

Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (Text with EEA relevance)

[^{X1}PART TWO

[^{F1}OWN FUNDS AND ELIGIBLE LIABILITIES]

[^{X1}TITLE II

**MINORITY INTEREST AND ADDITIONAL TIER 1 AND
TIER 2 INSTRUMENTS ISSUED BY SUBSIDIARIES**

Article 81

**Minority interests that qualify for inclusion in
consolidated Common Equity Tier 1 capital**

- [^{F1} Minority interests shall comprise the sum of Common Equity Tier 1 items of a subsidiary where the following conditions are met:
- a the subsidiary is one of the following:
 - i an institution;
 - [^{F2}ii an undertaking which is subject, by virtue of the applicable national law of the United Kingdom, or any part of it, or of a third country, to the requirements of this Regulation and Directive 2013/36/EU UK law;]
 - [^{F3}iiia an intermediate financial holding company or intermediate mixed financial holding company that is subject to the requirements of this Regulation on a sub-consolidated basis;
 - iiib an intermediate investment holding company that is subject to the requirements of Part 9C rules on a consolidated basis;
 - iiic an FCA investment firm;]
 - iiid an intermediate financial holding company in a third country that is subject to prudential requirements [^{F4}which are] as stringent as those applied to credit institutions of that third country and [^{F5}which] the [^{F6}Treasury have][^{F7}determined] in accordance with Article 107(4) ^{F8}... are at least equivalent to those of this Regulation;
 - b the subsidiary is included fully in the consolidation pursuant to Chapter 2 of Title II of Part One;
 - c the Common Equity Tier 1 items, referred to in the introductory part of this paragraph, are owned by persons other than the undertakings included in the consolidation pursuant to Chapter 2 of Title II of Part One.]
- 2 Minority interests that are funded directly or indirectly, through a special purpose entity or otherwise, by the parent undertaking of the institution, or its subsidiaries shall not qualify as consolidated Common Equity Tier 1 capital.

Changes to legislation: Regulation (EU) No 575/2013 of the European Parliament and of the Council, TITLE II is up to date with all changes known to be in force on or before 11 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Textual Amendments

- F1** Substituted by Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Text with EEA relevance).
- F2** Art. 81(1)(a)(ii) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **96** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F3** Art. 81(1)(a)(iia)-(iic) inserted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 11(2)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)
- F4** Words in Art. 81(1)(a)(iii) inserted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 11(3)(a)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)
- F5** Word in Art. 81(1)(a)(iii) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 11(3)(b)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)
- F6** Words in Art. 81(1)(a)(iii) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **30(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F7** Word in Art. 81(1)(a)(iii) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **30(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F8** Words in Art. 81(1)(a)(iii) omitted (1.1.2022) by virtue of Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 11(3)(c)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

[^{F1} Article 82

Qualifying Additional Tier 1, Tier 1, Tier 2 capital and qualifying own funds

Qualifying Additional Tier 1, Tier 1, Tier 2 capital and qualifying own funds shall comprise the minority interest, Additional Tier 1 or Tier 2 instruments, as applicable, plus the related retained earnings and share premium accounts, of a subsidiary where the following conditions are met:

- (a) the subsidiary is either of the following:
- (i) an institution;
 - (ii) [^{F9}an undertaking which is subject, by virtue of the applicable national law of the United Kingdom, or any part of it, or of a third country, to the requirements of this Regulation and Directive 2013/36/EU UK law;]
 - (iia) [^{F10}an intermediate financial holding company or intermediate mixed financial holding company that is subject to the requirements of this Regulation on a sub-consolidated basis;
 - (iib) an intermediate investment holding company that is subject to the requirements of Part 9C rules on a consolidated basis;
 - (iic) an FCA investment firm;]

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- (iii) an intermediate financial holding company in a third country that is subject to prudential requirements [^{F11}which are] as stringent as those applied to credit institutions of that third country and [^{F12}which] the [^{F13}Treasury have][^{F14}determined] in accordance with Article 107(4) ^{F15}... are at least equivalent to those of this Regulation;
- (b) the subsidiary is included fully in the scope of consolidation pursuant to Chapter 2 of Title II of Part One;
- (c) those instruments are owned by persons other than the undertakings included in the consolidation pursuant to Chapter 2 of Title II of Part One.]

