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Chair of the Supervisory Board

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**Amendments to the Annexes to the PUBLIC GUIDANCE on the review of the qualification of capital instruments as Additional Tier 1 and Tier 2 instruments**

On 6 June 2016 the ECB published the procedure to be followed when reviewing the qualification of capital instruments as AT1 and T2 instruments.

Regulation (EU) 2019/876 entered into force on 27 June 2019, amending several provisions concerning the eligibility conditions that capital instruments must fulfil in order to be classified as Additional Tier 1 or Tier 2 instruments pursuant to Articles 52 and 63 of Regulation (EU) 575/2013, respectively. The templates of the Public Guidance concerning the main features of the instruments and self-assessment need to be updated to reflect these newly introduced eligibility criteria. The amendments are in bold for ease of reference.

Institutions are advised to make use of these updated templates for their new issuances of Additional Tier 1 and Tier 2 instruments.

The remainder of the Public Guidance remains unchanged.

Kind regards,

*[signed]*

Andrea ENRIA



EUROPEAN CENTRAL BANK

BANKING SUPERVISION

## ANNEX I

### MAIN FEATURES OF THE INSTRUMENT<sup>1</sup>

For each of the following items, the entity should provide the relevant information which should be based on the applicable provisions contained in the agreement governing the capital instrument or any other relevant document.<sup>2</sup>

Features	1. Relevant information
(1) Issuer	
(2) Unique identifier (e.g. CUSIP, ISIN or Bloomberg identifier for private placement)	
(3) Format offering (e.g. Reg S, Sec Rule 144a)	
(4) Governing law(s) of instrument	
(5) Listing(s)	

<sup>1</sup> The information in this Annex is useful for the purposes of completing Annex II of [Commission Implementing Regulation \(EU\) No 1423/2013 of 20 December 2013 laying down implementing technical standards with regard to disclosure of own funds requirements for institutions according to Regulation \(EU\) No 575/2013 of the European Parliament and of the Council](#).

<sup>2</sup> This is a common template that should be completed in respect of both AT1 and T2 instruments. Some of the features may not be applicable according to the type of instrument.

(6) Issuer rating (if any) at time of issuance. To indicate notches below the issuer's senior unsecured rating	
(7) Currency	
(8) Size of issuance	
(9) Par/nominal value of instrument	
(10) Minimum denomination and increment (if any)	
(11) Date of issuance	
(12) Settlement date	
<i>Regulatory Treatment</i>	
(13) Instrument type (AT1 or T2)	
(14) Eligible at solo/sub-consolidated/consolidated level or any combination of these. The relevant entities/sub-groups/groups should be indicated.	
(15) Amount recognised in regulatory capital at all levels of application in accordance with Part One, Title II CRR, identifying any amounts relating to share premium	

accounts	
(16) Accounting classification (equity/liability/compound instrument). If compound instrument, distinguish between equity and liability component.	
(17) Applicable tax treatment (tax deductible or not and whether any dividend/coupon withholding tax). Tax treatment of embedded derivatives (if any)	
(18) Perpetual or dated	
(19) For dated instruments, original maturity date	
(20) Call option (if any) to indicate if a call option to be exercised at the discretion of the issuer and subject to regulatory approval is included	
(21) Specify first call date and subsequent call dates (if any) for the issuer call option	
(22) Additional issuer redemption options (if any) – describe any issuer call/redemption/repurchase/repayment options other than the issuer call option described above e.g. regulatory call, tax call, repurchases or market making	
<i>Coupons</i>	

<p>(23) Coupon rate mechanism (fixed, fixed reset, floating or other)</p>	
<p>(24) Initial coupon rate, initial coupon spread and any related reset index</p>	
<p>(25) Confirm non-existence of step-up or other incentive to redeem. Where applicable, as in the case of Article 20(2)(c) of the RTS on Own Funds, provide calculations to confirm such non-existence</p>	
<p>(26) For AT1 instruments, confirm non-existence of a dividend/coupon stopper, pusher or alternative coupon settlement mechanism (ACSM) (see Article 53 of the CRR for AT1 instruments)</p>	
<p>(27) For AT1 instruments, confirm whether coupons are fully discretionary</p>	
<p>(28) For AT1 instruments, confirm whether coupon cancellation is non-cumulative</p>	
<p>(29) For AT1 instruments, confirm coupon payments subject to available distribution items (reference to definition of distributable items in Article 4(128) of the CRR)</p>	

(30) For AT1 instruments, provide any further details on the calculation of distributable amounts (institution or country specific, such as treatment of share premium account)	
<b>Trigger</b>	
<b>(30a) Provide the trigger level</b>	
<b>(30b) Where the Additional Tier 1 instruments have been issued by a subsidiary undertaking established in a third country and the trigger is calculated in accordance with the national law of that third country, provide a legal opinion from an independent and recognised law firm confirming that the law of that third country and the contractual provisions governing the instruments are at least equivalent to the requirements set out in Article 54 of the CRR</b>	
<i>Conversion</i>	
(31) Convertible (yes/no)	
(32) If convertible, specify conversion trigger(s) (individual/sub-consolidated/ consolidated) and whether fully loaded or transitional CRR rules apply	

