EUROPEAN BANKING AUTHORITY

Single Rulebook Q&A

Question ID	2013_314
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	64
Paragraph	-
Subparagraph	-
COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations	Not applicable
Article/Paragraph	n.a.
Date of submission	01/10/2013
Published as Final Q&A	20/06/2014
Disclose name of institution / entity	Yes
Name of institution / submitter	Polish FSA
Country of incorporation / residence	Poland
Type of submitter	Competent authority
Subject matter	Calculation of outstanding Tier 2 capital, following pre-payment of amounts that have been amortised or phased-out
Question	This question, background information and proposed answer are posed on behalf of an institution we supervise. In accordance with Regulation (EU) No 575/2013 (CRR), subordinated debt with defined maturity is gradually deducted from Tier 2 in each of the last five years. Amortization shall occur on the basis of the number of days that have passed in the last five years (Article 64). The institution considers the possibility to repay subordinated debt in the portion corresponding to the amortized amount, assuming that this will have no impact on the basis for the calculation on the amount classified as Tier 2. Is this interpretation correct?
Background on the question	The example is presented below: Assuming that the notional of an instrument qualified as Tier 2 capital equals PLN 100 m. The first year of last five years has just passed (four years left to maturity), so the institution is

	required to amortize the nominal using the rate of 20%, i.e. PLN 20 m. After the amortization the institution prepays the portion of PLN 20 m (covering the nominal that has been amortized). According to the interpretation adopted by the institution, the amount of the instrument classified as Tier 2 capital is still 80 m (PLN 100m x 80%), and thus, the repayment PLN 20 m has no effect on it. The situation is similar in case of phased-out limits, as referred to in Article 486(5). The above question is backed by the Bank of International Settlements which issued an analogous opinion on calculation of own funds with respect to phased-out limits and prepayment (source: http://www.bis.org/publ/bcbs211.pdf (15p), Basel Committee on Banking Supervision, Basel III definition of capital – Frequently asked questions, December 2011 (update of FAQs published in October 2011). Question: Assume that on 1 January 2013 a bank has $100m of non-compliant Tier 1 securities outstanding. By 1 January 2017, the capital recognition has been reduced to 50% (10% per year starting at 90% on 1 January 2013). Now assume that $50m of the Tier 1 securities have been called between 2013 and end of 2016 - leaving $50m outstanding. Does the transitional arrangement established by paragraph 94 (g) mean the institution can fully recognize the remaining $50m of capital on 1 January 2017? Answer: Yes.
Final answer	For the purposes of calculating the amortisation of Tier 2 instruments under Article 64 of Regulation (EU) No. 575/2013 (CRR), the instrument should be regarded as a whole, as long as it cannot usually be partially redeemed. According to Article 64(2)(a) of the CRR, the basis for the calculation is the carrying ~~nominal~~ amount of the instrument ~~or subordinated loan~~. Should a portion of the nominal amount be reimbursed, the remaining amount becomes the revised carrying ~~nominal~~ amount of what should be considered as a new instrument. In any case, the reimbursement should comply with the conditions set forth in Articles 77 and 78 of the CRR. The Basel III FAQ referred to in the background on the question is related to the calculation of the applicable cap during the transition period and not to the calculation of the qualifying part of a Tier 2 instrument during the final five years of maturity.
Link	https://www.eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2013_314