

<b>Question ID</b>	2013_538
<b>Status</b>	Final Q&A
<b>Legal act</b>	Regulation (EU) No 575/2013 (CRR)
<b>Topic</b>	Credit risk
<b>Article</b>	195
<b>Paragraph</b>	-
<b>Subparagraph</b>	-
<b>COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations</b>	Not applicable
<b>Article/Paragraph</b>	Not applicable
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<b>Disclose name of institution / entity</b>	No
<b>Type of submitter</b>	Credit institution
<b>Subject matter</b>	Definition of counterparty for the purpose of applying on-balance sheet netting
<b>Question</b>	1) What is the definition of a counterparty in the context of using on-balance sheet netting (OBSN) of mutual claims between the bank and the counterparty as eligible credit risk mitigation form? 2) In other words, to be eligible for OBSN should the netting of loans and deposits always be with one legal entity or can they be across legally connected entities (for example parent-subsidiaries)?
<b>Background on the question</b>	From a risk management perspective a client can consist of a number of legal entities that are connected (for example parent-subsidiaries) and they can be treated as one counterparty with one rating. Certain cash management products are based on this principle and facilitate netting across these entities. For the purpose of calculating RWA, the question came up whether on-balance sheet netting is an eligible form of credit protection for loans and deposits in the name of several entities that are connected and where mutual liability or parent liability exists.
<b>Final answer</b>	Article 195 of Regulation (EU) No. 575/2013 (CRR) limits on-balance sheet netting to mutual claims between an institution and its counterparty. The

	<p>reference to claims makes clear that a parent undertaking and its subsidiary are different counterparties since claims contractually feature specific legal or natural persons. Consequently, a claim on a parent undertaking is not a claim on the subsidiary and vice versa.</p> <p>Accordingly, for the purposes of credit risk mitigation recognition, institutions have to identify one counterparty not in light of the institution's own internal risk management framework, but rather taking into account the contract and the relevant applicable legal framework.</p>
<b>Link</b>	<a href="https://www.eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2013_538">https://www.eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2013_538</a>

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