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 (bank or savings bank)

### Assessment of compliance of Tier 2 instrument

(name of instrument)		
Legal provision prescribing condition for capital instrument	(article and wording from contract or other documentation related to meeting required condition for capital instrument)	(reasoned self-assessment of meeting of condition)
<b>Article 63 of Regulation (EU) No 575/2013<sup>1</sup></b>		
Capital instruments shall qualify as Tier 2 instruments, provided that the following conditions are met:		
(a) the instruments are directly issued by an institution and fully paid up;		
(b) the instruments are not owned by any of the following:		
(i) the institution or its subsidiaries;		
(ii) an undertaking in which the institution has participation in the form of ownership, direct or by way of control, of 20 % or more of the voting rights or capital of that undertaking;		
(c) the acquisition of ownership of the instruments is not funded directly or indirectly by the institution;		
(in relation to Articles 8 and 9 of RTS No 241/2014 <sup>2</sup> )		
(d) the claim on the principal amount of the instruments under the provisions governing the		

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<sup>1</sup> 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 of 27 June 2013, p 1)

<sup>2</sup> Commission Delegated Regulation (EU) No 241/2014 of 7 January 2014 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for own funds requirements for institutions (OJ L 74 of 14 March 2014, p 8)

instruments ranks below any claim from eligible liabilities instruments;		
(e) the instruments are not secured or are not subject to a guarantee that enhances the seniority of the claim by any of the following:		
(i) the institution or its subsidiaries;		
(ii) the parent undertaking of the institution or its subsidiaries;		
(iii) the parent financial holding company or its subsidiaries;		
(iv) the mixed activity holding company or its subsidiaries;		
(v) the mixed financial holding company or its subsidiaries;		
(vi) any undertaking that has close links with entities referred to in points (i) to (v);		
(f) the instruments are not subject to any arrangement that otherwise enhances the seniority of the claim under the instruments;		
(g) the instruments have an original maturity of at least five years;		
(h) the provisions governing the instruments do not include any incentive for their principal amount to be redeemed or repaid, as applicable by the institution prior to their maturity;		
(in relation to Article 20 of RTS No 241/2014)		
(i) where the instruments include one or more early repayment options, including call options, the options are exercisable at the sole discretion of the issuer;		
(j) the instruments may be called, redeemed, repaid or repurchased early only where the conditions set out in Article 77 are met, and not before five years after the date of issuance, except where the conditions set out in Article 78(4) are met;		
(k) the provisions governing the instruments do not indicate explicitly or implicitly that the instruments would be called, redeemed, repaid or		

<p>repurchased early, as applicable, by the institution other than in the case of the insolvency or liquidation of the institution and the institution does not otherwise provide such an indication;</p>		
<p>(l) the provisions governing the instruments do not give the holder the right to accelerate the future scheduled payment of interest or principal, other than in the case of the insolvency or liquidation of the institution;</p>		
<p>(m) the level of interest or dividends payments, as applicable, due on the instruments will not be amended on the basis of the credit standing of the institution or its parent undertaking;</p>		
<p>(n) where the issuer is established in a third country and has been designated in accordance with Article 12 of Directive 2014/59/EU as part of a resolution group the resolution entity of which is established in the Union or where the issuer is established in a Member State, the law or contractual provisions governing the instruments require that, upon a decision by the resolution authority to exercise the write-down and conversion powers referred to in Article 59 of that Directive, the principal amount of the instruments is to be written down on a permanent basis or the instruments are to be converted to Common Equity Tier 1 instruments;</p> <p>where the issuer is established in a third country and has not been designated in accordance with Article 12 of Directive 2014/59/EU as a part of a resolution group the resolution entity of which is established in the Union, the law or contractual provisions governing the instruments require that, upon a decision by the relevant third-country authority, the principal amount of the instruments is to be written down on a permanent basis or the instruments are to be converted into Common Equity Tier 1 instruments;</p>		

<p>(o) where the issuer is established in a third country and has been designated in accordance with Article 12 of Directive 2014/59/EU as part of a resolution group the resolution entity of which is established in the Union or where the issuer is established in a Member State, the instruments may only be issued under, or be otherwise subject to the laws of a third country where, under those laws, the exercise of the write-down and conversion powers referred to in Article 59 of that Directive is effective and enforceable on the basis of statutory provisions or legally enforceable contractual provisions that recognise resolution or other write-down or conversion actions;</p>		
<p>(p) the instruments are not subject to set-off or netting arrangements that would undermine their capacity to absorb losses.</p>		
<p><b>Article 73 of Regulation (EU) No 575/2013</b></p>		
<p>1. Capital instruments and liabilities for which an institution has the sole discretion to decide to pay distributions in a form other than cash or own funds instruments shall not be eligible to qualify as Common Equity Tier 1, Additional Tier 1, Tier 2 or eligible liabilities instruments, unless the institution has received the prior permission of the competent authority.</p>		