Textual Amendments

- F9** Art. 82(a)(ii) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **97** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F10** Art. 82(a)(iia)-(iic) inserted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 12(2)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)
- F11** Words in Art. 82(a)(iii) inserted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 12(3)(a)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)
- F12** Word in Art. 82(a)(iii) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 12(3)(b)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)
- F13** Words in Art. 82(a)(iii) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **31(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F14** Word in Art. 82(a)(iii) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **31(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F15** Words in Art. 82(a)(iii) omitted (1.1.2022) by virtue of Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 12(3)(c)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

Article 83

Qualifying Additional Tier 1 and Tier 2 capital issued by a special purpose entity

[^{F1} Additional Tier 1 and Tier 2 instruments issued by a special purpose entity, and the related share premium accounts, are included until 31 December 2021 in qualifying Additional Tier 1, Tier 1 or Tier 2 capital or qualifying own funds, as applicable, only where the following conditions are met:]

- a the special purpose entity issuing those instruments is included fully in the consolidation pursuant to Chapter 2 of Title II of Part One;
- b the instruments, and the related share premium accounts, are included in qualifying Additional Tier 1 capital only where the conditions laid down in Article 52(1) are satisfied;
- c the instruments, and the related share premium accounts, are included in qualifying Tier 2 capital only where the conditions laid down in Article 63 are satisfied;
- d the only asset of the special purpose entity is its investment in the own funds of the parent undertaking or a subsidiary thereof that is included fully in the consolidation

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pursuant to Chapter 2 of Title II of Part One, the form of which satisfies the relevant conditions laid down in Articles 52(1) or 63, as applicable.

Where the competent authority considers the assets of a special purpose entity other than its investment in the own funds of the parent undertaking or a subsidiary thereof that is included in the scope of consolidation pursuant to Chapter 2 of Title II of Part One, to be minimal and insignificant for such an entity, the competent authority may waive the condition specified in point (d) of the first subparagraph.

2 ^{F16}The ^{F17}PRA may] make technical standards] to specify the types of assets that can relate to the operation of special purpose entities and the concepts of minimal and insignificant referred to in the second subparagraph of paragraph 1.

F18
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Textual Amendments

- F16** Words in Art. 83(2) substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **222(1)(a)(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F17** Words in Art. 83(2) substituted (1.1.2022) by [Financial Services Act 2021 \(c. 22\)](#), s. 49(5), **Sch. 1 para. 47**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)
- F18** Words in Art. 83(2) omitted (31.12.2020) by virtue of [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **222(1)(b)** (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

Article 84

Minority interests included in consolidated Common Equity Tier 1 capital

1 Institutions shall determine the amount of minority interests of a subsidiary that is included in consolidated Common Equity Tier 1 capital by subtracting from the minority interests of that undertaking the result of multiplying the amount referred to in point (a) by the percentage referred to in point (b):

- a the Common Equity Tier 1 capital of the subsidiary minus the lower of the following:
- (i) ^{F19}the amount of Common Equity Tier 1 capital of that subsidiary required to meet the following:
- A the sum of the requirement laid down in point (a) of Article 92(1), the requirements referred to in Articles 458, 459 and 500, the specific own funds requirements referred to in regulation 34 of the Capital Requirements Regulations 2013, the combined buffer requirement defined in regulation 2 of the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014, and any additional local supervisory regulations in third countries insofar as those requirements are to be met by Common Equity Tier 1 capital, or
- B where the subsidiary is an FCA investment firm, the sum of the own funds requirements set out in Part 9C rules which apply to the subsidiary and any requirements set out in additional

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local supervisory regulations in third countries insofar as those requirements are to be met by Common Equity Tier 1 capital;]

