Chapter

Article 15a Indirect holdings for the purposes of Article 36(1)(f),(h) and (i) of Regulation (EU) No 575/2013

(1) For the purposes of Articles 15c, 15d, 15e and 15i of this Regulation, "intermediate entity" as referred to in Article 4(1)(114) of Regulation (EU) No 575/2013 comprises any of the following entities that hold capital instruments of financial sector entities:

(a) a collective investment undertaking;

(b) a pension fund other than a defined benefit pension fund;

(c) a defined benefit pension fund, where the institution is supporting the investment risk and where the defined benefit pension fund is not independent from its sponsoring institution;

(d) entities that are directly or indirectly under the control or under significant influence of one of the following:

(1) the institution or its subsidiaries;

(2) the parent undertaking of the institution or the subsidiaries of that parent undertaking;

(3) the parent financial holding company of the institution or the subsidiaries of that parent financial holding company;

(4) the parent mixed activity holding company of the institution or the subsidiaries of the parent mixed activity holding company;

(5) the parent mixed financial holding company of the institution or the subsidiaries of the parent mixed financial holding company;

(e) entities that are jointly, directly or indirectly, under the control or under significant influence of one institution, several institutions, or a network of institutions, which are members of the same institutional protection scheme, or of the institutional protection

scheme or the network of institutions affiliated to a central body that are not organised as a group to which the institution belongs;

(f) special purpose entities;

(g) entities whose activity is to hold financial instruments of financial sector entities;

(h) any entity that the competent authority considers to be used with the intention of circumventing the rules relating to the deduction of indirect and synthetic holdings.

(2) Without prejudice to point (h) of paragraph 1, an "intermediate entity" as referred to in Article 4(1)(114) of Regulation (EU) No 575/2013 does not comprise:

(a) mixed activity holding companies, institutions, insurance undertakings, reinsurance undertakings;

(b) entities that are, by virtue of applicable law of the United Kingdom (or a part of it), subject to the requirements of Regulation (EU) No 575/2013 and Directive 2013/36/EU UK law;

(c) financial sector entities other than the ones mentioned in point (a), which are supervised and required to deduct direct and indirect holdings of their own capital instruments and holdings of capital instruments of financial sector entities from their regulatory capital.

(3) For the purposes of point (c) of paragraph 1, a defined benefit pension fund shall be deemed to be independent from its sponsoring institution where all of the following conditions are met:

(a) the defined benefit pension fund is legally separate from the sponsoring institution and its governance is independent;

(b) the statutes, the instruments of incorporation and the internal rules of the specific pension fund, as applicable, have been approved by an independent regulator; or the rules governing the incorporation and functioning of the defined benefit pension fund, as applicable, are established in the applicable law of the relevant country;

(c) the trustees or administrators of the defined pension fund have an obligation under applicable national law to act impartially in the best interests of the scheme beneficiaries instead of those of the sponsor, to manage assets of the defined pension fund prudently and to conform to the restrictions set out in the statutes, the instruments of incorporation and the internal rules of the specific pension fund, as applicable, or statutory or regulatory framework described in point (b);

(d) the statutes or the instruments of incorporation or the rules governing the incorporation and functioning of the defined benefit pension fund referred to in point (b)

include restrictions on investments that the defined pension scheme can make in own funds instruments issued by the sponsoring institution.

(4) Where a defined benefit pension fund referred to in point (c) of paragraph 1 holds own funds instruments of the sponsoring institution, the sponsoring institution shall treat that holding as an indirect holding of own Common Equity Tier 1 instruments, own Additional Tier 1 instruments or own Tier 2 instruments, as applicable. The amount to be deducted from the Common Equity Tier 1 items, Additional Tier 1 items or Tier 2 items, as applicable, of the sponsoring institution, shall be calculated in accordance with Article 15c.