Banks: settlement finality in payment and securities settlement systems

1996/0126(COD) - 13/03/1998 - Commission opinion on Parliament's position at 2nd reading

The Commission delivers a favourable opinion on the three amendments to the text of the common position and amends its proposal accordingly. These amendments seek to: - delete a provision which would have allowed the Member States to protect their national systems by allowing the possibility of adopting more stringent rules than those laid down by the directive; - stress the exceptional nature of the cases in which transfer orders entered into a system after the opening of insolvency proceedings are valid; - reverse the burden of proof: transfer orders entered after the opening of insolvency proceedings are only valid if the 'system' can prove that it was unaware and should not have been aware of the opening of these proceedings; - specify whose unawareness of the opening of insolvency proceedings is relevant for a transfer order entered into the system after this point to be valid, namely the central counterparty, the clearinghouse or the settlement agent; - allow the final users of payment or securities settlement systems, namely the customer, to be informed of which system his bank or investment firm uses to transfer money or securities for his account as well as of the main rules governing the functioning of these systems.