(ii) the amount of consolidated Common Equity Tier 1 capital that relates to that subsidiary that is required on a consolidated basis to meet the sum of the requirement laid down in point (a) of Article 92(1), the requirements referred to in Articles 458 and 459, the specific own funds requirements referred to in [F20]regulation 34 of the Capital Requirements Regulations 2013], the combined buffer requirement defined in [F21]regulation 2 of the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014], the requirements referred to in Article 500 and any additional local supervisory regulations in third countries insofar as those requirements are to be met by Common Equity Tier 1 capital.

b the minority interests of the subsidiary expressed as a percentage of all Common Equity Tier 1 instruments of that undertaking plus the related share premium accounts, retained earnings and other reserves.

2 The calculation referred to in paragraph 1 shall be undertaken on a sub-consolidated basis for each subsidiary referred to in Article 81(1).

An institution may choose not to undertake this calculation for a subsidiary referred to in Article 81(1). Where an institution takes such a decision, the minority interest of that subsidiary may not be included in consolidated Common Equity Tier 1 capital.

3 Where [F22]the PRA] derogates from the application of prudential requirements on an individual basis, as laid down in Article 7, minority [F23]interests] within the subsidiaries to which the waiver is applied shall not be recognised in own funds at the sub-consolidated or at the consolidated level, as applicable.

3A. [F24]Where Part 9C rules provide that, in relation to any subsidiaries which are FCA investment firms, the calculation referred to in paragraph 1 is to be undertaken on a consolidated basis so as to include those subsidiaries, minority interests within those subsidiaries shall not be recognised in own funds at the sub-consolidated or consolidated level, as applicable.]

4 [F25]The [F26]PRA may] make technical standards] to specify the sub-consolidation calculation required in accordance with paragraph 2 of this Article, Articles 85 and 87.

F27
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5 Competent authorities may grant a waiver from the application of this Article to a parent financial holding company that satisfies all the following conditions:

- a its principal activity is to acquire holdings;
- b it is subject to prudential supervision on a consolidated basis;
- c it consolidates a subsidiary institution in which it has only a minority holding [F28]and which is a subsidiary because of section 1162 of the Companies Act 2006];
- d more than 90 % of the consolidated required Common Equity Tier 1 capital arises from the subsidiary institution referred to in point c) calculated on a sub-consolidated basis.

Where, after 28 June 2013 , a parent financial holding company that meets the conditions laid down in the first subparagraph becomes a parent mixed financial holding company, competent authorities may grant the waiver referred to in the first subparagraph to that parent mixed financial holding company provided that it meets the conditions laid down in that subparagraph.

F29 6

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Textual Amendments

- F19** Art. 84(1)(a)(i) substituted (1.1.2022) by [Financial Services Act 2021 \(c. 22\)](#), s. 49(5), **Sch. 1 para. 13(2)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)
- F20** Words in Art. 84(1)(a)(ii) substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **98(2)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F21** Words in Art. 84(1)(a)(ii) substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **98(2)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F22** Words in Art. 84(3) substituted (1.1.2022) by [Financial Services Act 2021 \(c. 22\)](#), s. 49(5), **Sch. 1 para. 13(3)(a)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)
- F23** Word in Art. 84(3) substituted (1.1.2022) by [Financial Services Act 2021 \(c. 22\)](#), s. 49(5), **Sch. 1 para. 13(3)(b)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)
- F24** Art. 84(3A) inserted (1.1.2022) by [Financial Services Act 2021 \(c. 22\)](#), s. 49(5), **Sch. 1 para. 13(4)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)
- F25** Words in Art. 84(4) substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **222(1)(a)(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F26** Words in Art. 84(4) substituted (1.1.2022) by [Financial Services Act 2021 \(c. 22\)](#), s. 49(5), **Sch. 1 para. 47**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)
- F27** Words in Art. 84(4) omitted (31.12.2020) by virtue of [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **222(1)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F28** Words in Art. 84(5)(c) substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **98(3)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F29** Art. 84(6) omitted (31.12.2020) by virtue of [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **98(4)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 85

