

**Survey on the implementation of the Collateral Directive**

<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>
<b><u>Belgium</u></b>	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.
<b><u>Czech Republic</u></b>	Directive not yet implemented. A new draft Bankruptcy law was rejected by the Chamber of Deputies, the lower house of parliament. This draft was					A statutory definition of close out netting and netting agreement is contained in art. 197 of the Act on	

	<p>consequentially to amend 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.</p> <p>The Government has to submit a new draft.</p>					<p>Trading on the Capital Markets 256 / 2004; under it such agreements re protected from the effects of bankruptcy declaration (i.e. bankruptcy receiver cannot unilaterally withdraw from them)</p>	
<b><u>Denmark</u></b>	<p>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.</p>	<p>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.</p>	<p>Opt-out in relation to article 1(4)(b), which means that own shares etc. can not be used as collateral.</p>	<p>Appropriation possible</p>	<p>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.</p>	<p>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.</p>	<p>Art. 9 implemented in current form.</p>

<b><u>Germany</u></b>	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.
<b><u>Estonia</u></b>	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.
<b><u>Greece</u></b>	Draft Bill of Law was submitted on 09.12.2004. to the Hellenic	The draft does not apply Art.	No opt-out.	Appropriation possible.	Art. 5 of the CD	Set off/netting already	Art. 9 to be

	Parliament. The bill had already been voted and published: L. 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	1(3). However, the draft does not explicitly mention unincorporated firms/partnerships.			transposed almost <i>verbatim</i> . No explicit reservation for national legislation on separation of assets and unfair treatment of creditors.	recognised pursuant to art. 16 L. 3156/2003. Article 7 of CD transposed almost <i>verbatim</i> .	implemented in current form.
<b><u>Spain</u></b>	On 11 March 2005, the Law (Royal Decree Law) implementing Directive 2002/47/EC was adopted by the Government and entered into force 15 March 2005.	Art. 1(3) opt-out not to be applied. Legal persons other than natural persons are not excluded, provided the other party is a public or financial institution.	No opt-out. Financial collateral consisting of the collateral provider's own shares or shares in affiliated undertakings are not expressly excluded from the scope of Directive.	The right of appropriation is recognized in Spanish law.	The right of re-use is recognized in Spanish law, since collateral taker may act as owner of the collateral, when thus agreed.	Close-out netting is recognised in the implementing law.	The new Spanish law implements Directive's rules governing the conflict of laws.
<b><u>France</u></b>	The provisions of the Directive are already largely existing under French law, especially pursuant to Financial Security Law of 1 <sup>st</sup> August 2003 implementing Article 7 of the Directive. The law n°2004-1343	Opt-out applied with corporates only when the collateral provided or received by them is constituted by cash. However corporates will have the possibility to provide or	No opt-out. It should be noted that, in the new regime, not only cash and securities shall be provided into a simplified	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, which was already implemented by Article L. 431-7 of the	The ordinance introduces a conflict of law rule which is intended to

	<p>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>receive securities as collateral under the new regime transposing the collateral directive.</p>	<p>form of collateral, but also claims, and different forms of rights, provided that they are assignable.</p>			<p>French Financial and Monetary Code.</p>	<p>be in line with Article 9 of the Directive (new Article L.431-7-4 of the French Financial and Monetary Code).</p>

<b><u>Cyprus</u></b>	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.	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.
<b><u>Ireland</u></b>	On 9 January 2004 the Directive was implemented by the adoption of the European Communities (Financial Collateral Arrangements) Regulations 2004 (S.I. No. 1 of 2004). Amending Regulations	Art. 1(3) opt-out not applied.	Partial opt-out in relation to Article 1(4)(b) with respect to shares in a company whose exclusive purpose is (a) to own means of	Appropriation possible	The provisions of Article 5 of the Directive pertaining to the right of use of financial collateral under security financial collateral	The provisions of Article 7 of the Directive pertaining to the recognition of close-out netting provisions have been implemented by	Art. 9 implemented in current form

	<p>were adopted on 8 March 2004 (S.I. No. 89 of 2004.</p>		<p>production that are essential for the collateral provider's business or (b) to own real property.</p>		<p>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>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.	
<b>Italy</b>	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	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.	No opt-out	Appropriation possible	The possibility of re-using, “even by reselling”, the securities is provided in Legislative Decree n. 170/2004.	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.	Article 9 has been already implemented by Article 9 of the Legislative Decree 12 April 2001, n. 210. However this legislation, in accordance



	force the 30 <sup>th</sup> of July 2004.						with Article 9 of the Settlement 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
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							the location in EU Member State was cancelled.
<b><u>Latvia</u></b>	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.	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.	No opt-out.	Appropriation will be possible after the adoption of the draft law. Appropriation was not possible before the implementation of the Financial Collateral Directive	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.	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	Article 9 of the directive is implemented in its current form.

