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Legal act

Regulation (EU) No 575/2013 (CRR)

Topic

Own funds

Article

495 a

Paragraph

3

COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations

Not applicable

Article/Paragraph

Not applicable

Type of submitter

Credit institution

Subject matter

Consolidated application and intragroup transferability of the permanent exemption from deduction of equity holdings in an insurance company from CET1

Question

For the purpose of defining the perimeter of application of the permanent exemption under Article 495*a* (3) CRR – whereby an institution, subject to the conditions specified therein, is permitted not to deduct from its own funds a shareholding held in an insurance undertaking – can such exemption, when applied by an institution on a standalone basis:

1. extend also at consolidated level to the group of which such institution is a member?
2. transfer, within the same group, to an institution to which the shareholding in the relevant insurance undertaking is assigned?

Background on the question

Assume Institution “A” currently applies the exemption provided under Article 495*a* (3) of Regulation (EU) 575/2013 (“CRR”) (allowing, under the requirements set out therein, the permanent grandfathering of the exemption granted under Article 471 CRR in the version of such Article applicable on 27 October 2021), whereby it does not deduct from its own funds a qualifying shareholding held in Insurance Undertaking “C” for an amount not exceeding the amount held in CET1 instruments issued by that Insurance Undertaking as of December 31, 2012. Assume also that Institution “B” has acquired control of Institution “A” after the entry into force of Regulation (EU) 2024/1623 (“CRR3”), which has amended CRR. As a result, Institution “A” has become a subsidiary of Institution “B” and is included in the prudential consolidation perimeter of the group of which Institution “B” is the parent undertaking.

In light of the foregoing, in the absence of a provision directly addressing the matter, Question 1 arises on whether the Article 495*a* (3) CRR exemption applying to Institution “A” on a standalone basis also extends, at consolidated level, to Institution “B” as the parent institution of the group of which Institution “A” is a member.

Moreover, assume that, upon completion of a group reorganization (resulting in the dissolution of Institution “A”), the core assets and liabilities of Institution “A” – including the qualifying shareholding in Insurance Undertaking “C” – are assigned to Institution “D”, an institution fully owned by Institution “B” and belonging to the same group.

In the absence of a provision directly addressing the matter, Question 2 arises on whether the Article 495*a* (3) CRR exemption applying to Institution “A” on a standalone basis may transfer to Institution “D”, which acquires the qualifying shareholding in Insurance Undertaking “C” (formerly held by Institution “A”) as a result of the group reorganisation.

Submission date

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Final publishing date

06/11/2026

Final answer

Answer to Question 1:

Pursuant to Article 6 CRR, institutions are required to comply, on an individual basis, with, inter alia, the requirements laid down in Parts Two to Four CRR. Pursuant to Article 11 CRR, those requirements also apply, on the basis of the consolidated situation and in accordance with the scope of prudential consolidation specified in Article 18 CRR, to parent institutions, parent financial holding companies and parent mixed financial holding companies established in a Member State.

The CRR therefore provides for distinct levels of application of prudential requirements and identifies the entities responsible for compliance at each level. As a general principle, compliance with the applicable requirements is to be assessed separately at each level: by each institution on an individual basis and by the relevant parent entity on the basis of its consolidated situation.

Article 495a(3) CRR, introduced by CRR3, provides for a grandfathering treatment, by way of derogation from Article 133 CRR, for certain equity exposures. This includes the portion of an

equity exposure to an insurance undertaking, reinsurance undertaking or insurance holding company which was not deducted from own funds pursuant to Article 471 CRR, in the version applicable on 27 October 2021.

The treatment under Article 495a(3) CRR may be applied both by institutions subject to CRR requirements on an individual basis and by the relevant parent institutions, including parent financial holding companies and parent mixed financial holding companies, which are subject to those requirements on the basis of their consolidated situation.

In line with the distinct levels of application established by the CRR, the conditions set out in Article 495a(3) CRR are to be assessed separately at each relevant level of application. They must therefore be assessed by the institution for the purposes of its individual situation and, separately, by the relevant parent entity for the purposes of its consolidated situation.

Accordingly, the application of Article 495a(3) CRR by an institution on an individual basis does not, in itself, determine or extend to the treatment applicable to the consolidated situation of the group of which that institution is a member. The relevant parent entity may apply that treatment on the basis of its consolidated situation only where the conditions laid down in Article 495a(3) CRR have been independently assessed and are met by the parent entity subject to prudential requirements on the basis of its consolidated situation.

In the circumstances described, Institution B, therefore, cannot apply the treatment under Article 495a(3) CRR to the exposure to Insurance Undertaking C on the basis of its consolidated situation. While Institution A may continue to apply the grandfathering treatment to its exposure on an individual basis, provided that all the conditions in Article 495a(3) CRR remain fulfilled, that treatment does not automatically carry over to Institution B following the acquisition of control over Institution A. In particular, Institution B is required to assess the conditions of Article 495a(3) CRR separately in respect of its consolidated situation. As Institution B acquired control of Institution A only after the entry into force of CRR3, it cannot meet the conditions relating to the relevant historical holding in the CET1 instruments issued by Insurance Undertaking C, as assessed at the consolidated level. Institution B was not a shareholder on 27 October 2021 for six consecutive years of Insurance C, neither on an individual level nor on the basis of its consolidated situation at that time. The exposure included in Institution B’s consolidated situation therefore cannot benefit from the grandfathering treatment under Article 495a(3) CRR.

Answer to Question 2:

For reasons analogous to those set out in the response to Question 1, the treatment under Article 495a(3) CRR cannot be considered to be automatically transferable or extendible to another institution within the same group solely because the relevant shareholding is transferred or assigned to that institution.

Following the transfer, the conditions laid down in Article 495a(3) CRR are in fact to be assessed separately for the institution to which the shareholding is transferred or assigned, on the basis of its individual situation. Therefore, the fact that the transferor or assignor institution was eligible to apply the grandfathering treatment does not, in itself, establish that the final transferee or assignee institution is also eligible to apply that treatment.

Where the transfer occurs in the context of a merger, dissolution or other restructuring, the assessment is to be made in respect of the entity that succeeds to, or is assigned, the assets and liabilities of the institution that is dissolved. That successor or assignee may apply the treatment

under Article 495a(3) CRR only where the conditions laid down in that provision have been independently assessed and are fulfilled in respect of that entity.

In the circumstances described by the submitter, Institution D cannot apply the treatment under Article 495a(3) CRR in respect of the shareholding in Insurance Undertaking C merely because it has acquired that shareholding in the context of the group reorganisation.

Institution D is a distinct institution and must assess the conditions laid down in Article 495a(3) CRR separately on the basis of its individual situation. The fact that Institution A, before its dissolution, was entitled to apply the grandfathering treatment does not, in itself, establish that those conditions are met by Institution D. In particular, as Institution D became the holder of the relevant shareholding only as a consequence of the reorganisation, it cannot meet the historical conditions applicable to the relevant equity exposure in its own right, as it was not a shareholder on 27 October 2021 for six consecutive years of the Insurance C.

Accordingly, the Article 495a(3) CRR treatment applicable to Institution A does not transfer to Institution D upon the transfer or assignment of the shareholding.

Status

Final Q&A

Answer prepared by

Answer prepared by the EBA.
