

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 TEN

TRANSITIONAL PROVISIONS, REPORTS, REVIEWS AND AMENDMENTS

TITLE I

TRANSITIONAL PROVISIONS

CHAPTER 2

Grandfathering of capital instruments

[^{X1}Section 2

Instruments not constituting State aid

Sub-Section 1

Grandfathering eligibility and limits

Article 484

Eligibility for grandfathering of items that qualified as own funds under national transposition measures for Directive 2006/48/EC

1 This Article shall apply only to instruments and items that were issued on or prior to 31 December 2011 and that were eligible as own funds on 31 December 2011 and are not those referred to in Article 483(1).

2 By way of derogation from Articles 26 to 29, 51, 52, 62 and 63, this Article shall apply from 1 January 2014 to 31 December 2021 .

3 Subject to Article 485 of this Regulation and to the limit specified in Article 486(2) thereof, [^{F1}capital, which for these purposes comprises all amounts, regardless of their actual designations, which, in accordance with the legal structure of the institution concerned, are regarded under the applicable law of the United Kingdom, or any part of it, or of a third country, as equity capital subscribed by the shareholders or other proprietors], and the related share premium accounts, that qualified as original own funds under the national transposition measures for point (a) of Article 57 of Directive 2006/48/EC shall qualify as Common Equity Tier 1 items notwithstanding that the conditions laid down in Article 28 or, where applicable, Article 29 of this Regulation are not met.

Changes to legislation: Regulation (EU) No 575/2013 of the European Parliament and of the Council, Section 2 is up to date with all changes known to be in force on or before 13 October 2023. 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

4 Subject to the limit specified Article 486(3) of this Regulation, instruments, and the related share premium accounts, that qualified as original own funds under national transposition measures for point (ca) of Article 57 and Article 154(8) and (9) of Directive 2006/48/EC shall qualify as Additional Tier 1 items, notwithstanding that the conditions laid down in Article 52 of this Regulation are not met.

5 Subject to the limits specified in Article 486(4) of this Regulation, items, and the related share premium accounts, that qualified under national transposition measures for points (e), (f), (g) or (h) of Article 57 of Directive 2006/48/EC shall qualify as Tier 2 items, notwithstanding that those items are not included in Article 62 of this Regulation or that the conditions laid down in Article 63 of this Regulation are not met.

Textual Amendments

- F1** Words in [Art. 484\(3\)](#) substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **208** (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 485

Eligibility for inclusion in the Common Equity Tier 1 of share premium accounts related to items that qualified as own funds under national transposition measures for Directive 2006/48/EC

1 This Article shall apply only to instruments that were issued prior to 31 December 2010 and are not those referred to in Article 483(1).

2 Share premium accounts related to [^{F2}capital, which for these purposes comprises all amounts, regardless of their actual designations, which, in accordance with the legal structure of the institution concerned, are regarded under the applicable law of the United Kingdom, or any part of it, or of a third country, as equity capital subscribed by the shareholders or other proprietors] that qualified as original own funds under the national transposition measures for point (a) of Article 57 of Directive 2006/48/EC shall qualify as Common Equity Tier 1 items if they meet the conditions laid down in points (i) and (j) of Article 28 of this Regulation.

Textual Amendments

- F2** Words in [Art. 485\(2\)](#) substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **209** (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 486

Limits for grandfathering of items within Common Equity Tier 1, Additional Tier 1 and Tier 2 items

1 From 1 January 2014 to 31 December 2021, the extent to which instruments and items referred to in Article 484 shall qualify as own funds shall be limited in accordance with this Article.

Changes to legislation: Regulation (EU) No 575/2013 of the European Parliament and of the Council, Section 2 is up to date with all changes known to be in force on or before 13 October 2023. 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

2 The amount of items referred to in Article 484(3) that shall qualify as Common Equity Tier 1 items is limited to the applicable percentage of the sum of the amounts specified in points (a) and (b) of this paragraph:

- a the nominal amount of capital referred to in Article 484(3) that were in issue on 31 December 2012;
- b the share premium accounts related to the items referred to in point (a).

3 The amount of items referred to in Article 484(4) that shall qualify as Additional Tier 1 items is limited to the applicable percentage multiplied by the result of subtracting from the sum of the amounts specified in points (a) and (b) of this paragraph the sum of the amounts specified in points (c) to (f) of this paragraph:

- a the nominal amount of instruments referred to in Article 484(4), that remained in issue on 31 December 2012;
- b the share premium accounts related to the instruments referred to in point (a);
- c the amount of instruments referred to in Article 484(4) which on 31 December 2012 exceeded the limits specified in the national transposition measures for point (a) of Article 66(1) and Article 66(1a) of Directive 2006/48/EC;
- d the share premium accounts related to the instruments referred to in point (c);
- e the nominal amount of instruments referred to Article 484(4) that were in issue on 31 December 2012 but do not qualify as Additional Tier 1 instruments pursuant to Article 489(4);
- f the share premium accounts related to the instruments referred to in point (e).

