrument was not called. Following the conclusions stated in Q&A 2013_48, the frequency of subsequent calls is not a relevant criterion in that regard. On the basis of the aforementioned Q&As, an instrument may be included in fully eligible Tier 2 items only if all conditions of Article 63 of the CRR are met. Due to the existence of an incentive to redeem, the instrument would not meet the eligibility criteria for inclusion in fully eligible Tier 2 capital.
Link	https://www.eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2013_50