

<i>Country</i>	<i>Status of implementation</i>	<i>Personal scope of the Directive (Article 1(3))</i> (Art 1.3 opt-out, i.e. only applicable to financial institutions or wider implementation (corporates, private investors?))	<i>Material scope of the Directive (Article 1(4)(b))</i> (- opt-out for own shares and shares of affiliates? - does the scope cover bank loans?)	<i>Appropriation possible (Article 4 (3))</i>	<i>Re-use</i> By which mechanism will it be possible to re-use (sell, pledge) pledged securities?	<i>Recognition of close-out netting</i> By which mechanism is close-out netting recognised?	<i>Conflicts of Laws (Article 9)</i>
<u>Belgium</u>	The Belgian Act implements Directive by inserting 'missing aspects' into existing laws. It was published and entered into force on 1 February 2005.	Draft does not apply Art. 1(3). Intended that Belgian legislation may have broader scope than Directive. Repo/Pledge/Netting: everybody Transfer of Title: everybody except natural persons	No opt-out No bank loans	Appropriation possible	All mechanisms (alienation)	Absolute protection of netting (set-off and contractual compensation)	Article 9 to be implemented in current form.
<u>Czech Republic</u>	Directive not yet implemented. A new draft Bankruptcy law is currently at 3 rd reading stage (before the budget committee) in the Czech National council, the lower house of parliament. This draft consequentially	Under the said draft amendment to Commercial code 513/1991 (art 323c) such opt out is exercised, i.e. applies basically only to financial institutions, NCBs, int. fin. organisations e.g.	Under latest draft amendment to Commercial code 513/1991 (art 323c) there is no opt out for own shares; bank loans are also	Under latest draft amendment to Commercial code 513/1991 (art 323c(2)) this would not be possible unless commercial parties	Under the draft amendment it appears that re-use is expressly excluded (viz. draft Article 232b Comm. Code) [to be confirmed]	A statutory definition of close out netting and netting agreement is contained in art. 197 of the Act on Trading on the Capital Markets 256 / 2004;	Article 9 is meant to be implemented by new Article 11e of the draft consequenti

	amends the Commercial Code 513/1991 by including new articles 323a to 323i on financial collateral arrangements) and other related acts, e.g. the Act on International Private and Procedural Law.	ECB or private corporations above a certain size criteria if their c/party is one of the above type of fin. institution.	covered	agreed to it.		under it such agreements re protected from the effects of bankruptcy declaration (i.e. bankruptcy receiver cannot unilaterally withdraw from them)	al amendment to the Act on Int. Private and Procedural Law No. 97 / 1963 Coll.)
<u>Denmark</u>	Directive implemented by amendment to Danish Act on Trading in Securities that came into effect 1 January 2004 and applies to close-out netting and financial collateral arrangements entered into as from that date.	Art. 1(3) opt-out not applied. Wide implementation, going beyond what is required as a minimum by the Directive to cover in a limited way also transactions between corporates.	Opt-out in relation to article 1(4)(b), which means that own shares etc. can not be used as collateral.	Appropriation possible	The possibility of re-using the securities by selling and pledging is provided for in the Act on Trading in Securities when the parties agree to this.	Recognition of close-out netting. The Insolvency Act specifically allows priority to lex specialis in the case of mutually obligating contracts. The provisions on close-out netting is implemented in the Act on Trading in Securities.	Art. 9 implemented in current form.

