

European financial markets: financial collateral arrangements and legal certainty, consequences on the SMEs

2001/0086(COD) - 05/03/2002 - Council position

The common position follows the approach of the Commission proposal, with some amendments to the substance and to the presentation of the text. The main changes to the Commission proposal reflect the amendments proposed by the European Parliament and concern: - the persons and institutions covered by the scope of the Directive; - the requirements, which have to be fulfilled by the parties establishing a collateral arrangements in order to be safeguarded by the Directive, as for instance how the arrangement must be evidenced and signed by the Parties; - appropriation by the collateral taker of collateral on the occurrence of an enforcement event; - Article 9 (10 in the original proposal) on conflict of laws, which determines the location of book-entry securities and thereby the applicable law governing proprietary aspects of such securities, as in Article 9(2) in Directive 98/26/EC.