

Question ID	2013_544
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	63
Paragraph	-
Subparagraph	j
COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations	Not applicable
Article/Paragraph	NA
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Disclose name of institution / entity	No
Type of submitter	Investment firm
Subject matter	Tier 2 instruments
Question	<p>In question 2013_31 the EBA clarified that non-step-up legacy Tier 1 instruments could be eligible, for the amounts exceeding the grandfathering limits, as fully eligible Tier 2 instruments with no time limit and independently of the frequency of calls, if conditions set in Article 63 are met. Article 63 (j) states that such Tier 2 instruments may be called where conditions in article 77 are met. Could the EBA confirm that article 77 would apply to such legacy non step Tier 1 bonds potentially fully eligible as Tier 2 and would effectively impose a constraint on the bank, so that the bank does not need to have a contractual call provision in the non-step-up legacy Tier 1 bond that states that the call can only be exercised with the approval of the regulatory authority to get this bond approved as Tier 2 ?</p>
Background on the question	<p>Most legacy Tier 1 bonds do not mention explicitly that the call can only be exercised with regulatory approval and it is important to know if this will have an impact on the potential treatment as Tier 2 bonds.</p>
Final answer	<p>Any call options, redemptions or repurchase transactions related to Tier 2 instruments must meet the requirements of Article 63(i), (j) and (k) of Regulation (EU) No. 575/2013 (CRR). For Tier 2 instruments, Article 63(j), in</p>

	conjunction with Article 77 of the CRR, stipulates that the institution must not effect the call, redemption, repayment or repurchase prior to the date of an instrument's contractual maturity without the prior permission of the competent authority. Such instruments should therefore contain an explicit reference to these regulatory conditions in their terms.
Link	https://www.eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2013_544

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