<u>Germany</u>	On 13 February 2004, the Act implementing Directive 2002/47/EC was adopted the German Federal Parliament and entered into force 9 April 2004.	Art. 1(3) applied to a very limited extent. Directive is applicable to transactions including corporates, except for longer term cash loans (in this respect, collateral remains subject to general rules already widely compliant with Directive).	Partial opt-out in relation to article 1(4)(b), corporates' own shares as well as the shares of affiliates of that corporate are not considered to be "financial collateral".	Appropriation possible	No specific legal provision. According to the explanatory memorandum, existing court jurisprudence already recognises the right to re-use pledged assets (irregular pledge).	Already recognised by existing German law (Insolvency Act).	Art. 9 already implemented under Section 17a German Safe Custody Act.
<u>Estonia</u>	The Estonian parliament passed the law on 22 April. It was proclaimed by the president on 29 April 2004.	Draft does not apply Art. 1(3).	No opt-out.	Appropriation possible	The new law envisages that the pledged securities shall be kept separate from other securities, the pawnee has a right to give orders with regard to those securities. Regarding the sale, the law emphasises freedom of contract	Set-off/netting is enforceable even in case of moratorium or bankruptcy	Article 9 to be implemented in current form.
<u>Greece</u>	Draft Bill of Law was submitted on 09.12.2004. to the Hellenic Parliament. The bill had already been voted and published: L.	The draft does not apply Art. 1(3). However, the draft does not explicitly mention unincorporated firms/	No opt-out.	Appropriation possible.	Art. 5 of the CD transposed almost <i>verbatim</i> . No explicit reservation for	Set off/netting already recognised pursuant to art. 16 L. 3156/2003. Article 7	Art. 9 to be implemented in current form.

	3301/12004 Official Gazette Vol. A Issue 263. According to Article 23 of the Law, it entered into force upon publication, i.e. on 23.12.04	partnerships.			national legislation on separation of assets and unfair treatment of creditors.	of CD transposed almost <i>verbatim</i> .	
<u>Spain</u>	Draft legislation has been prepared. Timetable for implementation not yet known.	Art. 1(3) opt-out not to be applied.	No opt-out.	Appropriation possible	All mechanisms: the reusing entity may act as owner	Already recognised by existing Spanish law (Securities Market Act and Insolvency Act). The content of these rules will be probably included in a future version of the Draft Law. The current Draft Law reproduces the provisions of the Directive on the close out netting.	Art. 9 to be implemented in current form.
<u>France</u>	The provisions of the Directive are already largely existing under French law, especially pursuant to Financial Security	Opt-out applied with corporates only when the collateral provided or received by them is	No opt-out. It should be noted that, in the new regime, not only	Appropriation possible	Re-use is introduced in the amended version of Article L.431-7 of the Code.	No real change under French law regarding the recognition of close-out netting,	The ordinance introduces a conflict of

	<p>Law of 1st August 2003 implementing Article 7 of the Directive. The law n°2004-1343 of 9 December 2004 on the simplification of law (as published in the Official Journal of 10 December) authorises the French Government to adopt an ordinance implementing the collateral Directive (Article 35) and simplifying certain collateral procedures. The ordinance was adopted on 24 February 2005 and published in the French Official Journal of 25 February 2005..</p> <p>This ordinance will improve Article L431-7 of the Financial and Monetary code on global netting by introducing a wide framework freeing from any formalities collateral whatever pledged or transferred as ownership by financial institutions and corporates.</p>	<p>constituted by cash. However corporates will have the possibility to provide or receive securities as collateral under the new regime transposing the collateral directive.</p>	<p>cash and securities shall be provided into a simplified form of collateral, but also claims, and different forms of rights, provided that they are assignable.</p>			<p>which was already implemented by Article L. 431-7 of the French Financial and Monetary Code.</p>	<p>law rule which is intended to be in line with Article 9 of the Directive (new Article L.431-7-4 of the French Financial and Monetary Code).</p>

<u>Cyprus</u>	Financial Collateral Arrangements Law of 2004. Official Gazette of the Republic No. 3823 of 19.3.2004, Appendix 1(I) p.511-520 (Law 43(I)/2004). Entered into force on 1 May 2004.	Cyprus has not made use of the Art. 1(3) opt-out..	Cyprus has not made use of the Art. 1(4)(b) opt-out.	Appropriation is possible under Cypriot law.	Article 5 of Directive 2002/47 has been transposed <i>verbatim</i> into the Financial Collateral Arrangements Law of 2004 as section 7 thereof. It follows that, under Cypriot Law, both sale and pledge would be open to the collateral taker as collateral securities re-use techniques. It cannot altogether be excluded that the effectiveness of the statutory right of sale could be questioned before a Cypriot Court of law by reference to the principles of equity.	Article 7 of Directive 2002/47 has been transposed <i>verbatim</i> into the Financial Collateral Arrangements Law of 2004 as section 9 thereof. It follows that, under Cypriot Law, close out netting provisions are recognized and that they are to take effect in accordance with their terms as agreed upon between the collateral taker and the collateral giver.	Article 9 of Directive 2002/47 has been implemented <i>verbatim</i> into the Financial Collateral Arrangements Law of 2004 as section 11 thereof.
<u>Ireland</u>	On 9 January 2004 the Directive was implemented by the adoption of the European Communities (Financial	Art. 1(3) opt-out not applied.	Partial opt-out in relation to Article 1(4)(b) with respect to shares in a	Appropriation possible	The provisions of Article 5 of the Directive pertaining to the right of use of	The provisions of Article 7 of the Directive pertaining to the recognition of	Art. 9 implemented in current form