Qualifying Tier 1 instruments included in consolidated Tier 1 capital

1 Institutions shall determine the amount of qualifying Tier 1 capital of a subsidiary that is included in consolidated own funds by subtracting from the qualifying Tier 1 capital of that undertaking the result of multiplying the amount referred to in point (a) by the percentage referred to in point (b):

- a the Tier 1 capital of the subsidiary minus the lower of the following:
- (i) ^{F30}the amount of Tier 1 capital of the subsidiary required to meet the following:
- A the sum of the requirement laid down in point (b) of Article 92(1), the requirements referred to in Articles 458, 459 and 500, the specific own funds requirements referred to in regulation 34 of the Capital Requirements Regulations 2013, the combined buffer requirement defined in regulation 2 of the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014,

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and any additional local supervisory regulations in third countries insofar as those requirements are to be met by Tier 1 Capital, or

B where the subsidiary is an FCA investment firm, the sum of the own funds requirements set out in Part 9C rules which apply to the subsidiary and any requirements set out in additional local supervisory regulations in third countries insofar as those requirements are to be met by Tier 1 capital;]

(ii) the amount of consolidated Tier 1 capital that relates to the subsidiary that is required on a consolidated basis to meet the sum of the requirement laid down in point (b) of Article 92(1), the requirements referred to in Articles 458 and 459, the specific own funds requirements referred to in [^{F31}regulation 34 of the Capital Requirements Regulations 2013], the combined buffer requirement defined in [^{F32}regulation 2 of the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014], the requirements referred to in Article 500 and any additional local supervisory regulations in third countries insofar as those requirements are to be met by Tier 1 Capital;

b the qualifying Tier 1 capital of the subsidiary expressed as a percentage of all Tier 1 instruments of that undertaking plus the related share premium accounts, retained earnings and other reserves.

2 The calculation referred to in paragraph 1 shall be undertaken on a sub-consolidated basis for each subsidiary referred to in Article 81(1).

An institution may choose not to undertake this calculation for a subsidiary referred to in Article 81(1). Where an institution takes such a decision, the qualifying Tier 1 capital of that subsidiary may not be included in consolidated Tier 1 capital.

3 Where [^{F33}the PRA] derogates from the application of prudential requirements on an individual basis, as laid down in Article 7, Tier 1 instruments within the subsidiaries to which the waiver is applied shall not be recognised as own funds at the sub-consolidated or at the consolidated level, as applicable.

3A. [^{F34}Where Part 9C rules provide that, in relation to any subsidiaries which are FCA investment firms, the calculation referred to in paragraph 1 is to be undertaken on a consolidated basis so as to include those subsidiaries, Tier 1 instruments within those subsidiaries shall not be recognised in own funds at the sub-consolidated or consolidated level, as applicable.]

Textual Amendments

- F30** Art. 85(1)(a)(i) substituted (1.1.2022) by [Financial Services Act 2021 \(c. 22\)](#), s. 49(5), **Sch. 1 para. 14(2)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)
- F31** Words in Art. 85(1)(a)(ii) substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **99(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F32** Words in Art. 85(1)(a)(ii) substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **99(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F33** Words in Art. 85(3) substituted (1.1.2022) by [Financial Services Act 2021 \(c. 22\)](#), s. 49(5), **Sch. 1 para. 14(3)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)
- F34** Art. 85(3A) inserted (1.1.2022) by [Financial Services Act 2021 \(c. 22\)](#), s. 49(5), **Sch. 1 para. 14(4)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

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Article 86

Qualifying Tier 1 capital included in consolidated Additional Tier 1 capital

Without prejudice to Article 84 (5) or (6), institutions shall determine the amount of qualifying Tier 1 capital of a subsidiary that is included in consolidated Additional Tier 1 capital by subtracting from the qualifying Tier 1 capital of that undertaking included in consolidated Tier 1 capital the minority interests of that undertaking that are included in consolidated Common Equity Tier 1 capital.

