

## Directive 2002/47/EC of the European Parliament and of the Council of 6 June 2002 on financial collateral arrangements

### Article 4

#### Enforcement of financial collateral arrangements

1 Member States shall ensure that on the occurrence of an enforcement event, the collateral taker shall be able to realise in the following manners, any financial collateral provided under, and subject to the terms agreed in, a security financial collateral arrangement:

- a financial instruments by sale or appropriation and by setting off their value against, or applying their value in discharge of, the relevant financial obligations;
- b cash by setting off the amount against or applying it in discharge of the relevant financial obligations<sup>[F1]</sup>;
- <sup>[F2]</sup>c credit claims, by sale or appropriation and by setting off their value against, or applying their value in discharge of, the relevant financial obligations.]

2 Appropriation is possible only if:

- a this has been agreed by the parties in the security financial collateral arrangement; and
- <sup>[F1]</sup>b the parties have agreed in the security financial collateral arrangement on the valuation of the financial instruments and the credit claims.]

<sup>F3</sup>3 .....

4 The manners of realising the financial collateral referred to in paragraph 1 shall, subject to the terms agreed in the security financial collateral arrangement, be without any requirement to the effect that:

- a prior notice of the intention to realise must have been given;
- b the terms of the realisation be approved by any court, public officer or other person;
- c the realisation be conducted by public auction or in any other prescribed manner; or
- d any additional time period must have elapsed.

5 Member States shall ensure that a financial collateral arrangement can take effect in accordance with its terms notwithstanding the commencement or continuation of winding-up proceedings or reorganisation measures in respect of the collateral provider or collateral taker.

6 This Article and Articles 5, 6 and 7 shall be without prejudice to any requirements under national law to the effect that the realisation or valuation of financial collateral and the calculation of the relevant financial obligations must be conducted in a commercially reasonable manner.

#### Textual Amendments

- F1** Substituted by [Directive 2009/44/EC of the European Parliament and of the Council of 6 May 2009 amending Directive 98/26/EC on settlement finality in payment and securities settlement systems and Directive 2002/47/EC on financial collateral arrangements as regards linked systems and credit claims \(Text with EEA relevance\).](#)
- F2** Inserted by [Directive 2009/44/EC of the European Parliament and of the Council of 6 May 2009 amending Directive 98/26/EC on settlement finality in payment and securities settlement systems and](#)

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Directive 2002/47/EC on financial collateral arrangements as regards linked systems and credit claims (Text with EEA relevance).

- F3** Deleted by Directive 2009/44/EC of the European Parliament and of the Council of 6 May 2009 amending Directive 98/26/EC on settlement finality in payment and securities settlement systems and Directive 2002/47/EC on financial collateral arrangements as regards linked systems and credit claims (Text with EEA relevance).