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

1994/0099(COD) - 10/05/1995 - Modified legislative proposal

The amended proposal incorporated the essence of the European Parliament's amendments, which aimed to: - clarify that the rules envisaged would reduce the level of banks' compulsory cover through their own resources; - call on the Member States to introduce provisions to ensure that the validity of contractual netting was legally recognised; - designate more clearly the authorities responsible for the prudential recognition of contractual netting agreements: the national authorities which were legally authorised to supervise investment firms, in accordance with a specific law or regulation; - introduce a definition of "counterparties": bilateral contractual netting agreements could be concluded not only by credit institutions, but also by all entities which were legally able to conclude such agreements; - make written and reasoned legal opinions on the validity of contractual netting agreements available to the authorities; - clarify that the action by the competent authorities when striving for a uniform assessment of the contractual netting agreements should not be responsible for distorting competition.