	<p>Collateral Arrangements) Regulations 2004 (S.I. No. 1 of 2004). Amending Regulations were adopted on 8 March 2004 (S.I. No. 89 of 2004.</p>		<p>company whose exclusive purpose is (a) to own means of production that are essential for the collateral provider's business or (b) to own real property.</p>		<p>financial collateral under security financial collateral arrangements have been implemented by Regulations 9-11 of the European Communities (Financial Collateral Arrangements) Regulations 2004 (S.I. No. 1 of 2004).</p>	<p>close-out netting provisions have been implemented by Regulation 13 of the European Communities (Financial Collateral Arrangements) Regulations 2004 (S.I. No. 1 of 2004), as amended (S.I. No. 89 of 2004). These provisions of Irish law supplement the provisions of the Netting of Financial Contracts Act 1995 and supplementary regulations thereto, which set out detailed terms and conditions for the recognition of netting and master netting agreements. In addition, Regulations implementing the provision regarding netting agreements in Article 25 of</p>	
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						Directive 2001/24/EC of the European Parliament and of the Council of 4 April 2001 on the reorganisation and winding up of credit institutions will be implemented in due course.	
Italy	<p>On February 2003, the Italian Parliament entrusted the Government with the power to enact a legislative decree aiming at the implementation of the Directive (Law 3 February 2003, n.14). The Law has also specified some criteria which circumscribe the legislative power of the Government. On 21 May 2004, Legislative Decree n. 170 implementing Directive 2002/47 was adopted, and then published in G.U. 15 July 2004 n. 164. It entered into force the 30th of July 2004.</p>	<p>Art. 1(3) of the Directive is not applied. Under Art. 1 (d) (5) the Legislative Decree n. 170/2004 is applicable to “a person other than a natural person, including unincorporated firms and partnerships, provided that the other party is an institution as defined in points 1) to 4)” of the same Article.</p>	No opt-out	Appropriation possible	The possibility of re-using, “even by reselling”, the securities is provided in Legislative Decree n. 170/2004.	<p>Already recognised by Art. 203 T.U. della Finanza (which extends to financial derivatives the applicability of Art. 76 Legge fallimentare). However, Art. 203 T.U. della Finanza and Art. 76 Legge fallimentare are not applicable under Legislative Decree n. 170/2004.</p>	<p>Article 9 has been already implemented by Article 9 of the Legislative Decree 12 April 2001, n. 210. However this legislation, in accordance with Article 9 of the Settlement</p>