4 The amount of items referred to in Article 484(5) that shall qualify as Tier 2 items is limited to the applicable percentage of the result of subtracting from the sum of the amounts specified in points (a) to (d) of this paragraph the sum of amounts specified in points (e) to (h) of this paragraph:

- a the nominal amount of instruments referred to in Article 484(5) that remained in issue on 31 December 2012;
- b the share premium accounts related to the instruments referred to in point (a);
- c the nominal amount of subordinated loan capital that remained in issue on 31 December 2012, reduced by the amount required pursuant to national transposition measures for point (c) of Article 64(3) of Directive 2006/48/EC;
- d the nominal amount of items referred to in Article 484(5), other than the instruments and subordinated loan capital referred to in points (a) and (c) of this paragraph, that were in issue on 31 December 2012;
- e the nominal amount of instruments and items referred to in Article 484(5) that were in issue on 31 December 2012 that exceeded the limits specified in the national transposition measures for point (a) of Article 66(1) of Directive 2006/48/EC;
- f the share premium accounts related to the instruments referred to in point (e);
- g the nominal amount of instruments referred to in Article 484(5) that were in issue on 31 December 2012 that do not qualify as Tier 2 items pursuant to Article 490(4);
- h the share premium accounts related to the instruments referred to in point (g).

5 For the purposes of this Article, the applicable percentages referred to in paragraphs 2 to 4 shall fall within the following ranges:

- a 60 % to 80 % during the period from 1 January 2014 to 31 December 2014;
- b 40 % to 70 % during the period from 1 January 2015 to 31 December 2015;
- c 20 % to 60 % during the period from 1 January 2016 to 31 December 2016;
- d 0 % to 50 % during the period from 1 January 2017 to 31 December 2017;

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- e 0 % to 40 % during the period from 1 January 2018 to 31 December 2018;
- f 0 % to 30 % during the period from 1 January 2019 to 31 December 2019;
- g 0 % to 20 % during the period from 1 January 2020 to 31 December 2020;
- h 0 % to 10 % during the period from 1 January 2021 to 31 December 2021.

6 Competent authorities shall determine and publish the applicable percentages in the ranges specified in paragraph 5.

Article 487

Items excluded from grandfathering in Common Equity Tier 1 or Additional Tier 1 items in other elements of own funds

1 From 1 January 2014 to 31 December 2021, institutions may, by way of derogation from Articles 51, 52, 62 and 63, treat as items referred to in Article 484(4), capital, and the related share premium accounts, referred to in Article 484(3) that are excluded from Common Equity Tier 1 items because they exceed the applicable percentage specified in Article 486(2), to the extent that the inclusion of that capital and the related share premium accounts, does not exceed the applicable percentage limit referred to in Article 486(3).

2 From 1 January 2014 to 31 December 2021, institutions may, by way of derogation from Articles 51, 52, 62 and 63, treat the following as items referred to in Article 484(5), to the extent that their inclusion does not exceed the applicable percentage limit referred to in Article 486(4):

- a capital, and the related share premium accounts, referred to in Article 484(3) that are excluded from Common Equity Tier 1 items because they exceed the applicable percentage specified in Article 486(2);
- b instruments, and the related share premium accounts, referred to in Article 484(4) that exceed the applicable percentage referred to in Article 486(3).

3 ^[F3]The ^[F4]PRA may] make technical standards] to specify the conditions for treating own funds instruments referred to in paragraphs 1 and 2 as falling under Article 486(4) or (5) during the period from 1 January 2014 to 31 December 2021.

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Textual Amendments

- F3** Words in Art. 487(3) 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)
- F4** Words in Art. 487(3) 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)
- F5** Words in Art. 487(3) 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)

Changes to legislation: Regulation (EU) No 575/2013 of the European Parliament and of the Council, Section 2 is up to date with all changes known to be in force on or before 13 October 2023. 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

Article 488

Amortisation of items grandfathered as Tier 2 items

The items referred to in Article 484(5) that qualify as Tier 2 items referred to in Article 484(5) or Article 486(4) shall be subject to the requirements laid down in Article 64.

Sub-Section 2

Inclusion of instruments with a call and incentive to redeem in additional Tier 1 and Tier 2 items

Article 489

Hybrid instruments with a call and incentive to redeem

1 From 1 January 2014 to 31 December 2021, instruments referred to in Article 484(4) that include in their terms and conditions a call with an incentive for them to be redeemed by the institution shall, by way of derogation from Articles 51 and 52, be subject to this Article.

2 The instruments shall qualify as Additional Tier 1 instruments provided that the following conditions are met:

- a the institution was able to exercise a call with an incentive to redeem only prior to 1 January 2013;
- b the institution did not exercise the call;
- c the conditions laid down in Article 52 are met from 1 January 2013.

