Contractual netting (amend. Directive 89/647 /EEC)

1994/0099(COD) - 23/01/1995

The Committee on Legal Affairs and Citizens' Rights adopted the report by Mr FLORIO on the proposal to amend Directive 89/647/EEC on novation and contractual netting. The main recommendations in the report are as follows: * the Member States should introduce the provisions needed to recognise contractual netting still not recognised as quickly as possible; * the supervisory authorities are defined more restrictively as the regulatory authorities in the Member States responsible for the credit institutions and investments firms involved in the operation. The report also gives them the task, within their discretionary powers, of simplifying the operations and verifications for which they are responsible. Finally, the report reduces the administrative burden on the credit institution to supplying the regulatory authorities with all the documentation specific to each netting agreement: self-certification of the presence of all the documents needed and the facility to consult them should suffice, according to the report, for the purposes of this guarantee; * the concept of "counterparty" is redefined in order to avoid overly restrictive interpretations: it applies both to credit institutions and to all persons legally able to conclude netting agreements; * Member States should ensure that the effects of interpretations adopted during the uniform application of agreements do not contradict the principle of free competition.