							<p>Finality Directive, regulates the case that the relevant account is located in EU Member State, whereas Article 9 of the Collateral Directive does not contain such qualification In Legislative Decree n. 170/2004 the reference to the location in EU Member State was cancelled.</p>
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<p><u>Latvia</u></p>	<p>Latvian Parliament approved the law in second reading. One more reading is necessary before it can be finally adopted. The third and final reading is expected to take place before the end of March.</p>	<p>Draft does not apply opt-out foreseen in Art. 1(3). In addition, the draft law extends the scope of application of the provisions of the directive to transactions where one of the parties is a person defined in points (a) to (d) of Article 1(2) of the directive and other person is a natural person.</p>	<p>No opt-out.</p>	<p>Appropriation will be possible after the adoption of the draft law. Appropriation was not possible before the implementation of the Financial Collateral Directive</p>	<p>The draft law does not provide for any particular mechanism of re-use. It is literally repeating the wording of Article 5 of the Directive. Accordingly re-use via pledge is not prohibited.</p>	<p>The actual draft rewrites the provisions of the directive as to what is the close out netting. The amendments to the Law on Credit Institutions which inter alia implement the WUD (Directive 2001/24/EC) and which entered into force on 26 November 2004 provide that the opening of reorganization and winding-up proceedings with regard to the credit institution does not have an effect on netting of claims and obligations, if such transactions are allowed by the applicable law. Latvian law does not contain any</p>	<p>Article 9 of the directive is implemented in its current form.</p>
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						<p>restrictions to this respect. However, it is noted that the Law on the Credit institutions contains a dangerous contradiction: on the one hand the enumeration of issues which are determined in accordance with the Law of the Republic of Latvia comprises netting agreements (Article 214, 3), whereas another provision establishes that transactions generated by the netting agreements are governed exclusively by the law applicable to these agreements (Article 158(2)).</p>	
<u>Lithuania</u>	<p>The Act on financial collateral arrangements was adopted by Lietuvos Respublikos Seimas (the Parliament) on 15 April</p>	<p>No opt-out provided in Article 1(3) of the Directive. The implementing Act follows literally the wording</p>	<p>The Act covers collateral arrangements under which various</p>	<p>Appropriation possible.</p>	<p>In principle, the collateral taker may exercise various rights with respect to</p>	<p>There are no strict rules, thus parties in principle should be able to choose a legal</p>	<p>The Act transposes Article 9 of the</p>

	and it entered into force on 1 May 2004.	of the Directive as regards the scope.	financial instruments may be provided, as described in Article 2(1)(e) of the Directive. The Act does not cover bank loans. No opt-out for own shares and shares of affiliates.		financial collateral, if a financial collateral arrangement so provides. However, it is not clear whether further re-pledge is possible. It may be argued that only collateral provider is prevented from further re-pledge of collateral.	mechanism. It is highly likely that traditional civil law set-off will be used. Novation, i.e. the replacement of former obligations with a new one, could also be considered. The answer is not so clear, since the use of well-established civil law mechanisms for complex financial transactions has not been checked at courts.	Directive.
<u>Luxem</u> <u>bourg</u>	Draft bill (Projet de loi no 5251) submitted to parliament on 25 November 2003. Government amendments (relating to the ranking of collateral vis-à-vis other liens) submitted on 30 April 2004. Draft bill commented by the Chamber of Commerce on 23.08.2004. the Final text will	Draft does not apply Art. 1(3). Draft may also cover transactions between two corporate entities.	No opt-out (see commentary of draft law, p. 15).	Under current rules, appropriation possible. This is however expressly confirmed in article 11 of the draft law.	Under current rules, as construed by the courts, re-use is allowed. This is however stated expressly in article 10 of the draft law.	Article 18 and 19 of the draft law fully implement article 7 of the Directive.	This rule is already contained in article 12 of the Law of 1 st August 2001 on the circulation of securities.

	be published soon						This rule is however restated in article 23 of the draft law.
Hungary	<p>Act XXVII of 2004 on the codification modification of certain financial legislative acts, which has modified the Civil Code, the Act on Bankruptcy and Liquidation and the Act on Private International Law was adopted by the Parliament on the 19 April 2004.</p> <p>Act XLVIII of 2004, which amended the Capital Market Act, was adopted by Parliament on 2 June 2004.</p>	Implementing legislation does not apply Art. 1(3).	No opt-out.	Appropriation possible	The Civil Code permits to the parties that in case of a financial collateral arrangement, the collateral taker may use (sell, pledge etc.) the provided financial collateral. However, the collateral taker should transfer equivalent collateral to replace the original collateral at the latest on the due date for the performance of the relevant financial obligations.	<p>With the amendment of the Capital Market Act, effective as of 10 June 2004, the provisions on contractual close-out netting of the Collateral Directive have been fully implemented.</p> <p>Furthermore, the Act on Bankruptcy and Liquidation already ensures that contractual close-out netting can take effect in accordance with its terms.</p> <p>In case of winding-up proceedings only the net claim can be enforced by the</p>	Article 9 to be implemented in current form.

