

Book IV - Collective investment products

Title II - AIFS

Chapter II - Funds open to retail investors

Section 1 - Retail investment funds

Sub-section 4 - Calculation of aggregate risk

Paragraph 2 - Counterparty risk and issuer concentration

General regulation of the AMF

Article 422-61 into force since 21 December 2013

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Article 422-61

- 1 • The asset management company shall ensure that the counterparty risk for the retail investment fund arising from over-the-counter financial contracts is subject to the limits specified in Article R. 214-32-29 of the Monetary and Financial Code.
- 2 • For the purposes calculating the exposure of the retail investment fund to a counterparty within the limits specified in I of Article R. 214-32-29 of the Monetary and Financial Code, the asset management company shall use the positive value of the market price valuation of the over-the-counter financial contract concluded with this counterparty.

The asset management company may base itself on the net position of a retail investment fund's financial contracts with regard to a given counterparty if it has the rights specified in Article L. 211-36-1 of the Monetary and Financial Code or equivalent foreign provisions for the purposes of ensuring, on behalf of the retail investment fund, that the netting agreements concluded with this counterparty are observed. The net position may be used only for over-the-counter financial contracts to which the retail investment fund is exposed for a given counterparty, and not for other exposures of the retail investment fund with regard to this counterparty;

- 3 • The asset management company may reduce the exposure of a retail investment fund to the counterparty for a transaction relating to an over-the-counter financial contract by receiving collateral to the benefit of the retail investment fund. This collateral must be liquid enough to be realised quickly at a price close to its estimated price prior to realisation;
- 4 • The asset management company shall take the collateral into account when calculating exposure to the counterparty risk as specified in I of Article R. 214-32-29 of the Monetary and Financial Code provided that, on behalf of the retail investment fund, it supplies collateral to the counterparty for transactions relating to an over-the-counter financial contract. The collateral may be taken into account on a net basis only if the asset management company has the legal and regulatory means to ensure that the netting agreements with this counterparty are observed on behalf of the retail investment fund;
- 5 • The asset management company shall base itself on the underlying exposure corresponding to the use of over-the-counter financial contracts pursuant to the commitment approach in order to ensure it abides by the concentration limits for issuer types specified in Articles R. 214-32-29, R. 214-32-33 and R. 214-32-34 of the Monetary and Financial Code;
- 6 • For exposure arising from transactions involving over-the-counter financial contracts specified in 3° of III of Article R. 214-32-29 of the Monetary and Financial Code, the asset management company shall include in the calculation any counterparty risk exposure in such contracts.

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