

Chapter 1

Commission Delegated Regulation (EU) 2016/1075

Article 34 Terms of the support

(1) The terms, including consideration, for providing the financial support shall be deemed to be in compliance with rules 2.1(1) to 2.1(4) of the Group Financial Support Part of the PRA Rulebook or rule IFPRU 11.5.10R of the Recovery and Resolution Part of the FCA Handbook if the following conditions are met:

(a) the terms adequately reflect:

(i) the default risk of the receiving entity;

(ii) the seniority of the claim;

(iii) the expected loss for the group entity providing the support ("providing entity") in the event of a default of the receiving entity;

(iv) in case of a loan or committed facility, the maturity profile, based on a full disclosure of all relevant and up-to-date information by the receiving entity and further information available to the providing entity;

(b) the terms reflect the best interest of the providing entity in accordance with rules 2.1(1) to 2.1(4) of the Group Financial Support Part of the PRA Rulebook or rule IFPRU 11.5.10R of the Recovery and Resolution Part of the FCA Handbook and the relation of benefits, risks and costs taken into account when determining the best interest, including direct or indirect benefits that may accrue to the providing entity as a result of the provision of financial support and of the benefits for the group from this provision.

For the purposes of point (a)(iv), an anticipated temporary impact on market prices arising from events external to the group does not need to be taken into account, if a plausible projection of the market situation supports the assumption that the extent of this impact and its duration do not jeopardise the ability of the receiving entity to meet all of its liabilities as they fall due.

(2) The assessment of the conditions referred to in points (a) and (b) of paragraph 1 shall be based on a comparative analysis of the default risk of the receiving entity for each of the cases if the support is or is not provided.

The analysis of the default risk shall be based on the elements set out in Article 33. This analysis is without prejudice to considering, for the purpose of the assessment of the relation of benefits, risks and costs on a case-by-case basis and at the discretion of the competent authority responsible for the providing entity, further elements that the providing entity would consider in a credit assessment when deciding on granting a loan on the basis of all information available to the providing entity.

(3) The assessment shall include potential damage to franchise, refinancing and reputation and benefits from an efficient use and fungibility of the group's capital resources and its refinancing conditions.

To the extent possible, the benefits and costs taken into account in determining the best interest shall be quantified in monetary terms. In addition, the discount granted to the receiving entity compared to market terms shall be quantified, including in relation to haircuts on collateral or interest rates.

(4) When assessing the best interest, any binding commitments in the financial support agreement sustaining the assumptions on the future business model and risk management of the receiving entity shall be taken into account.

(5) The competent authority shall take into account information and assessments provided by the competent authority responsible for the receiving entity.