



STATUTORY INSTRUMENTS

S.I. No. 204 of 2015

EUROPEAN COMMUNITIES (SETTLEMENT FINALITY)
(AMENDMENT) REGULATIONS 2015

EUROPEAN COMMUNITIES (SETTLEMENT FINALITY)
(AMENDMENT) REGULATIONS 2015

I, MICHAEL NOONAN, Minister for Finance, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), and for the purpose of giving further effect to Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998¹ (as amended by Directive 2009/44/EC of the European Parliament and of the Council of 6 May 2009²), hereby make the following regulations:

Citation

1. These Regulations may be cited as the European Communities (Settlement Finality) (Amendment) Regulations 2015.

Definition

2. In these Regulations, “Principal Regulations” means the European Communities (Settlement Finality) Regulations 2010 (S.I. No. 624 of 2010).

Amendment of meaning of collateral security in principal regulations

3. Regulation 2 of the Principal Regulations is amended, in the definition of “collateral security”, by substituting “in connection with a designated system or in connection with an interoperable system, or provided” for “in connection with a designated system, or provided”.

State law relating to insolvency or insolvency proceedings not to affect certain rights and obligations

4. Regulation 9(1) (as amended by section 18 of the Irish Bank Resolution Corporation Act 2013 (No. 2 of 2013)) of the Principal Regulations is amended by substituting for subparagraphs (f) and (g) the following:

“(f) a contract, scheme or arrangement that provides for realising, or any action taken to realise, collateral security in connection with—

(i) participation in a designated system otherwise than under its default arrangements, or

(ii) the operations of a central bank,

(g) any disposition of property as a result of a contract, scheme or arrangement, or an action, referred to in subparagraph (f), or

¹OJ No. L 166, 11.06.1998, p. 45

²OJ No. L 146, 10.06.2009, p. 37

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 29th May, 2015.*

- (h) the rights of a system operator to collateral security, where that system operator has provided collateral security to another system operator in connection with an interoperable system and insolvency proceedings are instigated against the receiving system operator.”.

Insolvency proceedings not to affect certain rights

5. Regulation 11(1) of the Principal Regulations is amended—

(a) by substituting for subparagraph (a) the following:

“(a) a system operator or a participant to collateral security—

- (i) provided to it in connection with a system or any interoperable system, or
- (ii) provided by it in connection with a system or any interoperable system, and,”

and

(b) by substituting for subparagraph (iv) the following:

“(iv) any third party which provided or received the collateral security.”.



GIVEN under my Official Seal,
22 May 2015.

MICHAEL NOONAN,
Minister for Finance.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation).

EU Regulation on OTC Derivatives 648/2012 sets out rules for Central Counter Parties (CCPs), institutions that facilitate the clearing and settlement of securities transactions by intermediating between buying and selling interests and providing credit risk management services.

In view of the rules laid out in Regulation 648/2012 regarding how CCPs interact with each other, it was deemed appropriate to amend Directive 98/26/EC to protect the rights of a system operator that provides collateral security to a receiving system operator in the event of insolvency proceedings against that receiving system operator.

These Regulations implement this requirement into national law.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
52 FAICHE STIABHNA, BAILE ÁTHA CLIATH 2
(Teil: 01 - 6476834 nó 1890 213434; Fax: 01 - 6476843)
nó trí aon díoltóir leabhar.

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased from
GOVERNMENT PUBLICATIONS,
52 ST. STEPHEN'S GREEN, DUBLIN 2.
(Tel: 01 - 6476834 or 1890 213434; Fax: 01 - 6476843)
or through any bookseller.

€2.54



Wt. (B31241). 285. 5/15. Clondalkin. Gr 30-15.