

Q&A

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Guidelines on classification of own funds

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Question

We seek further clarification following EIOPA's response to our question relating to the admissibility of dividend stoppers in general. The question and the answer are quoted in "Other information" below.

EIOPA's answer is very clear insofar as it concerns newly issued instruments. They must not contain dividend stoppers.

What about existing instruments containing dividend stoppers which are eligible to be grandfathered into Tier 1 or Tier 2 under the transitional provisions? Do they also have the effect of disqualifying equity from being capable of counting as Tier 1 own funds?

Do dividend pushers also have this effect?

EIOPA answer

The intention of the transitional measures is precisely to allow existing instruments that do not meet the Solvency II requirements to be available as own funds for a defined period after 1 January 2016. In contrast to non-transitioned Tier 1 and Tier 2 items, the availability of such instruments is not based on the Solvency II framework set out in Chapter IV, section II of Commission Delegated Regulation 2015/35 (EU).

It is not therefore appropriate for these instruments to be subject to these Solvency II requirements except the need to have quantitative limits (as set out in Article 82 of the delegated regulation). Transitioned items are not therefore relevant when assessing the extent to which non-transitioned own fund items possess the features in Article 71 of the delegated regulation.

This means that existing instruments which satisfy the requirements in Article 308b of the Solvency II Directive, may contain features such as dividend stoppers or pushers which would not be permitted for newly issued Solvency II own fund items, without affecting the Solvency II classification of ordinary share capital and preference shares.