

Question ID	2014_1220
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	63
Paragraph	g
Subparagraph	-
COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations	Not applicable
Article/Paragraph	Not applicable
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Disclose name of institution / entity	Yes
Name of institution / submitter	Malta Financial Services Authority
Country of incorporation / residence	Malta
Type of submitter	Competent authority
Subject matter	Own Funds - Subordinated loans as Tier 2 instruments
Question	<p>Our interpretation of Article 63 (g) of the Capital Requirements Regulation (Regulation 575/2013 is that subordinated loans which are perpetual (i.e. do not have a maturity date) would also qualify as Tier 2 instruments under article 63 (g) of the CRR, given that the original maturity would exceed five years (i.e. it would be for an indefinite period). Do you agree with our interpretation? Or is it only subordinated loans with a fixed redemption date (and whose original maturity is of at least five years) which should be recognised as Tier 2 instruments?</p>
Background on the question	<p>We refer to Article 63 (g) of the Capital Requirements Regulation (Regulation 575/2013 of the European Parliament and of the Council of 26 June 2013 - the CRR) and would be grateful to have your assistance. Article 63 (g) states: "Capital instruments and subordinated loans shall qualify as Tier 2 instruments provided that the following conditions are met: (g) the</p>

	<p>instruments or subordinated loans, as applicable, have an original maturity of at least five years;" Our interpretation of the above provision is that subordinated loans which are perpetual (i.e. do not have a maturity date) would also qualify as Tier 2 instruments under article 63 (g) of the CRR, given that the original maturity would exceed five years (i.e. it would be for an indefinite period). Do you agree with our interpretation? Or is it only subordinated loans with a fixed redemption date (and whose original maturity is of at least five years) which should be recognised as Tier 2 instruments?</p>
Final answer	<p>Article 63(g) of Regulation (EU) No. 575/2013 requires that Tier 2 instruments "<i>have an original maturity of at least five years</i>". However, economically speaking, a true perpetual instrument is an instrument with an infinite original maturity. Subordinated loans that are perpetual would exceed and therefore fulfil the criteria to be Tier 2 instruments as their original maturity would exceed 5 years. There is no requirement that Tier 2 instruments must have a fixed redemption date.</p>
Link	<p>https://www.eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2014_1220</p>

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