						<p>have an effect on netting of claims and obligations, if such transactions are allowed by the applicable law. Latvian law does not contain any 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</p>	
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						netting agreements are governed exclusively by the law applicable to these agreements (Article 158(2)).	
<b><u>Lithuania</u></b>	The Law No. IX-2127 on the Financial Collateral Arrangements (Official gazette “Valstybės žinios”, No. 61-2183, 2004) was adopted by the Seimas of the Republic of Lithuania (the Parliament) on 15 April 2004. The Law entered into force on 1 May 2004.	Opt-out provided in the Article 1(3) of the Directive is not applied.	No opt-out for own shares and shares of affiliates. The Law does not cover bank loans.	Appropriation possible.	Articles 11 and 12, Paragraph 1 of the Law implements Article 5 of the Directive. Article 11, Paragraph 1 of the Law provides that the collateral taker shall acquire the right to exercise the right of use, hold and dispose of financial collateral provided under a security financial collateral arrangement if this is provided and as provided in the	Article 12 of the Law implements Article 7 of the Directive. There are no strict rules, thus parties in principle should be able to choose a legal 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. However the use of well-established civil law mechanisms for	Article 15 of the Law transposes Article 9 of the Directive.

					<p>arrangement. In principle, the collateral taker may exercise various rights (sell, pledge etc.) with respect to financial collateral, if a financial collateral arrangement so provides. However If the collateral taker exercises these rights he shall:</p> <p>1) transfer equivalent financial collateral to replace the original financial collateral at the latest on the due date for the performance of the relevant financial obligations covered</p>	<p>complex financial transactions has not been checked at courts.</p>	
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					<p>by the security financial collateral arrangement; or</p> <p>2) transfer equivalent financial collateral on the due date for the performance of the relevant financial obligations or, if and to the extent that the security financial collateral arrangement so provides, set off the value of the equivalent collateral against or apply it in discharge of the relevant financial obligations.</p>		
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<p><b><u>Luxembourg</u></b></p>	<p>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 be published soon</p>	<p>Draft does not apply Art. 1(3). Draft may also cover transactions between two corporate entities.</p>	<p>No opt-out (see commentary of draft law, p. 15).</p>	<p>Under current rules, appropriation possible. This is however expressly confirmed in article 11 of the draft law.</p>	<p>Under current rules, as construed by the courts, re-use is allowed. This is however stated expressly in article 10 of the draft law.</p>	<p>Article 18 and 19 of the draft law fully implement article 7 of the Directive.</p>	<p>This rule is already contained in article 12 of the Law of 1<sup>st</sup> August 2001 on the circulation of securities. This rule is however restated in article 23 of the draft law.</p>
<p><b><u>Hungary</u></b></p>	<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</p>	<p>Implementing legislation does not apply Art. 1(3).</p>	<p>No opt-out.</p>	<p>Appropriation possible</p>	<p>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</p>	<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. Furthermore, the Act on Bankruptcy and Liquidation already</p>	<p>Article 9 implemented in current form</p>

	<p>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>				<p>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>	<p>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 liquidator.</p>	
<b>Malta</b>	<p>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.</p>	<p>No opt-out under art 1(3) of Directive has been applied under the Regulations</p>	<p>No opt-out</p>	<p>Appropriation possible</p>	<p>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.</p>	<p>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.</p>	<p>Art 9 has been implemented in current form.</p>



<p><b><u>The Netherlands</u></b></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><b><u>Austria</u></b></p>	<p>Implementing law: “Finanzsicherheitengesetz” published on December 16, 2003, and amendment of the Austrian International Private Law Act (including a new Article 33a)</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</p>	<p>Art. 9 (1) No. 1 of the implementing law recognizes close-out netting provisions in proceedings such as bankruptcy, winding-up, composition and reorganization. and Art. 9 (1) No. 2 recognizes close-out netting provisions in case of assignments, judicial or other</p>	<p>Art. 9 of the Directive is implemented in current form. (Article 33a of the Austrian International Private Law Act)</p>

					<p>(“zurückstellen”)  equivalent collateral,  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>attachment or in case  of other disposition.  Consequently, it is  implemented in  current form of the  Directive</p>	
<b><u>Poland</u></b>	<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</p>	<p>Article 9 is implemented into the Act within the same scope.</p>

