



Book III - Service providers

Title II - Other service providers

Chapter III bis - Depositories of securitisation vehicles

Section 2 - Organisational structures and resources of the depository of securitisation vehicles

Sub-section 2 - Relations between the depository and the securitisation vehicle

General regulation of the AMF

Article 323-53 into force since 23 April 2021

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Article 323-53

A written agreement whereby the depository is appointed pursuant to Article L. 214-175-2, I of the Monetary and Financial Code, is established between the depository on one hand and the securitisation vehicle on the other hand or, where applicable, the asset management company acting on behalf of the securitisation vehicle. This agreement shall contain at least the following clauses:

- 1 • A description of the procedures, including those related to custody, to be adopted for each type of asset of the securitisation vehicle entrusted to the depository;
- 2 • A description of the procedures to be followed where the securitisation vehicle envisages a modification of its rules or articles of association or prospectus, and identifying when the depository should be informed, or where a prior agreement from the depository is needed to proceed with the modification;
- 3 • A description of the means and procedures by which the depository will transmit to the securitisation vehicle all relevant information that the securitisation vehicle needs to perform its duties including a description of the means and procedures

related to the exercise of any rights attached to financial instruments, and the means and procedures applied in order to allow the securitisation vehicle to have timely and accurate access to information relating to its accounts;

- 4 • A description of the means and procedures by which the depositary will have access to all relevant information it needs to perform its duties;
- 5 • A description of the procedures by which the depositary has the ability to enquire into the conduct of the securitisation vehicle and to assess the quality of information transmitted, including by way of on-site visits;
- 6 • A description of the procedures by which the securitisation vehicle can review the performance of the depositary in respect of the depositary's contractual obligations;
- 7 • The following elements related to the exchange of information and to obligations on confidentiality and money laundering:
 - a • A list of all the information that needs to be exchanged between the securitisation vehicle and the depositary related to the subscription, redemption, issue and cancellation of its units, shares and debt securities;
 - b • The confidentiality obligations applicable to the parties to the agreement pursuant to prevailing laws and regulations on professional secrecy;
 - c • Information on the tasks and responsibilities of the parties to the agreement in respect of obligations relating to the prevention of money laundering and the financing of terrorism, where applicable;
- 8 • Where the parties envisage appointing third parties to carry out their respective duties, they shall include at least the following particulars in that agreement:
 - a • An undertaking by each party to the agreement to provide details, on a regular basis, of any third parties appointed to carry out their respective duties;
 - b • An undertaking that, upon request by one of the parties, the other party will provide information on the criteria used for selecting the third party and the steps taken to monitor the activities carried out by the selected third party;
 - c • A statement that a depositary's liability shall not be affected by the fact that the depositary has entrusted to a third party all or some of the assets in its safekeeping, unless it has itself been discharged from its liability in accordance with the provisions of Article L. 214-175-6, III of the Monetary and Financial Code;
- 9 • The following elements related to potential amendments and the termination of the agreement:
 - a • The period of validity of the agreement;
 - b • The conditions under which the agreement may be amended or terminated;
 - c • The conditions which are necessary to facilitate transition to another depositary and, in case of such transition, the procedure by which the depositary shall send all relevant information to the other depositary;
- 10 • Where the parties to the agreement agreed to the use of electronic transmission for part or all of information flows between them, the agreement shall contain provisions ensuring that a record is kept of such information;
- 11 • The parties may provide that the agreement shall cover more than one securitisation vehicle managed by the management company. In this case, a list of the securitisation vehicles concerned shall be included in the agreement;

2023-10-11

- 2 • The agreement also includes the clauses in points b, h, n, o and p of paragraph 1 and the clause in paragraph 6 of Article 83 of Commission Delegated Regulation (EU) no. 231/2013 of 19 December 2012.

The parties may provide that the agreement covers several securitisation vehicles managed by the investment management company and may include all or part of the information on the above-mentioned means and procedures in a separate written agreement.

The parties may include details of the means and procedures referred to in points 3 and 4 in a separate written agreement.

✎ **Version into force since 23 April 2021**

✎ Version into force from 17 April 2016 to 22 April 2021