

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 into force since 03 January 2018

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Article 322-5

Prior to the supply of the custody account-keeping service, the custody account-keeper shall conclude an agreement with each holder of a securities account.

This agreement shall define the principles for the operation of the securities account and identify the respective rights and obligations of the parties.

I. - It shall include the following information:

1 • The identity of the person or persons with which the agreement is established:

- a • Where this involves a legal entity, the modalities for informing the service provider of the name of the persons authorised to act in the name of the said legal entity;
- b • Where this involves a natural person, his/her capacity, where applicable, as a French resident, a resident of a State which is a party to the European Economic Area agreement or a resident of a third country, plus, where applicable, the identity of the persons authorised to act in the name of the said natural person;

- 2 • The type of services supplied as well as the categories of financial securities to which the services relate;
- 3 • The pricing of the services supplied by the custody account-keeper and the terms for remuneration of this latter;
- 4 • The validity period of the agreement;
- 5 • The obligations of confidentiality of the custody account-keeper in accordance with the laws and regulations in force concerning professional secrecy.

II. - It shall also specify:

- 1 • The terms according to which the information stipulated in Article 322-12 shall be sent to the holder of the securities account;
- 2 • The conditions for the sending, by the custody account-keeper, of the securities operation notes, depending on the regulations specific to the country of residence of the parties concerned and, where applicable, the restrictions imposed by the issuer in the issue prospectus. In the event of specific regulations or restrictions, the agreement shall set out the measures to be taken as a consequence by the custody account-keeper;
- 3 • If the custody account-keeper is also the service provider which supplies the client with the investment service of receipt and transmission of orders or the order execution service, the conditions according to which its client sends to it his/her orders for execution and the terms on which the custody account-keeper completes in good time the settlement in question, by borrowing securities on behalf of the client and by lending the necessary cash if required;
- 4 • The terms, and in particular the deadline, for transmission by the client of his/her instructions relating to a securities operation in order that these instructions can be taken into account by the custody account-keeper, as well as the measures adopted by the latter if the said instructions are not transmitted to it in accordance with the terms set out in the agreement. In the event that these measures consist of the systematic sale by the custody account-keeper of the rights of the holder, the agreement shall specify this explicitly;
- 5 • The information set out in Article 49 of Commission Delegated Regulation (EU) 2017/565 of 25 April 2016 in terms of the modalities for the holding of securities and the terms for the use of the securities;
- 6 • The information relating to the tax situation of the holder of financial securities which the custody account-keeper must possess in order to be able to fulfil its professional obligations.

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