						<p>immediate set-off or netting upon occurrence of an enforcement event, as well as the mode of their completion and of settlement between the parties;</p> <p>The set-off is also recognized and regulated by the Polish Civil Code and Insolvency Law 2003.</p>	
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<b><u>Portugal</u></b>	Decree-Law No. 105/2004 of 8 May 2004	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).	No opt-out.	Appropriation possible.	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.	Although already recognised by other Portuguese statutory law (Insolvency Code), close-out netting is expressly foreseen in articles 12 and 15 of the decree-law.	Art. 9 is implemented in current form.
<b><u>Slovenia</u></b>	Law on financial collateral of 22 April 2004	Partial opt-out, the law does not include SME, associations, and certain civil law legal persons.	No opt-out	Appropriation is possible.	Sell, appropriation, set-off.	Article 7 is implemented.	Wording similar to Article 9 was

							adopted. However, 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.
<b><u>Slovakia</u></b>	The directive is transposed into the Act No. 566/2001 on Securities and Investment	No opt-out	No opt-out	Appropriation is possible under Articles 151a, 151j Para 1 of	The collateral taker is entitled, also without	The close-out netting is recognised by the recently adopted	The provisions of Articles

	<p>Services, the Act 7/2005 on Bankruptcy and Reconstruction, the Act No. 40/1964 The Civil Code, the Act No. 483/2001 on Banks, the Act No. 510/2002 on Payment System.</p>			<p>The Civil Code and also under Article 53b Para 3 of the Act on Securities and Investment Services.</p>	<p>the approval of the pledgor, to dispose of the security pledged and to execute the rights related to it.  <b>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.</b>Under</p>	<p>Bankruptcy Act, which shall enter into effect on 1 January 200605. The legal definition and conditions are contained in Article 180 of the Bankruptcy Act. 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>	<p>45 to 53d relate only to securities in a book entry form which are registered in a register in accordance with Article 10 Para 4. Pledge of the securities in a book entry form which are registered abroad shall be governed by the law of the state in which the relevant account has been opened (Act on Securities and Investment Services).   Conflict of laws is also partially enacted in Article 76a of the Act No. 510/2002 on</p>
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					Article 48 Para 3 of the Act on Securities and Investment Services the subject, i.e. collateral of the contract on pledged security should not be used as collateral.		Payment system, in Article 59 Para 1 letter d) of the Act on Banks No. 483/2001, in Article 191 of the Bankruptcy Act No. 7/2005.
<b><u>Finland</u></b>	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	Art. 1(3) not applied. Act will apply, where the collateral provider is an Institution (as defined in the act). The act will also apply to collateral provided by another legal entity, if the collateral taker is an Institution. The act will not in such a case apply, if collateral consists of shares or share related instruments, which are not publicly traded.  The scope does not cover bank loans.	The Act defines as eligible collateral (i) securities, which are customarily traded on the financial market and (ii) <i>account money</i> , which means “deposits or other claim of repayment of money denominated in Finnish or other currency and entered into a specific account.	Appropriation possible	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	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	Art. 9 provisions already implemented under Book-Entry Accounts Act (827/1991) – broader than Directive (not just financial arrangements).

					<p>against the unreturned collateral.</p>	<p>(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 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</p>	
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						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 insolvency proceedings.	
<b>Sweden</b>	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	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	According to the amendments to the Bankruptcy Code ( <i>konkurslagen</i> ), a trustee in bankruptcy (or liquidator) (in Swedish <i>konkursförvaltare</i> )	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> ).	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	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	Art. 9 already implemented under Chapter 5 § 3 Financial Instruments Trades Act. Since

	<p>April and the legislative amendments enter into effect on 1 May 2005.</p>	<p>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>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>Swedish law is compatible with the Directive; see the Government's legislative report on page 41 (<i>prop. s. 41 ff</i>).</p>	<p>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 the Government's legislative report on page 77 (<i>prop.s. 77</i>).</p>	<p>Sweden has implemented Article 9.2 of the Settlement Finality Directive, no amendments have been deemed necessary with regard to the somewhat different formulation in the Collateral Directive. In addition, the Swedish Government awaits the outcome of the</p>
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							discussions concerning the Hague Convention.
<b><u>United Kingdom</u></b>	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 terms of the arrangement. Nonetheless, some doubts had previously been expressed about the effectiveness of the right of use under UK law due to 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 terms when a company becomes insolvent due to common law or equitable principles. The Insolvency Rules also need amending accordingly and to be	Art. 9 implemented in current form.

					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.	in part disapplied, however as there are in any case other proposals to amend the Insolvency Rules, changes will be made in that context.	
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