

Q&A

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Guidelines on classification of own funds

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69

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Question

I would like to ask you for clarification of basic own fund items. The question is related to item paid-in initial funds, members' contributions or the equivalent basic own-fund item for mutual and mutual-type undertakings.

Is application of 'equivalent basic own-fund item' valid only for mutual and mutual-type undertakings or should be applied also for undertakings which are not mutual and mutual-type?

EIOPA answer

Paid-in initial funds, members' contributions or the equivalent basic own-fund item can fall under point (a)(ii) of the list of own-fund items set out in Article 69 of Regulation (EU) 2015/35 only if the insurance undertaking is mutual or mutual-type undertaking.

Capital contributions (including injections and other gifts) may or may not increase an undertaking's own funds. Where the providers of the capital contribution are operating on the assumption that the contribution will be repaid or the capital contribution has terms and conditions attached, the balance sheet will recognise both the cash (or other asset, if relevant) and a corresponding liability. In that case, the capital contribution would not lead to an increase in excess of assets over liabilities, nor would the reconciliation reserve increase. In such cases the capital contribution may increase own funds if the liability on the

balance sheet has the required features set out in Articles 71, 73 or 77. If this is the case, the lists of own-fund items set out in Articles 69, 72 and 76 should be checked to see whether it is an "Item on the Lists". If not, the further process for formal supervisory approval prior to recognition is outlined in Article 79.

When there is no obligation to repay or service the capital contribution, for Solvency II purposes this item will increase the cash (or other asset, if relevant) of the undertaking without creating any corresponding liability. It will therefore normally lead to an increase in excess of assets over liabilities and thus reconciliation reserve.

However, as EIOPA notes in para 1.5 of the Guidelines on Classification of Own Funds, "undertakings have different capital items in their financial statements".

Therefore, due to national specificities, there may be cases where a capital contribution creates a specific type of own fund (capital) item in the jurisdiction of a particular member states. It is the responsibility of the National Supervisory Authority (NSA) in that member state to make clear to its undertakings if this is the case, and for the purposes of its undertakings to treat the capital item so identified as an item not on the lists and subject to individual approval in accordance with Article 79. If in doubt firms should consult their NSA.