						liquidator.	
<u>Malta</u>	Regulations entitled Financial Collateral Arrangements Regulations, 2004 (L.N. 177 of 2004) have been adopted by the Minister of Finance and entered into force on 1 May 2004.	Opt-out under art 1(3) of Directive has been applied under the Regulations	No opt-out	Appropriation possible	The Regulations allow the right of use and do not impose restrictions in this regard provided that the financial collateral arrangement allows for such right of use.	The Set-Off and Netting on Insolvency Act recognises close-out netting in agreements between counterparties. Since Malta is a civil law country it is most likely that the mechanism of set-off will be used here.	Art 9 has been implemented in current form.

<p><u>The Netherlands</u></p>	<p>Draft bill no 28874 has been submitted to parliament by the Ministry of Finance. Implementing legislation under discussion in parliament. Implementation expected in 2005. There is still parliamentary discussion ongoing and the implementation may become more restrictive than anticipated.</p>	<p>Draft does not apply Art. 1(3). Bill may apply to all financial collateral arrangements unless one of the parties is private individual not acting in professional/commercial capacity.</p>	<p>No opt-out.</p>	<p>Appropriation possible when the parties agree to this</p>	<p>The possibility of re-using the pledged securities is provided for in the Civil Code when the parties agree to this.</p>	<p>The provisions on close-out netting are implemented in the Civil Code and the Insolvency Act.</p>	<p>Art. 9 to be implemented in current form.</p>
<p><u>Austria</u></p>	<p>Implementing law “Finanzsicherheitengesetz” published on December 16, 2003</p>	<p>Opt out under Art. 1(3) as regards corporates.</p>	<p>No opt-out.</p>	<p>Appropriation possible.</p>	<p>Art. 7 of the implementing law implements Art. 5 of the Directive almost <i>verbatim</i> except for Art. 7(2) which does not require a <i>re-transfer</i> of the collateral in rem (“rückübereignen”), but the collateral taker may alternatively return (“zurückstellen”) equivalent collateral,</p>	<p>Art. 9 (1) of the implementing law recognises close-out netting provisions in proceedings such as bankruptcy, winding-up, netting and reconstruction. Art. 9(2) provides for close-out netting provisions in case of assignments, judicial or other attachment or in case of other disposition.</p>	<p>Art. 9 of the Directive implemented in current form.</p>

					<p>or – if agreed in the collateral arrangement - set off the value of equivalent collateral, or to use the collateral in compensation of the obligation in discharge of the underlying financial obligation (“an Zahlungs statt”).</p>	<p>Consequently, it is implemented in current form of the Directive</p>	
<u>Poland</u>	<p>The Act on some financial collateral is published in the Polish Official Journal and it came into force on 1 May 2004.</p>	<p>The Act does not exercise the right from Article 1(3) It was implemented within full range of its application according to the Article 1(2)</p>	<p>No opt-out The act does not limit the scope of the Directive in the way as it is provided for in the Article 1(4)(b)</p>	<p>Appropriation possible</p>	<p>The Polish Act on some financial collateral provides the right of use – means the right of a pledgee to execute rights to the collateral provided, including collection of profits, and to dispose of such collateral, in accordance with the terms and limits specified in the arrangement;</p>	<p>The Act on some financial collateral recognises close-out netting provision - provided for in a financial collateral agreement, including an enforcement agreement concluded in pursuance of a master agreement, providing for immediate set-off or netting upon occurrence of an enforcement event, as well as the mode of</p>	<p>Article 9 is implemented into the Act within the same scope.</p>

