

Chapter 1

Commission Delegated Regulation (EU) 2018/959

**Article 38 Provision of the insurance via a
third party**

(1) For the purposes of assessing that the insurance coverage for the purposes of AMA own funds requirements is provided by a third-party entity, as referred to in Article 36(b), competent authorities shall confirm, on the basis of the comprehensive view of an institution's consolidated situation as referred to in Article 4(1), point (47) of Regulation (EU) No 575/2013, that neither the institution nor any other of the entities included in the scope of consolidation has a participation or a qualifying holding, as referred to in Article 4(1), points (35) and (36) respectively, of Regulation (EU) No 575/2013, in the party providing the insurance.

(2) Where the requirements of paragraph 1 are partially met, only that portion of the insurance provided where ultimate liability rests with an eligible third-party entity by virtue of the fact that the risk is effectively transferred outside of the consolidated entities shall be considered as insurance provided via a third party.