Basic information

1994/0099(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Contractual netting (amend. Directive 89/647/EEC) **Subject** 2.50.04 Banks and credit	

Key players

European Parliament	**Committee responsible**	**Rapporteur**	**Appointed**
	JURI Legal Affairs, Citizens' Rights	FLORIO Luigi Andrea (FE)	26/07/1994

Council of the European Union	**Council configuration**	**Meetings**	**Date**
	General Affairs	1903	1996-02-26

Key events

Date	Event	Reference	Summary
27/04/1994	Legislative proposal published	COM(1994)0105	Summary
06/05/1994	Committee referral announced in Parliament, 1st reading		
23/01/1995	Vote in committee, 1st reading		Summary
23/01/1995	Committee report tabled for plenary, 1st reading	A4-0009/1995	
15/02/1995	Debate in Parliament		
10/05/1995	Modified legislative proposal published	COM(1995)0170	Summary
05/09/1995	Council position published	08355/2/1995	Summary
21/09/1995	Committee referral announced in Parliament, 2nd reading		
28/11/1995	Vote in committee, 2nd reading		Summary
28/11/1995	Committee recommendation tabled for plenary, 2nd reading	A4-0309/1995	
13/12/1995	Debate in Parliament		Summary
26/02/1996	Act approved by Council, 2nd reading		Summary
21/03/1996	Final act signed		
21/03/1996	End of procedure in Parliament		

03/04/1996	Final act published in Official Journal		

Technical information	
Procedure reference	1994/0099(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Legal basis	EC Treaty (before Amsterdam) E 057-p2
Stage reached in procedure	Procedure completed
Committee dossier	JURI/4/07032

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A4-0009/1995 OJ C 056 06.03.1995, p. 0003	23/01/1995	
Text adopted by Parliament, 1st reading/single reading		T4-0040/1995 OJ C 056 06.03.1995, p. 0067-0077	16/02/1995	Summary
Committee recommendation tabled for plenary, 2nd reading		A4-0309/1995 OJ C 017 22.01.1996, p. 0006	28/11/1995	
Text adopted by Parliament, 2nd reading		T4-0616/1995 OJ C 017 22.01.1996, p. 0135-0166	14/12/1995	Summary

Council of the EU

Document type	Reference	Date	Summary
Council position	08355/2/1995 OJ C 288 30.10.1995, p. 0030	05/09/1995	Summary

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(1994)0105 OJ C 142 25.05.1994, p. 0008	27/04/1994	Summary
Modified legislative proposal	COM(1995)0170 OJ C 165 01.07.1995, p. 0006	10/05/1995	Summary
Commission communication on Council's position	SEC(1995)1431	18/09/1995	Summary
	COM(1996)0027		

Commission opinion on Parliament's position at 2nd reading		29/01/1996	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES1001/1994 OJ C 393 31.12.1994, p. 0030	14/09/1994	Summary

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Directive 1996/0010
OJ L 085 03.04.1996, p. 0017 Summary

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

1994/0099(COD) - 18/09/1995 - Commission communication on Council's position

The Commission felt that the text of the common position retained the key points of the initial proposal. With regard to the removal of Recital 5a (provisions necessary to ensure the legal validity of contractual netting), the Commission had decided to include the contents of this recital in the minutes of the Council's meeting in the form of a unilateral declaration. The Commission also incorporated a second unilateral declaration in the Council's minutes: this dealt with the problem of consulting the competent authorities in the context of examining cross-border contractual netting.

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

1994/0099(COD) - 14/12/1995 - Text adopted by Parliament, 2nd reading

In adopting the recommendation for second reading by Mr FLORIO (FE, I), the European Parliament approved the common position of the Council on contractual netting with just one amendment: it called on the Member States to comply with the directive after its entry into force and not later than 30 June 1996.

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

1994/0099(COD) - 14/09/1994 - Economic and Social Committee: opinion, report

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

1994/0099(COD) - 16/02/1995 - Text adopted by Parliament, 1st reading/single reading

Parliament approved the Commission proposal subject to nine amendments, the purpose of which is to: - reiterate that the rules planned for recognizing netting would reduce the level of banks' compulsory cover through their own resources; - draw Member States' attention to the advisability of introducing the provisions needed to guarantee such recognition as quickly as possible; - stipulate that supervision would be carried out by the regulatory authorities in the Member States responsible for the credit institutions and investment firms involved; - extend the definition of counterparty to include all persons legally able to conclude "contractual netting" agreements under the legislation in their Member State of origin; - limit the obligation of credit institutions in contractual netting to self-certification of the presence of all the documents needed and to the facility for the regulatory authority to consult them if it so wishes; - make provision for the regulatory authorities to simplify the operations and verifications relating to the obligations made by the parties referred to in point 3 b) ii of Annex II; - stipulate that action by the competent authorities should not cause distortion of competition; The Commission accepted all the amendments.

