

Question ID	2013_208
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	26
Paragraph	2
Subparagraph	-
COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations	Not applicable
Article/Paragraph	N/A
Date of submission	03/09/2013
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Disclose name of institution / entity	No
Type of submitter	Credit institution
Subject matter	Inclusion of year-end profit in Common Equity Tier1 Capital as of the end of first quarter of the following year.
Question	Can the year-end profit (reduced by the expected burdens and dividends), after verification by persons independent of the institution that are responsible for the auditing of the accounts of that institution, be included in Common Equity Tier1 Capital of the institution as of the end of first quarter of the following year without the prior permission of the competent authority in the situation in which the General Meeting of Shareholders approves the financial statements with the year-end profit (and approves the dividend in the amount reducing the year-end profit in the calculation) before the issuing date of the first quarter financial statements, but after the date of first quarter reporting period?
Background on the question	Example: 31.12.2013 - year-end reporting period, 28.02.2014 - issuance date of the year-end financial statements, 31.03.2014 - Q1 2014 reporting period, 15.04.2014 - the General Meeting of Shareholders approving yearly financial statements for 2013 (and dividend), 30.04.2014 - issuance date of Q1 2014 financial statements. The institution is a public company and has to report quarterly to the Stock Exchange. Additionally, according to the current binding regulation (Polish Banking Act) institutions in Poland are allowed to

	<p>include in own funds calculation profit under authorization and net profit from the current reporting period, calculated in accordance with current accounting principles, reduced by the expected burdens and dividends, in the amounts not higher than the amounts of profit verified by external auditors, without additional permission of the competent authority. However according to the Article 26(2) of Regulation (EU) No 575/2013 (CRR) institutions may include the year-end profits in Common Equity Tier 1 capital only with the prior permission of the competent authority.</p>
EBA answer	<p>According to Article 26(2) of Regulation (EU) No 575/2013 (CRR), "institutions may include interim or year-end profits in Common Equity Tier 1 capital before the institution has taken a formal decision confirming the final profit or loss of the institution for the year only with the prior permission of the competent authority". A prior permission from the competent authority is thus compulsory up until a final decision has been taken by the Annual General Meeting confirming the final profit or loss of the institution for the year. This permission will be granted if the conditions detailed in points (a) and (b) of Article 26 (2) of the CRR are met.</p>
Link	<p>https://www.eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2013_208</p>

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