

Q&A

QUESTION ID:

309

REGULATION REFERENCE:

Guidelines on classification of own funds

ARTICLE:

71

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Question

The Delegated Regulations and the Guidelines do not stipulate whether the distributions on Restricted Tier 1, Tier 2 or Tier 3 subordinated debt instruments can be linked to the credit standing of the firm (e.g. increase in the interest rate payable if the firm's credit ratings are downgraded, or a decrease if upgraded).

What is EIOPA's position on this subject, or will it be up to the discretion of the relevant NCA instead?

EIOPA answer

EIOPA considers that a subordinated debt instrument feature such as described in your question whereby a distribution is linked to the credit standing of the insurance or reinsurance undertaking may cause the insolvency of the undertaking or may accelerate the process of the undertaking becoming insolvent and therefore would not be permitted in accordance with Articles 71(1)(b), 73(1)(b), 77(1)(b) of Commission Delegated Regulation 2015/35 (EU) concerning Tier 1, Tier 2 and Tier 3 basic own funds respectively.