

Book III - Service providers

Title I - Investment services providers

Chapter II - Organisational rules

Section 3 - Safeguarding client assets

General regulation of the AMF

Article 312-18 into force since 03 January 2018

DISCLAIMER : Information boxes have been inserted within the General Regulation. They allow for a direct access to the relevant European regulations on the subject matter.

The user will be redirected to the European regulations as initially published in the Official Journal of the European Union and to the subsequent corrigenda, if any. The AMF does not guarantee the completeness of the redirections to these European regulations and corrigenda.

The boxes are located at the most relevant level of the GRAMF depending on the provision of the EU regulations to which they refer (Book, Title, Chapter, Section, etc.).

This additional material is provided for information purposes only and does not constitute a regulatory instrument. The AMF shall not be held liable or responsible for any harm resulting directly or indirectly from the provision or the use of these information boxes.

Article 312-18

I.- The investment services provider should consider the appropriateness of title transfer collateral arrangements used with professional clients and eligible counterparties with regard to the relationship between the client's obligations to the provider and the client financial instruments and funds subject to the abovementioned arrangements.

At the request of the AMF, the service provider must be able to demonstrate, by any means, that it has undertaken these steps.

II.- When considering the appropriateness of using title transfer collateral arrangements pursuant to I, the investment services provider shall take into account all of the following factors:

- 1 • there is a sufficiently strong present or future connection between the client's obligations towards the service provider and the use of title transfer collateral arrangements;
- 2 • the amount of financial instruments and funds subject to the title transfer collateral arrangement does not substantially exceed the client's obligations, or is not unlimited, and whether the client has an obligation of any kind towards the service provider; and

2023-10-11

- 3 • if all client financial instruments and funds are subject to title transfer collateral arrangements, irrespective of the respective obligations of each client towards the service provider.

III.- When using title transfer collateral arrangements pursuant to I, the investment services provider should warn professional clients and eligible counterparties about the risks incurred and about the effects of title transfer collateral arrangements on the client's financial instruments and funds.

✎ **Version into force since 3 January 2018**