Banks: settlement finality in payment and securities settlement systems

1996/0126(COD) - 19/05/1998 - Final act

OBJECTIVE: to reduce the systemic risk associated with participation in securities payment and settlement systems and reduce to a minimum disruptions to a system, by means of an insolvency procedure against a participant in the system. COMMUNITY MEASURE: Directive 98/26/EC of the European Parliament and of the Council on settlement finality in payment and securities settlement systems. SUBSTANCE: the Directive confers legal validity on payment netting, lays down that, once entered in a securities payment or settlement system, transfer orders are irrevocable, that insolvency proceedings may not be enforced retroactively and that the insolvency legislation applicable is that of the Member State of the system concerned. The Directive stipulates that: - transfer orders and netting shall be legally enforceable and binding on third parties in the event of insolvency proceedings against a participant in the system; - the right to security provided in connection with participation in a system is not affected by insolvency proceedings against the participant who has provided the security; - the moment of opening of insolvency proceedings is the moment when the relevant judicial or administrative authority hands down its decision. Security provided to central banks of the Member States or the future European Central Bank is also covered by the Directive. Thus the Directive helps to improve the effectiveness of securities payment and settlement systems and reduce their cost, while providing a legal framework for the harmonious functioning of monetary policy under EMU. ENTRY INTO FORCE: 16/06/1998 DEADLINE FOR TRANSPOSITION: 11/12/1999