Single Rulebook Q&A

Question ID	2013_173
Status	Final Q&A
Legal act	Directive 2013/36/EU (CRD)
Topic	Other issues
Article	131
Paragraph	16 , 17
Subparagraph	-
COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations	Not applicable
Article/Paragraph	-
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Disclose name of institution / entity	Yes
Name of institution / submitter	Czech National Bank
Country of incorporation / residence	Czech Republic
Type of submitter	Competent authority
Subject matter	Capital buffers
Question	According to Directive 2013/36/EU (CRD), Title VII, Chapter 4, institutions shall hold capital to cover combined buffer requirement (CombB, in % of a given institution's total risk exposure). The CombB (as in Art 128 para 6 CRD) will consist of conservation buffer (CB), possibly extended by countercyclical capital buffer (CCB), SII buffer and systemic risk buffer (SRB) applicable to institutions on consolidated, subconsolidated or individual level as set by competent or designated authorities. The CRD also sets some rules and conditions on combinations of the individual types of capital buffers (additivity versus higher of) and rules for combinations arising from application of capital buffers on different levels (parent versus subsidiary), especially in Articles 131 and 133 CRD IV. However, given this variety of potential application of capital buffers, many capital buffer combinations may emerge where the rules for setting the resulting CombB of an institution may not be 100% clear as the CRD wording can give different

	interpretations. The rule in Art 131 (16, 17) can a) either mean that the decision of the home regulator as regards CombB of the group effectively introduces a floor of CombB in subsidiaries, or b) just emphasize that buffers imposed on the group should not be taken as a reason for reducing buffers imposed individually on the group's subsidiaries and sub-groups. Which interpretation of capital buffer combinations on different levels is correct?
Background on the question	See attached file with examples.
Final answer	The purpose of paragraphs 16 and 17 of Art. 131 Directive 2013/36/EU (CRD) is to emphasize that the buffers imposed on a group do not lead to a reduction of the buffers imposed on an individual basis on an institution that is part of that group. **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.
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