<p>(33) If convertible, rate or range of conversion prices (see Article 54(1)(c) of the CRR for AT1 instruments)</p>	
<p>(34) If convertible, specify if mandatory or optional conversion and in the case of optional conversion, specify who holds the conversion option (e.g. the issuer or investor)</p>	
<p>(35) If convertible, specify instrument type convertible into</p>	
<p>(36) If convertible, specify issuer of instrument it converts into</p>	
<p>(37) If convertible, specify whether there are any provisions relating to pre-emption rights for existing shareholders</p>	
<p>(38) Specify provisions relating to the computation of the conversion amount where instruments with different triggers have been issued</p>	
<p><i>Write-down feature</i></p>	
<p>(39) Write-down feature (yes/no)</p>	
<p>(40) If write-down, write-down trigger(s) (individual/sub-consolidated/ consolidated) and whether fully loaded or transitional rules of CRR apply</p>	

(41) If write-down, permanent or temporary	
(42) If temporary write-down, description of write-up mechanism (Article 21(2)(e) of the RTS on Own Funds)	
(43) Specify provisions relating to the computation of the write-down amount where instruments with different triggers have been issued	
<i>Subordination</i>	
(44) Position in subordination hierarchy in liquidation (describe key subordination provisions, including specification of instrument type immediately senior to instrument)	
(45) Confirm absence of seniority enhancement clauses (e.g. no seniority enhancing guarantees)	
<b>(45a) Confirm that the instruments are not subject to set-off or netting arrangements that would undermine their capacity to absorb losses</b>	
<i>Other</i>	



<p>(46) Details of any features of the capital instrument which are new, unusual or different from capital instruments of a similar nature previously issued by the entity or which are widely available in the market and an assessment of why these are not considered to impact the eligibility of the instrument in question. To cross-refer to the relevant part of the legal opinion</p>	
<p><i>Investor Base</i></p>	
<p>(47) Whether the capital instrument is issued in private placement, publicly to external investors or intra-group</p>	
<p>(48) If external, an indication of the investor composition at issuance broken down by investor type (e.g. hedge funds, banks, asset managers, other) and geography</p>	
<p>(49) If externally held, where possible, identify the current main holders of the instrument</p>	
<p>(50) If intra-group, identify the investor and describe how the purchase of the capital instrument will be funded</p>	

ANNEX II

**SELF-ASSESSMENT TO BE PERFORMED BY THE ENTITY ON THE ELIGIBILITY CONDITIONS**

Entities must review and assess each capital instrument against the requirements for own funds set out in the relevant provisions of the CRR and the RTS on Own Funds, taking into consideration the relevant EBA Q&As and the EBA Report on the monitoring of AT1 issuances. The entity must provide all the relevant information to confirm that the conditions have been met. It must also copy or refer to the applicable provisions contained in the agreement governing the capital instrument and any other relevant documents, and refer to the applicable EBA Q&As that have been taken into consideration. The standard templates to be used for this self-assessment are set out below.

**(i) AT1 INSTRUMENTS**

<i>Article 52(1) CRR requirements</i>			
<b>Sub-article</b>	<b>Reference to the relevant provisions in the agreement governing the capital instrument or any other relevant document</b>	<b>Where relevant, reference to EBA Q&amp;As and paragraphs of the EBA Report on the monitoring of AT1 issuances taken into consideration</b>	<b>Self-assessment</b>

(a)			
(b)			
(c) in conjunction with Articles 8 and 9 of the RTS on Own Funds			
(d)			
(e)			
(f)			
(g) in conjunction with Article 20 of the RTS on Own Funds			
(h)			
(i) in conjunction with Articles 77 and 78 of the CRR			
(j)			
(k)			

(l) in conjunction with Article 53 of the CRR			
(m)			
(n) in conjunction with Article 54 of the CRR and Articles 21 and 22 of the RTS on Own Funds (see separate table below)			
(o) in conjunction with Article 53 of the CRR and Article 23 of the RTS on Own Funds			
(p)			
<b>(q)</b>			
<b>(r)</b>			

**Article 54 of the CRR**

<b>Sub-article</b>	<b>Reference to the relevant provisions in the agreement governing the capital instrument or any other relevant document</b>	<b>Where relevant, reference to EBA Q&amp;As and paragraphs of the EBA Report on the monitoring of AT1 issuances taken into consideration</b>	<b>Self-assessment</b>
(1)(a)(i) & (ii)			
(1)(b)			
(1)(c)(i) & (ii)			
(1)(d)(i),(ii) & (iii) in conjunction with Article 21 of the RTS on Own Funds			
<b>(1) (e)</b>			
(2)			
(3)			
(4)(a) & (b) in conjunction with Article 21 of the RTS			

on Own Funds			
(5)(a), (b) & (c) in conjunction with Article 22 of the RTS on Own Funds			
(6)			
(7)			

**(ii) TIER 2 INSTRUMENTS**

<b>Article 63 CRR</b>			
<b>Sub-article</b>	<b>Reference to the relevant provisions in the agreement governing the capital instrument or any other relevant document</b>	<b>Where relevant, reference to EBA Q&amp;As taken into consideration</b>	<b>Self-assessment</b>
(a)			
(b)			

(c) in conjunction with Articles 8 and 9 of the RTS on Own Funds			
(d)			
(e)			
(f)			
(g)			
(h) in conjunction with Article 20 of the RTS on Own Funds			
(i)			
(j)			
(k)			
(l)			

(m)			
(n)			
(o)			
(p)			