

# Chapter 1

## Commission Delegated Regulation (EU) 2018/959

## Article 44 Other risk transfer mechanisms

For the purposes of assessing that an institution has demonstrated that a noticeable risk mitigating effect is achieved with the introduction of ORTM, as referred to in Article 36(f), competent authorities shall apply at least the following:

- (a) confirm that the institution has experience in using ORTM instruments and their characteristics, including probability of coverage and timeliness of payment, before these instruments can be recognized in the institution's operational risk measurement system;
- (b) refuse ORTM as eligible risk mitigation instruments of the AMA own funds requirements where the ORTM are held or used for trading purposes rather than for risk management purposes;
- (c) verify the eligibility of the protection seller including whether it is a regulated or unregulated entity, and the nature and characteristics of the protection provided, whether it is funded protection, securitization, guarantee mechanism or derivatives;
- (d) confirm that outsourced activities are not considered part of ORTM;
- (e) confirm that the institution calculates the AMA own funds requirements gross- and net-of-ORTM for each capital calculation, at a level of granularity such that any erosion in the amount of protection available, can be immediately recognised for its effect on capital requirements;
- (f) confirm that where material losses are incurred, affecting the coverage provided by the ORTM or where changes in the ORTM contracts create major uncertainty as to their coverage, the institution recalculates its AMA own funds requirements with an additional margin of conservatism.