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.

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

1994/0099(COD) - 21/03/1996 - Final act

OBJECTIVE: to amend Annex II to Directive 89/647/EEC on a solvency ratio for credit institutions, which defines the way in which off-balance-sheet items relating to interest and exchange rates are to be treated. COMMUNITY MEASURE: European Parliament and Council Directive 96/10/EC amending Directive 89/647/EEC as regards the recognition of contractual netting by the competent authorities. SUBSTANCE: The purpose of the proposed directive is to give wider recognition than in the past, for supervisory purposes, to the risk-reducing effects of bilateral netting agreements, provided that their legal validity is established. The directive takes extensive account of the work done in this area at an international level by the Basle Committee on Banking Supervision, which ensures its coherence with the major international prudential provisions. The rules envisaged for prudential recognition of compensation at a wider international level will allow credit institutions and groups of credit institutions pursuing their activities at an international level in a large number of third countries whose establishments are in competition with Community credit institutions to benefit from a reduction in own funds requirements. ENTRY INTO FORCE: 23/04/1996 DEADLINE FOR TRANSPOSITION: 30/06/96

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

1994/0099(COD) - 26/02/1996

At the end of the co-decision procedure, the Council unanimously adopted the Directive.

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

1994/0099(COD) - 29/01/1996 - Commission opinion on Parliament's position at 2nd reading

The Commission accepted the EP's only amendment to the text of the common position which aimed to make the transposition of the directive compulsory in all the Member States.

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

1994/0099(COD) - 05/09/1995 - Council position

The common position took over four of the nine amendment adopted by the European Parliament at first reading. It was based for the most part on the Commission's initial proposal and added certain elements aimed at clarifying the text and making it more transparent. * With regard to the preamble, the Council added two recitals which: - stated that Member States were obliged to strive for uniform assessment of contracts for novation and contractual netting agreements by their competent authorities with a view to the smooth functioning of the internal market; - stated that the calculation of add-ons should be based on effective rather than apparent notional amounts. * With regard to the provisions, the common position took account of fact that Member States could decide whether or not they recognised the contracts for novation or contractual netting agreements. * With regard to the annex, which was intended to replace Annex II of Directive 89/647/EEC, the Council made the following amendments: - definition of the term "counterparty"; - removal of the references to "aggregate books"; - legal opinions should be made available to the competent authorities but need not necessarily be forwarded to them; - reasoned legal opinions may be drawn up by types of contractual netting; - definition of the term "walkaway clause". * The Council did not retain Parliament's amendments aimed at: - highlighting that the directive would in fact reduce the level of banks' compulsory cover through their own resources; - calling on the Member States to incorporate in their national legislation the necessary provisions to ensure the legal validity of contractual netting (Recital 5a); - including in Annex II of the directive on capital adequacy (Directive 93/6/EC) a definition of the competent authorities in cases where Annex II of Directive 89/467/EEC was applied to investment firms, in accordance with those provisions.

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

1994/0099(COD) - 27/04/1994 - Legislative proposal

This proposal aimed to amend Annex II of Directive 89/647/EEC on a solvency ratio for credit institutions, which defined the way in which off-balance-sheet items relating to interest and exchange rates were to be treated. The aim of this was to give wider recognition to the risk-reducing effects of bilateral netting agreements. The only type of netting recognised by the current text as risk-reducing was bilateral netting for novation. The proposed amendment would enable the national supervisory authorities to recognise this quality among more types of bilateral netting and, in particular, bilateral netting for "close-out", provided that the legal validity of the netting agreement was established. The proposal gave significant consideration to the work carried out in this area at international level, by supervisory bodies, which ensured coherence with the major international prudential provisions. Since Directive 89/647/EEC was included in the annex to the EEA Agreement as a text that applied to them, the current proposal would naturally be extended to the EEA signatory countries.