						their completion and of settlement between the parties; The set-off is also recognized and regulated by the Polish Civil Code and Insolvency Law 2003.	
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<p><u>Portugal</u></p>	<p>Decree-Law No. 105/2004 of 8 May 2004</p>	<p>Article 3(f) of the decree-law foresees the application to legal persons (e.g. corporates) provided that the other party to the contract is an entity listed in paragraphs (a) to (d) of the same provisions (which are the entities mentioned in Article 1(2)(a) to 1(2)(d) of the Directive).</p>	<p>No opt-out.</p>	<p>Appropriation possible.</p>	<p>Article 9 of the decree-law foresees that a pledge arrangement may provide that the collateral taker is entitled to exercise a right of use in relation to financial collateral provided under the security financial collateral arrangement. In the case of securities, the right of use entitles the collateral taker to transfer pledged securities subject to registry in the account.</p>	<p>Already recognised by other Portuguese statutory law (Insolvency Code).</p>	<p>Art. 9 to be implemented in current form.</p>
<p><u>Slovenia</u></p>	<p>Law on financial collateral of 22 April 2004</p>	<p>Partial opt-out, the law does not include SME, associations, and certain civil law legal persons.</p>	<p>No opt-out</p>	<p>Appropriation is possible.</p>	<p>Sell, appropriation, set-off.</p>	<p>Article 7 is implemented.</p>	<p>Wording similar to Article 9 was adopted. However,</p>

							the reference to the law of a country in which the relevant account is maintained does not exclude “any rule under which, in deciding the relevant question, reference should be made to the law of another country.
<u>Slovakia</u>	Amendment to the Act on Securities and Investment Services and Amendment to the Civil Code adopted, with entry into effect on 1 July 2005.	No opt-out	No opt-out	Appropriation possible	The collateral taker is entitled, also without the approval of the pledgor, to dispose of the security pledged and to execute the	The close-out netting is recognised by the recently adopted Bankruptcy Act, which shall enter into effect on 1 July 2005.	Not implemented

					<p>rights related to it. Upon the due date performance of the obligation covered by the contractual collateral, the collateral taker is obliged to transfer the pledged security including proceeds to the pledgor. This obligation is also deemed to be performed by returning equivalent security or securities or their proceeds in the value of the pledged security including its proceeds.</p>	<p>The legal definition is contained in Article 180(2). Its interpretation however, would be difficult since it refers to profits and losses from individual transactions and not to the value of claims/obligations arising from these transactions. Furthermore, recognition of close-out netting in case of individual public or private attachments according to Article 7(1)(b) of the Collateral Directive is not guaranteed by the Bankruptcy Act.</p>	
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<p><u>Finland</u></p>	<p>Government bill approved by Finnish parliament in December 2003 and ratified by President on 20 January 2004. New legislation came into force 1 February 2004</p>	<p>Art. 1(3) not applied. Where collateral taker is an Institution (as defined in Act) and the collateral provider is another type of legal entity (e.g. a corporation), act will only apply if collateral consists of publicly traded securities.</p>	<p>Where collateral taker is an Institution (as defined in Act) and the collateral provider is another type of legal entity (e.g. a corporation), act will only apply if collateral consists of publicly traded securities. The scope of the Act covers also loans (i.e. <i>account money</i>, which means “deposits or other claim on repayment of money denominated in Finnish or foreign currency and entered into a specific account”).</p>	<p>Appropriation possible</p>	<p>Art. 5 provides that the collateral provider and collateral taker can agree that the collateral taker will be entitled to sell or dispose in an other legally binding manner of the collateral. This does not free the collateral taker from the liability to return the collateral to the collateral provider on due date, unless it is agreed that the dept is set off against the unreturned collateral.</p>	<p>Where parties have agreed on netting provided for by the Finnish netting Act, obligations that have arisen prior to the commencement of insolvency proceedings may be netted regardless of the insolvency proceedings. Netting is not either reversed on the grounds of Section 10 of the Act on Recovery to a Bankrupt’s Estate (758/1991) even if payment has been executed by exceptional means of payment, prematurely or by an amount that is to be considered substantial relative to the estate’s assets. However, a claim on a debtor assigned to a</p>	<p>Art. 9 provisions already implemented under Book-Entry Accounts Act (827/1991) – broader than Directive (not just financial collateral arrangements).</p>
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						<p>creditor by a third party later than three months prior to the deadline referred to in Section 2 of the aforementioned Act, as well as an obligation on the creditor to which the creditor has during this time committed in such a manner that the action is comparable to payment of a debt may be reversed from netting unless the transfer or contacting of debt is to be considered ordinary taking into account circumstances. A receivable or obligation that might be reversed through recovery pursuant to subsection 3 may not be included in netting after the commencement of</p>	
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						insolvency proceedings.	
Sweden	<p>The provisions of the Directive already largely exist in Swedish law. According to the planning of the Swedish Parliament, a decision concerning the Government's legislative report and proposal on financial collateral (<i>prop. 2004/05:30</i>) is scheduled to be taken on 6 April and the legislative amendments enter into effect on 1 May 2005.</p>	<p>The scope of the amendments to Section 1 and Section 3 of Chapter 3 of the Act on the trading of financial instruments (<i>lagen om handel med finansiella instrument</i>), concerning the removal of the requirement of written contract with regard to the use of financial instruments belonging to someone else and the possibility to repledge the assets in a certain manner, is limited to financial agents. Hence, for these cases, Sweden makes use of the possibility for an opt-out in Article 1(3) of the Collateral Directive. The other amendments are general [in scope].</p>	<p>According to the amendments to the Bankruptcy Code (<i>konkurslagen</i>), a trustee in bankruptcy (or liquidator) (in Swedish <i>konkursförvaltare</i>) shall be given the possibility to redeem shares in subsidiaries; see Section 10 of Chapter 8 of the Bankruptcy Code (<i>konkurslagen</i>). The implementation of the Collateral Directive encompasses 'money loans' ("<i>penninglån</i>" or <i>försträckning</i>).</p>	<p>Appropriation (<i>tillägnelse</i>) is deemed to be compatible with Swedish law; see the Government's legislative report on page 58 and the Supreme Court case cited there (<i>prop.s. 58</i>).</p>	<p>Re-use (<i>förfoganderätt</i>) has been one of the most discussed issues during the implementation work and the Government's legislative report concludes that Swedish law is compatible with the Directive; see the Government's legislative report on page 41 (<i>prop. s. 41 ff</i>).</p>	<p>Through Section 1 of Chapter 5 of the Act on the trading of financial instruments (<i>lagen om handel med finansiella instrument</i>), Swedish law has a rule which covers close-out netting in trades regarding financial instruments and currencies. In order to make possible the application of close-out netting to securities provided in conjunction with 'money loans' ("<i>penninglån</i>"), amendments have been made to Section 10 of Chapter 8 of the Bankruptcy Code (<i>konkurslagen</i>); see</p>	<p>Art. 9 already implemented under Chapter 5 § 3 Financial Instruments Trades Act. Since Sweden has implemented Article 9.2 of the Settlement Finality Directive, no amendments have been deemed necessary with regard to the somewhat different</p>