Article 87

Qualifying own funds included in consolidated own funds

1 Institutions shall determine the amount of qualifying own funds of a subsidiary that is included in consolidated own funds by subtracting from the qualifying own funds of that undertaking the result of multiplying the amount referred to in point (a) by the percentage referred to in point (b):

- a the own funds of the subsidiary minus the lower of the following:
 - (i) ^[F35]the amount of own funds of the subsidiary required to meet the following—
 - A the sum of the requirement laid down in point (c) of Article 92(1), the requirements referred to in Articles 458, 459 and 500, the specific own funds requirements referred to in regulation 34 of the Capital Requirements Regulations 2013, the combined buffer requirement defined in regulation 2 of the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014, and any additional local supervisory regulations in third countries, or
 - B where the subsidiary is an FCA investment firm, the sum of the own funds requirements set out in Part 9C rules which apply to the subsidiary and any requirements set out in additional local supervisory regulations in third countries;]
 - (ii) the amount of own funds that relates to the subsidiary that is required on a consolidated basis to meet the sum of the requirement laid down in point (c) of Article 92(1), the requirements referred to in Articles 458 and 459, the specific own funds requirements referred to in ^[F36]regulation 34 of the Capital Requirements Regulations 2013], the combined buffer requirement defined in ^[F37]regulation 2 of the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014], the requirements referred to in Article 500 and any additional local supervisory own funds requirement in third countries;
- b the qualifying own funds of the undertaking, expressed as a percentage of all own funds instruments of the subsidiary that are included in Common Equity Tier 1, Additional Tier 1 and Tier 2 items and the related share premium accounts, the retained earnings and other reserves.

2 The calculation referred to in paragraph 1 shall be undertaken on a sub-consolidated basis for each subsidiary referred to in Article 81(1).

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An institution may choose not to undertake this calculation for a subsidiary referred to in Article 81(1). Where an institution takes such a decision, the qualifying own funds of that subsidiary may not be included in consolidated own funds.

3 Where [^{F38}the PRA] derogates from the application of prudential requirements on an individual basis, as laid down in Article 7, own funds instruments within the subsidiaries to which the waiver is applied shall not be recognised as own funds at the sub-consolidated or at the consolidated level, as applicable.

3A. [^{F39}Where Part 9C rules provide that, in relation to any subsidiaries which are FCA investment firms, the calculation referred to in paragraph 1 is to be undertaken on a consolidated basis so as to include those subsidiaries, own funds instruments within those subsidiaries shall not be recognised in own funds at the sub-consolidated or consolidated level, as applicable.]

Textual Amendments

- F35** Art. 87(1)(a)(i) substituted (1.1.2022) by [Financial Services Act 2021 \(c. 22\), s. 49\(5\), Sch. 1 para. 15\(2\)](#); S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)
- F36** Words in Art. 87(1)(a)(ii) substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\), regs. 1\(3\), 100\(a\)](#) (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F37** Words in Art. 87(1)(a)(ii) substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\), regs. 1\(3\), 100\(b\)](#) (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F38** Words in Art. 87(3) substituted (1.1.2022) by [Financial Services Act 2021 \(c. 22\), s. 49\(5\), Sch. 1 para. 15\(3\)](#); S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)
- F39** Art. 87(3A) inserted (1.1.2022) by [Financial Services Act 2021 \(c. 22\), s. 49\(5\), Sch. 1 para. 15\(4\)](#); S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

Article 88

Qualifying own funds instruments included in consolidated Tier 2 capital

Without prejudice to Article 84(5) or (6), institutions shall determine the amount of qualifying own funds of a subsidiary that is included in consolidated Tier 2 capital by subtracting from the qualifying own funds of that undertaking that are included in consolidated own funds the qualifying Tier 1 capital of that undertaking that is included in consolidated Tier 1 capital.]

Editorial Information

- X1** Substituted by [Corrigendum to Regulation \(EU\) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation \(EU\) No 648/2012 \(OJ L 176, 27.6.2013, p. 1\)](#).

