

# **Banks: settlement finality in payment and securities settlement systems**

1996/0126(COD) - 30/05/1996 - Legislative proposal

**OBJECTIVE:** the proposal for a European Parliament and Council Directive has three objectives: - to reduce the legal risks associated with participation in payment systems, in particular as regards the legal validity of netting agreements and the enforceability of collateral security; - to ensure that in the internal market payments may be made free of impediments, thus contributing to the efficiency and the cost-effective operation of cross-border payment arrangements in the EU; - by taking into account collateral constituted for monetary policy purposes, to contribute to developing the necessary legal framework in which the future European Central Bank may develop its monetary policy. The proposal also seeks to bring about further integration of EC banks into the domestic payments systems of other EC Member States and to prepare the third stage of EMU. **CONTENT:** the proposal for a directive contains the following main provisions: - section I defines its scope and the necessary terms; - section II lays down the general principle that the legal validity of payment netting must be recognized under all jurisdictions concerned and that its effects must be binding on third parties; - section III provides for the irrevocability of payment orders in accordance with the rules of the payment system concerned; - section IV lays down a general principle whose objectives are as follows: . to ensure that insolvency proceedings do not have a retroactive effect on the rights and obligations of participants; . to determine which insolvency law is applicable to the rights and obligations in connection with direct participation in a payment system in the event of insolvency proceedings against a participant in that payment system; - section V lays down a general principle whose objective is to insulate collateral security from the effects of the insolvency law of the Member State of a failed participant. These provisions merely set out the general objectives pursued, leaving implementation to the Member States.