

# EUROPEAN PARLIAMENT

2004



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*Committee on Legal Affairs*

**2008/0082(COD)**

5.11.2008

## **OPINION**

of the Committee on Legal Affairs

for the Committee on Economic and Monetary Affairs

on the proposal for a directive of the European Parliament and of the Council amending Directive 98/26/EC on settlement finality in payment and securities settlement systems and Directive 2002/47/EC on financial collateral arrangements as regards linked systems and credit claims (COM(2008)0213 – C6-0181/2008 – 2008/0082(COD))

Rapporteur: Aloyzas Sakalas

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## AMENDMENTS

The Committee on Legal Affairs calls on the Committee on Economic and Monetary Affairs, as the committee responsible, to incorporate the following amendments in its report:

### Amendment 1

#### Proposal for a directive – amending act

#### Article 1 – point -1 (new)

Directive 2002/47/EC

Recital 9 a (new)

*Text proposed by the Commission*

*Amendment*

***(-1) The following recital 9 a shall be inserted:***

***"(9a) In order to limit the administrative burdens for parties using financial collateral coming within the scope of this Directive, the only perfection requirement which national law may impose in respect of financial collateral should be that the financial collateral is delivered, transferred, held, registered or otherwise designated so as to be in the possession or under the control of the collateral taker or of a person acting on the collateral taker's behalf while not excluding collateral techniques where the collateral provider is allowed to substitute collateral or to withdraw excess collateral. This Directive does not preclude Member States from requiring that a credit claim be delivered by means of its inclusion in a list of claims."***

*Justification*

*The amendment clarifies that inclusion in a list between the parties can have the function of delivery of a credit claim as well. As a result of the corpus of the Directive, with respect to the delivery no heavier formality can be required.*

## Amendment 2

### Proposal for a directive – amending act

#### Article 1 – point 2 – point -a (new)

Directive 98/26/EC

Article 2 – point a – indent 3

*Text proposed by the Commission*

*Amendment*

***(-a) In point (a), indent 3 shall be replaced by the following:***

***"– designated, without prejudice to other more stringent conditions of general application laid down by national law, as a system and notified to the Commission by the Member State whose law is applicable, after that Member State is satisfied as to the adequacy of the rules of the system. A system that is established by an ECB legal act and governed by the law of a Member State shall be designated (and notified to the Commission) by the ECB."***

## Amendment 3

### Proposal for a directive – amending act

#### Article 1 – point 6

Directive 98/26/EC

Article 10

*Text proposed by the Commission*

*Amendment*

Member States shall specify the systems, and the respective system operators, which are to be included in the scope of this Directive and shall notify them to the Commission and inform the Commission of the authorities they have chosen in accordance with Article 6(2).

Member States, ***or the ECB, where a system is established by an ECB legal act,*** shall specify the systems, and the respective system operators, which are to be included in the scope of this Directive and shall notify them to the Commission and inform the Commission of the authorities they have chosen in accordance with Article 6(2).

## PROCEDURE

<b>Title</b>	Securities settlement systems and financial collateral arrangements
<b>References</b>	COM(2008)0213 – C6-0181/2008 – 2008/0082(COD)
<b>Committee responsible</b>	ECON
<b>Opinion by</b> Date announced in plenary	JURI 8.5.2008
<b>Drafts(wo)man</b> Date appointed	Aloyzas Sakalas 25.6.2008
<b>Discussed in committee</b>	13.10.2008
<b>Date adopted</b>	4.11.2008
<b>Result of final vote</b>	+: 25 –: 0 0: 0
<b>Members present for the final vote</b>	Carlo Casini, Titus Corlăţean, Bert Doorn, Monica Frassoni, Giuseppe Gargani, Lidia Joanna Geringer de Oedenberg, Neena Gill, Othmar Karas, Klaus-Heiner Lehne, Katalin Lévai, Antonio López-Istúriz White, Antonio Masip Hidalgo, Hans-Peter Mayer, Manuel Medina Ortega, Aloyzas Sakalas, Francesco Enrico Speroni, Diana Wallis, Jaroslav Zvěřina, Tadeusz Zwiefka
<b>Substitute(s) present for the final vote</b>	Sharon Bowles, Eva Lichtenberger, Rareş-Lucian Niculescu, Georgios Papastamkos, Gabriele Stauner, József Szájer, Jacques Toubon, Renate Weber