Changes to legislation:

Regulation (EU) No 575/2013 of the European Parliament and of the Council, TITLE II is up to date with all changes known to be in force on or before 11 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to the whole legislation item and associated provisions

- Pt. 3 Title 1 Ch. 1 SECTION 2 A 95 repeal by [EUR 2019/2033](#) Regulation (This amendment by the EU not applied to legislation.gov.uk because it is brought into force after IP completion day.)
- Pt. 3 Title 1 Ch. 1 SECTION 2 repeal by [EUR 2019/2033](#) Regulation (This amendment by the EU not applied to legislation.gov.uk because it is brought into force after IP completion day.)
- Pt. 3 Title 1 Ch. 1 SECTION 2 A 98 repeal by [EUR 2019/2033](#) Regulation (This amendment by the EU not applied to legislation.gov.uk because it is brought into force after IP completion day.)
- Pt. 3 Title 1 Ch. 1 SECTION 2 A 96 repeal by [EUR 2019/2033](#) Regulation (This amendment by the EU not applied to legislation.gov.uk because it is brought into force after IP completion day.)
- Pt. 3 Title 1 Ch. 1 SECTION 2 A 97 repeal by [EUR 2019/2033](#) Regulation (This amendment by the EU not applied to legislation.gov.uk because it is brought into force after IP completion day.)
- Art. 4.1(7) words omitted by [S.I. 2018/1401 reg. 64\(7\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Reg. 64(7) omitted (6.9.2019) by virtue of S.I. 2019/1232, regs. 1(2), 3(3)(c)(i))
- Art. 4.1(7) words substituted by [S.I. 2018/1401 reg. 64\(7\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Reg. 64(7) omitted (6.9.2019) by virtue of S.I. 2019/1232, regs. 1(2), 3(3)(c)(i))
- Art. 4.1(7) words substituted by [S.I. 2018/1401 reg. 64\(7\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Reg. 64(7) omitted (6.9.2019) by virtue of S.I. 2019/1232, regs. 1(2), 3(3)(c)(i))
- Art. 4.1(13) words substituted by [S.I. 2024/705 Sch. 2 para. 19\(a\)](#)
- Art. 4.1(14) words substituted by [S.I. 2024/705 Sch. 2 para. 19\(b\)](#)
- Art. 4.1(14a) words substituted by [S.I. 2024/705 Sch. 2 para. 19\(c\)](#)
- Art. 4.1(26) words inserted by [S.I. 2018/1401 reg. 64\(20\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Reg. 64(20) omitted (6.9.2019) by virtue of S.I. 2019/1232, regs. 1(2), 3(3)(c)(ii))
- Art. 4.1(26) words substituted by [S.I. 2018/1401 reg. 64\(20\)\(d\)](#) (This amendment not applied to legislation.gov.uk. Reg. 64(20) omitted (6.9.2019) by virtue of S.I. 2019/1232, regs. 1(2), 3(3)(c)(ii))
- Art. 4.1(28) words substituted by [S.I. 2018/1401 reg. 64\(23\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Reg. 64(23) omitted (6.9.2019) by virtue of S.I. 2019/1232, regs. 1(2), 3(3)(c)(iii))
- Art. 4.1(28) words substituted by [S.I. 2018/1401 reg. 64\(23\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Reg. 64(23) omitted (6.9.2019) by virtue of S.I. 2019/1232, regs. 1(2), 3(3)(c)(iii))
- Art. 4.1(28) words substituted by [S.I. 2018/1401 reg. 64\(23\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Reg. 64(23) omitted (6.9.2019) by virtue of S.I. 2019/1232, regs. 1(2), 3(3)(c)(iii))
- Art. 4.1(61) words substituted by [S.I. 2024/705 Sch. 2 para. 19\(d\)](#)
- Art. 4.1(62) words substituted by [S.I. 2024/705 Sch. 2 para. 19\(e\)](#)
- Art. 4.1(63) words substituted by [S.I. 2024/705 Sch. 2 para. 19\(f\)](#)
- Art. 4.1(66) words substituted by [S.I. 2024/705 Sch. 2 para. 19\(g\)](#)
- Art. 4.1(67) words substituted by [S.I. 2024/705 Sch. 2 para. 19\(h\)](#)

