



Book III - Service providers

Title II - Other service providers

Chapter I - Custody account-keepers

Section unique - Provisions relating to custody account-keeping - terms of reference for the custody account-keeper

Sub-section 2 - Professional obligations of the keepers of securities accounts other than the issuing entities

Paragraph 2 - Relationships with customers

Sub-paragraph 1 - General provisions relating to the start of a relationship

General regulation of the AMF

Article 322-5-1 into force since 03 January 2018

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Article 322-5-1

Where the custody account-keeper does not supply the service of receipt and transmission of orders or the order execution service to the client, the agreement shall provide, without prejudice to the provisions of Article 322-5:

- 1 • The terms according to which the client transmits to the custody account-keeper the instructions to engage in a settlement and delivery process;
- 2 • The level, the nature and the timing for constitution of the securities or cash provision and, where applicable, the coverage required by the custody account-keeper for the settlement and delivery operations concerned;
- 3 • Subject to the conditions set out in 1° and 2° both being fulfilled and the agreement not requiring that the provision is

constituted on the date of settlement and delivery, the terms and conditions according to which the custody account-keeper carries out, on behalf of the client, settlement of the instructions:

- in accordance with Article 312-15, in the event of an insufficient provision of securities, a loan or a repurchase of securities, unless exceptional market conditions make borrowing or repurchase impossible;
- in the event of an insufficient provision of cash, a loan of cash;

4 • That, in the specific case:

- Of a delivery instruction from the client to the custody account-keeper of securities which are themselves to be received from a matching operation by the custody account-keeper and the counter-party which is due to deliver to it the securities concerned; and
- Of non-settlement of this latter operation on the planned date as a result of a failure by the said counter-party, the custody account-keeper shall take, immediately on recording the default, all the measures necessary for borrowing or repurchase in order to ensure the settlement of the delivery instructions as quickly as possible, subject to the conditions set out in 1° and 2° both being fulfilled, except where exceptional market conditions make these measures impossible.

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