



## Book V - Market infrastructures

### Title IV - Clearing houses

#### Chapter I - Common provisions

##### Section 4 - Clearing house participation conditions

## General regulation of the AMF

### Article 541-21 into force since 23 September 2021

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#### Article 541-21

The operating rules of the clearing house may authorise a clearing member to outsource all or part of the clearing operations to another clearing member, to an entity that it controls, or by which it is controlled, within the meaning of Article L. 233-3 of the Commercial Code, or, more generally, to any other third-party entity.

For the purposes of this Article, the outsourcing of clearing operations refers to outsourcing to a third party, by a clearing member, on a long-term and regular basis, of the performance of services or other operational tasks which contribute directly to fulfilment of the clearing member's obligations stipulated by the clearing house's operating rules.

A clearing member that outsources all or part of the clearing operations shall not under any circumstances be relieved of its liability vis-à-vis third parties with regard to the outsourced activities.

Where a clearing member outsources clearing operations to an outside service provider other than a clearing member, the operating rules of the clearing house lay down obligations for the clearing member equivalent to those to which are subjected, in the case of outsourcing, investment service providers in their relations with their outside service providers in accordance with the order of 3 November 2014 relating to internal control of companies in the banking, payment services and investment services sector subject to the control of the Autorité de Contrôle Prudentiel et de Résolution in application of Title V, Chapter II of said

The operating rules of the clearing house stipulate in particular that clearing members shall ensure, in their relations with their outside service providers, that the latter agree that the Autorité de Contrôle Prudentiel et de Résolution and the AMF, or any other equivalent foreign authority within the meaning of Articles L. 632-7, L. 632-12, L. 632-13 and L. 632-16 of the Monetary and Financial Code, may have access to information on the outsourced activities necessary to perform their duties.

By way of derogation, the operating rules of the clearing house may exempt the clearing members referred to in 6° of Article L. 440-2 of the Monetary and Financial Code from the obligation of providing access to all or part of the information mentioned in the preceding paragraph if the clearing member were not itself subject to this obligation given that it does not perform outsourcing.

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

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✎ Version into force from 16 June 2014 to 22 September 2021