

Chapter 1

Commission Delegated Regulation (EU) 2018/959

Article 43 Capture of all the relevant elements

(1) For the purposes of assessing that an institution's methodology for recognising insurance captures all the relevant elements through discounts or haircuts in the amount of insurance recognition, as referred to in Article 36(e), competent authorities shall confirm at least the following:

(a) that the institution investigates the various factors that create the risk that the insurance provider will not make the payments as expected and decrease the effectiveness of the risk transfer, including the ability of the insurer to pay in a timely manner and the ability of the institution to identify, analyse and report the claim in a timely manner;

(b) that the institution investigates how the various factors referred to in point (a) have affected the mitigating impact of insurance on the operational risk profile in the past and how they may affect it in the future;

(c) that the institution reflects the uncertainties referred to in point (a) in its AMA own funds requirements, through appropriately conservative haircuts;

(d) that the institution carefully takes into account the characteristics of the insurance policies, including whether those policies cover only losses that are claimed or notified to the insurer during the policy term, therefore any loss that is discovered after the policy expires is not covered, or whether they cover losses that are incurred during the policy term, even where they are not discovered and the claim is not lodged until after the expiration of the policy, or whether the losses are first-party direct losses or third-party liability losses;

(e) that the institution considers and fully documents data on insurance pay-outs by loss type in its loss databases and sets haircuts accordingly;

(f) that the institution has in place procedures for loss identification, analysis and claims processing, with the view to verifying the actual coverage protection provided by the insurer or the ability to receive the claim payment funds within a reasonable timeframe;

(g) that the institution explicitly quantifies and models separately the haircuts in relation to each of the identified relevant uncertainties instead of applying one single haircut into the calculation covering all uncertainties or an *ex post* calculation haircut;

(h) that the institution takes into account the recognition of the insurer's claims-paying ability risk to the maximum extent, by applying appropriate haircuts in the insurance modelling methodology;

(i) that the institution ensures that the claims-paying ability risk for counterparty default is assessed on the basis of the credit quality of the insurance company responsible under the given insurance contract, irrespective of whether the insurance company's parent institution has a better rating or whether the risk is transferred to a third party;

(j) that the institution makes conservative assumptions relating to the renewal of insurance policies on the basis of equivalent terms, conditions, and coverage as the original or existing contracts;

(k) that the institution has processes in place to ensure that the potential exhaustion of insurance policy limits and the price and availability of reinstatements of cover as well as the cases where the coverage of the insurance contract does not match the operational risk profile of the institution are appropriately reflected in its AMA insurance methodology.

(2) For the purposes of paragraph 1, competent authorities may consider that the requirement for the institution to apply haircuts for the time remaining until the expiry of the insurance contract or for the cancellation term is not necessary where the cover will be renewed and continuous and where at least one of the following conditions is met:

(a) where the institution can demonstrate the existence of continuous cover on equivalent or improved terms, conditions and coverage for at least 365 days;

(b) where the institution has in place a policy that cannot be cancelled by the insurer, other than for non-payment of premium, or which has a cancellation period of more than one year.