EBA will clarify the prudential treatment applicable to own funds instruments at the end of the grandfathering period expiring on 31 December 2021

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**The European Banking Authority (EBA) announced today its intention to provide clarity on the appropriate treatment of the so-called ‘legacy instruments' at the end of 2021, when the benefits of the grandfathering period will expire. The aim of the clarification is to preserve a consistent and high quality capital base for EU institutions under the CRR.**

When the Capital Requirements Regulation (CRR) entered into force, grandfathering provisions were introduced. In order to ensure that institutions had sufficient time to meet the requirements set out by the new definition of own funds, certain capital instruments that, at that time, did not comply with the new definition of own funds were grandfathered for a transition period with the objective of phasing them out from own funds.

The beneficial treatment provided by the grandfathering provisions will come to an end on 31 December 2021. In line with its mandate to monitor the quality of own funds and eligible liabilities instruments issued by institutions across the Union, the EBA intends to provide clarity on the appropriate end-treatment to ensure a high quality of capital for EU institutions and a consistent application of rules and practices.

While reflecting on this issue, the EBA will also clarify the interaction with the new grandfathering provisions introduced by the recent [Banking Package](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2019:150:FULL&&from=END) and the corresponding amendments to the CRR and the Bank Recovery and Resolution Directive (BRRD), where relevant for own funds instruments and eligible liabilities.

In developing its work, the EBA will ensure an appropriate interaction with all concerned stakeholders. In the meantime, institutions are encouraged to engage with their respective competent authorities with regard to the magnitude and intended future treatment of their outstanding ‘legacy' instruments in the context of the supervisory dialogue on their capital planning.

The EBA aims at communicating on the end-treatment of the ‘legacy' grandfathered instruments by mid-2020 so that institutions can adequately prepare for the end of the grandfathering period.

Legal basis and background

Article 484 of the CRR defines the eligibility for grandfathering of items that qualified as own funds under national transposition measures for Directive 2006/48/EC. Article 486 specifies the limits for the grandfathering of items within Common Equity Tier 1, Additional Tier 1 and Tier 2 items until 31 December 2021, including the possibility for competent authorities to implement shorter grandfathering periods.

Pursuant to Article 80 of the CRR (as amended by Regulation (EU) 2019/876) on the continuing review of the quality of own funds and eligible liabilities instruments, the ‘EBA shall monitor the quality of own funds and eligible liabilities instruments issued by institutions across the Union and shall notify the Commission immediately where there is significant evidence that those instruments do not meet the respective eligibility criteria set out in this Regulation'. Pursuant to this Article, the EBA has been continuously monitoring the quality of Common Equity Tier 1 (CET1) and Additional Tier 1 (AT1) issuances in the EU since 2013 and is regularly publishing corresponding monitoring reports [1].