



**Single
Rulebook
Q&A**

Question ID	2017_3543
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Own funds
Article	36
Paragraph	1(f)(h)(i)
Subparagraph	-
COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations	Regulation (EU) No 241/2014 - RTS for Own Funds requirements for institutions
Article/Paragraph	15e (7)
Date of submission	05/10/2017
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Disclose name of institution / entity	Yes
Name of institution / submitter	BaFin
Country of incorporation / residence	Germany
Type of submitter	Competent authority
Subject matter	Deduction requirements in accordance with Article 36(1) (f), (h) and (i) CRR: Netting of long and short positions in intermediate entities in the context of Article 15e (7) of Delegated Regulation (EU) No 241/2014 (“RTS Own Funds”)
Question	

Can an institution, in applying Article 15e (7) of Delegated Regulation (EU) No 241/2014 for the purpose of fulfilling the deduction requirements in accordance with Article 36(1) (f), (h) and (i) CRR - provided that all the conditions of Article 42 CRR are met - net long positions in an intermediate entity (such as an ETF) with corresponding short positions?

Background on the question

The institution, which is a CRR investment firm, holds a long equity position in an exchange traded fund (a CIU according to Article 4 (1)(7) CRR). In addition it holds a short position in the ETF exactly mirroring its long equity position. Both positions are held within the trading book. The institution can neither look through to the underlying exposures of the ETF to identify any potential "indirect holdings" of own CET1 instruments/of CET1 instruments of FSEs for the purpose of applying the deduction rules according to Article 36(1) (f), (h) and (i) CRR, nor can it, in accordance with Article 15e (6) of Delegated Regulation (EU) No 241/2014 (RTS Own Funds Part 3) instead estimate the necessary deduction items by using the maximum amounts as reflected in the fund's investment mandate. According to Article 15e (7) of Delegated Regulation (EU) No 241/2014 in such a case the institution has to treat the amount of funding that it holds in the intermediate entity [i.e. the ETF] as an investment in its own CET1 instruments and correspondingly has to deduct it from its CET1 capital in line with Article 36(1) (f) CRR.

EBA answer	Where the nature of indirect holdings (potentially own CET1 instruments or CET1 instruments of FSEs) is unknown and institutions therefore apply Article 15e(7) of Delegated Regulation (EU) 2015/923 amending Regulation No 241/2014 in the context of the deduction requirements of Article 36(1) (f), (h) and (i) CRR, i.e. shall treat positions in intermediate entities [here: in the ETF] “as an investment in its own Common Equity Tier 1 instruments and shall deduct them in accordance with point (f) of Article 36(1) of Regulation (EU) No 575/2013”, for this deduction purpose a netting of long positions in the intermediate entity with corresponding short positions shall be permissible, if the conditions of Article 42 CRR are met.
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