Chapter 5

Financial resources

5.6 Qualifying subordinated loans

Characteristics of long term qualifying subordinated loans

5.6.1 R A long term **qualifying subordinated loan** (IPRU-INV 5.8.1R Item 11) must have the following characteristics:

(a) the loan is repayable only on maturity or on the expiration of a period of notice in accordance with paragraph (c) below or on the winding up of the *firm*;

(b) in the event of the winding up of the *firm*, the loan ranks after the claims of all other creditors and is not to be repaid until all other debts outstanding at the time have been settled;

(c) either

(i) the minimum original maturity of the loan is 5 years; or

(ii) the loan does not have a minimum or fixed maturity but requires 5 years notice of repayment; and

(d) the loan is fully paid-up.

Amount allowable in the calculation of own funds

5.6.2 R A *firm* may only take into account the paid-up amount of a long term **qualifying subordinated loan** in the calculation of its **own funds**. This amount must be amortised on a straight-line basis over the five years prior to the date of repayment.

Requirements applicable to short-term qualifying subordinated loans

5.6.3 R A short term **qualifying subordinated loan** (IPRU-INV 5.8.1R item 15) must have the characteristics set out in IPRU-INV 5.6.1R save that the minimum period set out in IPRU-INV 5.6.1R(c) shall be two years.

5.6.4 R A *firm* must not make any payment of principal or interest which would result in a breach of IPRU-INV 5.2.2R.

Form of qualifying subordinated loan agreement

5.6.5 R A **qualifying subordinated loan** must be in the form prescribed by the *FCA* for the purposes of this *rule*.

5.6.6 G *Firms* wishing to initiate a subordinated loan agreement other than in the prescribed form are advised to contact the *FCA*.

Conditions applicable to qualifying subordinated loans

5.6.7 R A *firm* wishing to include a **qualifying subordinated loan** in its calculation of **liquid capital** must:

(a) provide the *FCA* with a copy of the agreement not less than 10 business days before the loan is to be made; and

(b) certify to the *FCA* that the loan agreement complies with the *FCA*'s **prescribed subordinated loan agreement**.

Requirements on a firm in relation to qualifying subordinated loans

5.6.8 R A *firm* including a **qualifying subordinated loan** in its calculation of **liquid capital** must not:

(a) secure all or any part of the loan;

(b) redeem, purchase or otherwise acquire any of the liabilities of the borrower in respect of the loan;

(c) amend or concur in amending the terms of the loan agreement;

(d) repay all or any part of the loan otherwise than in accordance with the terms of the loan agreement; or

(e) take or omit to take any action whereby the subordination of the loan or any part thereof might be terminated, impaired or adversely affected.