

Chapter

Article 7 Type of undertaking recognised under applicable national law as a similar institution for the purposes of Article 27(1)(a)(iv) of Regulation (EU) No 575/2013

(1) Competent authorities may determine that a type of undertaking recognised under the applicable law of the United Kingdom (or any part of it) qualifies as a similar institution to cooperatives, mutuals and savings institutions for the purpose of Part Two of Regulation (EU) No 575/2013, where all of the conditions in paragraphs 2, 3 and 4 are met.

(3) With respect to Common Equity Tier 1 capital, to qualify as a similar institution to cooperatives, mutuals and savings institutions for the purposes of paragraph 1, the institution shall be only able to issue, under the applicable law of the United Kingdom (or any part of it) or its statutes, at the level of the legal entity, capital instruments referred to in Article 29 of Regulation (EU) No 575/2013.

(4) To qualify as a similar institution to cooperatives, mutuals and savings institutions for the purposes of paragraph 1, one or more of the following conditions shall also be met:

where the holders, which may be members or non-members of the institution, of the Common Equity Tier 1 instruments referred to in paragraph 3 have the ability to resign under the applicable law of the United Kingdom (or any part of it), they may also have the right to put the capital instrument back to the institution, but only subject to the restrictions of that law, its statutes and of Regulation (EU) No 575/2013 and this Regulation. That does not prevent the institution from issuing, under the applicable law of the United Kingdom (or any part of it) or of a third country, Common Equity Tier 1 instruments complying with Article 29 of Regulation (EU) No 575/2013 to members and non-members that do not grant a right to put the capital instrument back to the institution;

the sum of capital, reserves and interim or year-end profits, is not allowed, under the applicable law of the United Kingdom (or any part of it), to be distributed to holders of Common Equity Tier 1 instruments. That condition is deemed to be fulfilled even where the institution issues Common Equity Tier 1 instruments that grant the holders, on a going concern basis, a right to a part of the profits and reserves, where allowed by such law, provided that that part is proportionate to their contribution to the capital and reserves or, where permitted by law, in accordance with an alternative arrangement. The institution may issue Common Equity Tier 1 instruments that grant the holders, in the case of insolvency or liquidation of the institution, the right to reserves which do not need to be proportionate to the contribution to capital and reserves provided that the conditions of Article 29(4) and (5) of Regulation (EU) No 575/2013 are met;

the total amount or a partial amount of the sum of capital and reserves is owned by members of the institution who do not, in the ordinary course of business, benefit from direct distribution of the reserves, in particular through the payment of dividends.