

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 4 bis - Provisions relating to the administration of bearer financial securities recorded in a distributed ledger system admitted to trading on a DLT market infrastructure

Paragraph 2 - Professional obligations of administrators of bearer financial securities in a distributed ledger system

Sub-paragraph 2 - General provisions relating to the services provided and the protection afforded to clients

General regulation of the AMF

Article 322-72-4 into force since 02 November 2024

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Article 322-72-4

The administrator of financial securities recorded in a distributed ledger system must at all times comply with the following obligations:

- 1 • It shall do everything in its power to facilitate the exercise of the rights attached to these financial securities, in compliance with the regulations applicable to the said securities;
- 2 • When it offers to hold the means of access to the financial securities, including by means of private cryptographic keys, it shall comply with the following requirements:

- it shall keep a register of positions for the financial securities administered. This register, which may be kept by means of a distributed ledger as appropriate, shall identify the characteristics of the financial securities and record their movements in order to ensure traceability;
- it shall take all due care as regards the holding of the means of access to the financial securities, including in the form of private cryptographic keys, and shall ensure that all related transactions and movements are strictly recognised in the register of positions;
- it may not use the means of access to the financial securities, including when these take the form of private cryptographic keys, and the rights attached thereto, without the express agreement of their owner. It shall organise its internal procedures in such a way as to ensure that any use of the means of access for which it is responsible is justified by a transaction duly recorded in an owner's account;
- when the administrator ceases to hold the means of access to the financial securities recorded in a distributed ledger system, in application of Article R. 211-4 of the Monetary and Financial Code, it shall transfer control of the means of access, including in the form of private cryptographic keys, to the owner of the financial securities, as soon as possible, provided that the said owner has fulfilled their own obligations. The administrator undertakes to no longer use the means of access of the owner of the financial securities from the date of transfer.

In the event of the loss or unavailability of the means of access to the financial securities, the administrator of the financial securities recorded in a distributed ledger system shall be liable for any damages caused. It shall not be liable if it proves that its regulatory breach was due to force majeure within the meaning of Article 1218 of the French Civil Code. In the event of the loss or unavailability of the means of access to the financial securities, the administrator of the financial securities must assist the owner of the securities or the DLT market infrastructure to limit the consequences of this loss or unavailability in relation to the owner's rights to the financial securities concerned.

- It shall put in place transparent and appropriate arrangements to ensure the protection of clients, as well as mechanisms for handling client complaints and procedures for compensation or appeal in the event of the loss or unavailability suffered by a client as a result of any of the circumstances referred to in this paragraph or resulting from the cessation of its activities.

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