

Chapter

Article 17 Other deductions for capital instruments of financial institutions for the purposes of Article 36(3) of Regulation (EU) No 575/2013

(1) Holdings of capital instruments of financial institutions as defined in Article 4(26) of Regulation (EU) No 575/2013 shall be deducted according to the following calculations:

(a) all instruments qualifying as capital under the company law applicable to the financial institution that issued them and, where the financial institution is subject to solvency requirements, which are included in the highest quality Tier of regulatory own funds without any limits shall be deducted from Common Equity Tier 1 items;

(b) all instruments which qualify as capital under the company law applicable to the issuer and, where the financial institution is not subject to solvency requirements, which are perpetual, absorb the first and proportionately greatest share of losses as they occur, rank below all other claims in the event of insolvency and liquidation and have no preferential or predetermined distributions shall be deducted from Common Equity Tier 1 items;

(c) any subordinated instruments absorbing losses on a going-concern basis, including the discretion to cancel coupon payments, shall be deducted from Additional Tier 1 items. Where the amount of these subordinated instruments exceeds the amount of Additional Tier 1 capital, the excess amount shall be deducted from Common Equity Tier 1 capital;

(d) any other subordinated instruments shall be deducted from Tier 2 items. If the amount of these subordinated instruments exceeds the amount of Tier 2 capital, the excess amount shall be deducted from Additional Tier 1 items. Where the amount of Additional Tier 1 capital is insufficient, the remaining excess amount shall be deducted from Common Equity Tier 1 items;

(e) any other instruments included in the financial institution's own funds pursuant to the relevant applicable prudential framework or any other instruments for which the institution is not able to demonstrate that the conditions in points (a), (b), (c) or (d) apply shall be deducted from Common Equity Tier 1 items.

(2) In the cases foreseen in paragraph 3, institutions shall apply the deductions as foreseen by Regulation (EU) No 575/2013 for holdings of capital instruments based on a corresponding deduction approach. For the purposes of this paragraph, corresponding deduc-

tion approach shall mean an approach that applies the deduction to the same component of capital for which the capital would qualify if it was issued by the institution itself.

(3) The deductions referred to in paragraph 1 shall not apply in the following cases:

(a) where the financial institution is authorised and supervised by a competent authority and subject to prudential requirements equivalent to those applied to institutions under Regulation (EU) No 575/2013. This approach shall be applied to third country financial institutions only where an equivalence assessment of the prudential regime of the third country concerned has been performed under that regulation and where it has been concluded that the prudential regime of the third country concerned is at least equivalent to that applied in the United Kingdom;

(b) where the financial institution is an authorised electronic money institution as defined in regulation 2(1) of the Electronic Money Regulations 2011

(c) where the financial institution is an authorised payment institution as defined in regulation 2(1) of the Payment Services Regulations 2017;

(d) where the financial institution is a UK AIFM as defined in regulation 2(1) of the Alternative Investment Fund Managers Regulations 2013 or a management company as defined in section 237(2) of the Financial Services and Markets Act 2000.