3 The instruments shall qualify as Additional Tier 1 instruments with their recognition reduced in accordance with Article 484(4) until the date of their effective maturity and thereafter shall qualify as Additional Tier 1 items without limit provided that:

- a the institution was able to exercise a call with an incentive to redeem only on or after 1 January 2013;
- b the institution did not exercise the call on the date of the effective maturity of the instruments;
- c the conditions laid down in Article 52 are met from the date of the effective maturity of the instruments.

4 The instruments shall not qualify as Additional Tier 1 instruments, and shall not be subject to Article 484(4), from 1 January 2014 where the following conditions are met:

- a the institution was able to exercise a call with an incentive to redeem between 31 December 2011 and 1 January 2013;
- b the institution did not exercise the call on the date of the effective maturity of the instruments;
- c the conditions laid down in Article 52 are not met from the date of the effective maturity of the instruments.

5 The instruments shall qualify as Additional Tier 1 instruments with their recognition reduced in accordance with Article 484(4) until the date of their effective maturity, and shall not qualify as Additional Tier 1 instruments thereafter, where the following conditions are met:

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- a the institution was able to exercise a call with an incentive to redeem on or after 1 January 2013;
- b the institution did not exercise the call on the date of the effective maturity of the instruments;
- c the conditions laid down in Article 52 are not met from the date of the effective maturity of the instruments.

6 The instruments shall qualify as Additional Tier 1 instruments in accordance with Article 484(4) where the following conditions are met:

- a the institution was able to exercise a call with an incentive to redeem only prior to or on 31 December 2011;
- b the institution did not exercise the call on the date of the effective maturity of the instruments;
- c the conditions laid down in Article 52 were not met from the date of the effective maturity of the instruments.

Article 490

Tier 2 items with an incentive to redeem

1 By way of derogation from Articles 62 and 63, during the period from 1 January 2014 to 31 December 2021, items referred to in Article 484(5) that qualified under the national transposition measures for point (f) or (h) of Article 57 of Directive 2006/48/EC and include in their terms and conditions a call with an incentive for them to be redeemed by the institution shall be subject to this Article.

2 The items shall qualify as Tier 2 instruments provided that:

- a the institution was able to exercise a call with an incentive to redeem only prior to 1 January 2013;
- b the institution did not exercise the call;
- c from 1 January 2013 the conditions laid down in Article 63 are met.

3 The items shall qualify as Tier 2 items in accordance with Article 484(5) until the date of their effective maturity, and shall qualify thereafter as Tier 2 items without limit, provided that the following conditions are met:

- a the institution was able to exercise a call with an incentive to redeem only on or after 1 January 2013;
- b the institution did not exercise the call on the date of the effective maturity of the items;
- c the conditions laid down in Article 63 are met from the date of the effective maturity of the items.

4 The items shall not qualify as Tier 2 items from 1 January 2014 where the following conditions are met:

- a the institution was able to exercise a call with an incentive to redeem only between 31 December 2011 and 1 January 2013;
- b the institution did not exercise the call on the date of the effective maturity of the items;
- c the conditions laid down in Article 63 are not met from the date of the effective maturity of the items.

5 The items shall qualify as Tier 2 items with their recognition reduced in accordance with Article 484(5) until the date of their effective maturity, and shall not qualify as Tier 2 items thereafter, where:

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- a the institution was able to exercise a call with an incentive to redeem on or after 1 January 2013;
 - b the institution did not exercise the call on the date of their effective maturity;
 - c the conditions set out in Article 63 are not met from the date of effective maturity of the items.
- 6 The items shall qualify as Tier 2 items in accordance with Article 484(5) where:
- a the institution was able to exercise a call with an incentive to redeem only prior to or on 31 December 2011;
 - b the institution did not exercise the call on the date of the effective maturity of the items;
 - c the conditions laid down in Article 63 are not met from the date of the effective maturity of the items.

Article 491

Effective maturity

For the purposes of Articles 489 and 490, effective maturity shall be determined as follows:

- (a) for the items referred to in paragraphs 3 and 5 of those Articles, the date of the first call with an incentive to redeem occurring on or after 1 January 2013;
- (b) for the items referred to in paragraph 4 of those Articles, the date of the first call with an incentive to redeem occurring between 31 December 2011 and 1 January 2013;
- (c) for the items referred to in paragraph 6 of those Articles, the date of the first call with an incentive to redeem prior to 31 December 2011.]

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, Section 2 is up to date with all changes known to be in force on or before 13 October 2023. 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 :

- Regulation revoked by [2023 c. 29 Sch. 1 Pt. 1](#)

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(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(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. 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. 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)
- Art. 497(1)(b)(ii) extended by [S.I. 2023/999 reg. 2](#)