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| Question ID | 2019_4734 |
| 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 | NA |
| Date of submission | 20/05/2019 |
| Published as Final Q&A | 11/02/2022 |
| Disclose name of institution / entity | No |
| Type of submitter | Competent authority |
| Subject matter | Interim profits attributable to minority shareholders |
| Question | Is the prior permission of the competent authority needed at individual level of a subsidiary to include in the consolidated CET1 items the interim profits of that subsidiary attributable to minority shareholders? |
| Background on the question | An institution intends to include in its consolidated CET1 capital minority interests pursuant to Articles 81 and 84 CRR, including a portion of interim profits of its subsidiary attributable to minority shareholders. The issue is whether in order to do so a prior permission at consolidated level is enough or whether a prior permission at the level of the subsidiary is also needed taking into account the following two Q&As. EBA Q&A 2018_3823: "1. The permission to include interim profits within CET1 capital under the conditions as set out in Article 26(2) of Regulation (EU) No 575/2013 (CRR) may be granted by competent authorities at several levels of consolidation within a group, and the respective decisions made by competent authorities are not linked. The permission may be granted by the consolidating supervisor in the absence of permission granted at the individual level, especially in the case where an institution is supervised only at the consolidated level due to a derogation following Article 7 CRR. 2. When determining the dividend pay-out ratio according to Article 2(7) of |

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| | <p>Regulation (EU) 241/2014 at consolidated level, foreseeable dividends at the individual level should be taken into account, as dividends are determined and paid on the individual basis.”EBA Q&A 2017_3111: “Article 84 CRR provides the calculation methodology for minority interests in a subsidiary referred to in Article 81 CRR that can be included in the consolidated Common Equity Tier 1 capital. For the purpose of this calculation, Article 84(1)(a) CRR refers to the ‘Common Equity Tier 1 capital of the subsidiary’ but not to the Common Equity Tier 1 capital of the subsidiary that is included at the consolidated level after the consolidation adjustments. Therefore, the sum of Common Equity Tier 1 instruments with their associated share premium account, retained earnings and other reserves of a subsidiary referred in Article 81(1) CRR should refer to the amount before consolidation.”</p> |
| Final answer | <p>Pursuant to Article 81(1) of Regulation (EU) No 575/2013 as amended by Regulation (EU) 2019/876, minority interests, that qualify for inclusion in consolidated Common Equity Tier 1 (CET1) capital, shall comprise the sum of CET1 items of a subsidiary subject to certain conditions. In accordance with EBA Q&A 2017_3111, the sum of CET1 items of a subsidiary referred in Article 81(1) CRR should refer to the amount before consolidation.</p> <p>In accordance with Article 26(1) CRR, an institution’s CET1 items consist, among others, of retained earnings, in which interim or year-end profits may be included before the institution has taken a formal decision confirming the final profit and loss for the year only with the competent authority’s prior permission subject the conditions of Article 26(2) CRR.</p> <p>Such a permission may be granted by competent authorities at several levels of consolidation within a group, as further stated in EBA Q&A 2018_3823. In the absence of a decision on prior permission from the competent authority at the individual or sub-consolidated level of the subsidiary, the consolidating supervisor may grant such a permission, as further described in EBA Q&A 2018_3823.</p> |
| Link | <p>https://www.eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2019_4734</p> |