



Book III - Service providers

Title II - Other service providers

Chapter III bis - Depositaries of securitisation vehicles

Section 3 - Procedures for custody of certain assets by the depositary

Sub-section 3 - Procedures for custody for claims

General regulation of the AMF

Article 323-59-1 into force since 23 April 2021

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Article 323-59-1

With regard to its duties related to the custody of claims mentioned in Article 323-44, 2°, the depositary:

- 1 • Shall determine the frequency and extent of the checks relating to the existence of claims based on samples and shall provide for checks proportionate to the risk of non-existence of claims that take into account at least the following criteria:
 - a) The number of claims acquired by the vehicle;
 - b) The frequency of acquisition of claims by the vehicle;
 - c) The cumulative tasks performed by the transferor, such as those related to the recovery of debts;
 - d) The fact that the transferor is subject to effective prudential regulations and supervision;
 - e) The existence of the notification of transfers of claims to debtors or the acceptance of this claim by the debtor;

- f) The existence of a special allocation account, within the meaning of Article L. 214-173 of the Monetary and Financial Code;
 - g) The retention of the deeds from which the claims arise by the transferor or the entity responsible for the recovery of the claims mentioned in Article L. 214-175-5 of the Monetary and Financial Code;
 - h) The concentration of claims acquired by the vehicle from the same transferor;
- 2 • Shall set up and implement effective arrangements, appropriate to the nature of the claims, in particular depending on whether or not the claims exist on the date of the check, in order to comply with the obligations referred to in paragraph 1. In particular, the depositary shall define in writing and implement a control policy to justify the frequency and extent of the checks conducted;
- 3 • Shall regularly check the effectiveness of its control arrangements and policy in order to identify and address any deficiencies;
- 4 • Shall review its control policy annually. It shall also review this policy whenever a significant change occurs that has an impact on the risk of non-existence of the claims held by the securitisation vehicle.

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