- Art. 4.1(128) word substituted by [S.I. 2018/1401 reg. 64\(51\)](#) (This amendment not applied to legislation.gov.uk. Reg. 64(51) omitted (6.9.2019) by virtue of S.I. 2019/1232, regs. 1(2), 3(3)(c)(iv))
- Art. 4.1(129) words substituted by [S.I. 2024/705 Sch. 2 para. 19\(i\)](#)
- Art. 11(6)(a) words substituted by [S.I. 2021/1078 reg. 4\(5\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Amending provision substituted by S.I. 2021/1376)
- Art. 18(8)(a) words substituted by [S.I. 2020/1385 reg. 74\(3\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Art. 18(8) substituted (31.12.2020) by S.I. 2019/264, regs. 1, 5(3).)
- Art. 31(1)(b) words substituted by [S.I. 2018/1401 reg. 86\(a\)](#) (This amendment not applied to legislation.gov.uk. Reg. 86(a) omitted immediately before IP completion day by virtue of S.I. 2020/1470, reg. 1(4), Sch. 2 para. 17)
- Art. 31(1)(b) words substituted in earlier amending provision S.I. 2018/1401, reg. 86(a) by [S.I. 2020/1301 reg. 3Sch. para. 11\(g\)](#) (This amendment not applied to legislation.gov.uk. Reg. 86(a) omitted immediately before IP completion day by virtue of S.I. 2020/1470, reg. 1(4), Sch. 2 para. 17)
- Art. 31(1)(c) words inserted by [S.I. 2018/1401 reg. 86\(b\)](#) (This amendment not applied to legislation.gov.uk. Reg. 86(b) omitted immediately before IP completion day by virtue of S.I. 2020/1470, reg. 1(4), Sch. 2 para. 17)
- Art. 78(1)(b) words substituted by [S.I. 2018/1401 reg. 94\(2\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Reg. 94(2) omitted (6.9.2019) by virtue of S.I. 2019/1232, regs. 1(2), 3(3)(h))
- Art. 78(1)(b) words substituted by [S.I. 2018/1401 reg. 94\(2\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Reg. 94(2) omitted (6.9.2019) by virtue of S.I. 2019/1232, regs. 1(2), 3(3)(h))
- Art. 124(4)(b) word substituted by [S.I. 2018/1401 reg. 225\(1\)\(2\)reg. 225\(3\)\(b\)](#) (This amendment not applied to legislation.gov.uk. The words to be substituted in Art. 124(4) are not present following the substitution of Art 124 by Corrigendum to Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).)
- Art. 242(10)(c) and word inserted by [S.I. 2024/705 Sch. 2 para. 22\(b\)\(ii\)](#)
- Art. 244(4)(c) words substituted by [S.I. 2024/705 Sch. 2 para. 23](#)
- art. 270a(1A) inserted by [S.I. 2024/705 Sch. 2 para. 25\(b\)](#)
- Art. 325(3)(a) word omitted by [S.I. 2018/1401 reg. 157](#) (This amendment not applied to legislation.gov.uk. The words to be omitted are not present in Art. 325(3)(a))
- Art. 450(1)(d) words substituted by [2021 c. 22 Sch. 1 para. 41](#) (This amendment not applied to legislation.gov.uk. Pt. 8 omitted (1.1.2022) by virtue of S.I. 2021/1078, regs. 1(1), 10 (as substituted by S.I. 2021/1376, regs. 1(2), 32(4)))
- Art. 456(1)(h)(i) omitted by [S.I. 2021/1078 reg. 11\(2\)\(a\)\(iv\)](#) (This amendment not applied to legislation.gov.uk. Amending provision substituted by S.I. 2021/1376)
- Art. 459(b) omitted by [S.I. 2021/1078 reg. 11\(5\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Amending provision substituted by S.I. 2021/1376)
- Art. 459(c) words substituted by [S.I. 2021/1078 reg. 11\(5\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Amending provision substituted by S.I. 2021/1376)