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Internal Market and Services DG

FINANCIAL SERVICES POLICY AND FINANCIAL MARKETS

Financial markets infrastructure

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**Subject: Directive 2002/47/EC on Financial Collateral Arrangements
Questionnaire to the Private Sector
For the drafting of the Evaluation Report**

1. INTRODUCTION

Article 10 of Directive 2002/47/EC on Financial Collateral Arrangements stipulates that, "Not later than 27 December 2006, the Commission shall present a report to the European Parliament and the Council on the application of this Directive, in particular on the application of Article 1(3), Article 4(3) and Article 5, accompanied where appropriate by proposals for its revision."

Accordingly, the Commission has prepared two questionnaires with the aim of receiving full information of the Directive's application and possible weaknesses in its wording or transposition in the Member States. On the basis of the replies to this questionnaire, the Commission intends to present a report which describes how the Directive has been implemented in the Member States, provides Member States with useful practical information of each other's national laws, and evaluates the application of the Directive.

This questionnaire is aimed at industry and other private sector parties that may be interested in providing input. The questionnaire addressed to Member States, which goes through the Directive article by article, is annexed for background information.

It would be most helpful if all parties from the private sector receiving this questionnaire would reply to all questions – and do their utmost to meet our deadline which is set at **March 31, 2006**. This date is set in order for the Commission services to meet its intended delivery date of October 31, 2006 for the Report.

2. QUESTIONS

- (1) What are the positive impacts of the Directive?
- (2) Have those whom the Directive was intended to benefit encountered a reduction of burdens as a result of the new regime?
- (3) Have those whom the Directive was intended to benefit encountered favourable effects for their risk management as a result of the new regime?
- (4) Has the use of collateral been increased in the EU?
- (5) Do you have any materials that reveal the extent to which the achievement of the objectives of the Directive may be measured (for example, statistics about use of collateral)?
- (6) Are you aware of any developments or innovations in market practice that would justify reviewing the effectiveness of the Directive?
- (7) Are there any negative impacts of the Directive?
- (8) Is there any implementation cost due to the Directive?
- (9) Specify any major problems of transposition or interpretation that occurred of which you are aware
- (10) Do you have any suggestions for specific revisions to the Directive? If so, please explain what they are.
- (11) Article 10 of Directive 2002/47/EC on Financial Collateral Arrangements stipulates that the Commission's report on the application of the Directive should deal in particular with the application of Article 1(3), Article 4(3) and Article 5. Please make any comments you think it would be helpful for the Commission to receive about these provisions.

Annex: Questionnaire addressed to Member States.

February 2006