						the Government's legislative report on page 77 (<i>prop.s. 77</i>).	formulation in the Collateral Directive. In addition, the Swedish Government awaits the outcome of the discussions concerning the Hague Convention.
<u>United Kingdom</u>	Implementation via Financial Collateral Arrangements (No. 2) Regulations 2003. SI 2003/3226 came into force in December 2003.	Art. 1(3) not applied. Implementation permits both parties to be 'non-natural persons', as defined in the Regulations (i.e. corporate bodies, unincorporated firms, partnerships, but excluding individuals).	No opt-out.	Appropriation possible	There is no UK legislation which conflicts with the CD requirement that a collateral taker may use and dispose of the financial collateral provided under a security financial collateral arrangement as its owner in accordance with the	The UK's implementation of the CD contains an express provision that close-out netting provisions are to take effect in accordance with their terms. This was intended to deal with any doubts regarding the effectiveness of such	Art. 9 implemented in current form.

					<p>terms of the arrangement.</p> <p>Nonetheless, some doubts had previously been expressed about the effectiveness of the right of use under UK law due to the possible application of equitable principles by the English Courts, and the UK's CD implementation removes this potential doubt. Thus, it is hoped that cross-border arrangements involving the UK in the future will use pledges more often, as opposed to past practice of almost exclusively use of title transfer.</p>	<p>terms when a company becomes insolvent due to common law or equitable principles. The Insolvency Rules also need amending accordingly and to be in part disapplied, however as there are in any case other proposals to amend the Insolvency Rules, changes will be made in that context.</p>	
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