

Book III - Service providers

Title I - Investment services providers

Chapter II - Organisational rules

Section 3 - Safeguarding client assets

General regulation of the AMF

Article 312-12 into force since 03 January 2018

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Article 312-12

I.- The investment services provider may not enter into securities financing transactions in respect of financial instruments held by it on behalf of a client or otherwise use such financial instruments for its own account, for the account of another person or for the account of one of its other clients, unless the client has given his prior express consent for the use of the instruments on specified terms, as evidenced by his signature or an equivalent alternative mechanism.

The use of that client's financial instruments must be restricted to the specified terms to which the client has consented.

II. - The investment services provider may not enter into securities financing transactions in respect of financial instruments held by it on behalf of a client in an omnibus account maintained by a third party, or otherwise use financial instruments held in such an account for its own account or for the account of another person unless at least one of the following conditions is met:

- 1 • Each client whose financial instruments are held on an omnibus account must have given consent in accordance with I.
- 2 • The investment services provider must have systems and controls to ensure that only financial instruments belonging to clients who have given prior consent in accordance with I are so used.

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The investment services provider' records shall include data on the client on whose instructions the financial instruments have been used and on the number of financial instruments used belonging to each client who has given his consent, so as to enable the correct allocation of any loss of financial instruments.

III. – A “securities financing transaction” means a transaction as defined by Article 3 (11) of Regulation (EU) 2015/2365 of 25 November 2015 on transparency of securities financing transactions and of reuse.

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