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**LEGAL BRIEFING – Banking & Finance**

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# The scope of financial collateral under Greek Law 3301/2004: the case of unlisted shares



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In today's transactional environment, securing the creditor's position on a preferential basis is a key consideration in the structuring of financial transactions. Directive 2002/47/EC on financial collateral arrangements, as amended by Directive 2009/44/EC, was transposed into Greek law by Law 3301/2004, as amended by Law 4021/2011 and currently in force.

Directive 2002/47/EC and, subsequently, Law 3301/2004 introduced a distinctive legal framework for financial collateral arrangements, covering both security financial collateral arrangements and title transfer arrangements over financial instruments and cash. The regime differs from the pledge governed by the Greek Civil Code in that the swift satisfaction of the creditor's claims is its primary objective. The main advantage of this mechanism lies in the simplified enforcement of security. Following an event of default, the creditor may satisfy its claims without having to resort to the ordinary enforcement proceedings applicable to pledges under the Greek Civil Code. In particular, Law 3301/2004 allows the financial collateral to be realised without prior notice, judicial approval or a public auction. Furthermore, if agreed between the parties and subject to the applicable provisions, the creditor may appropriate the financial collateral in satisfaction of its claims. Lastly, Law 3301/2004 ensures that the enforcement of financial collateral will not be affected by the commencement of insolvency procedures. These features enhance the effectiveness and commercial value of financial collateral arrangements.

The subjective scope of Law 3301/2004 is very narrow. Article 2 of Law 3301/2004 exhaustively sets out the categories of persons that may enter into financial collateral arrangements. These include, primarily, financial institutions and other large entities engaged in significant financial and commercial activities, while natural persons are expressly excluded from the scope of the Law. Regarding the objective scope of Law 3301/2004, it applies exclusively to cash and financial instruments. The latter includes, inter alia, shares and other securities equivalent to shares, as well as bonds and other debt instruments, "if these are negotiable on the capital market". This qualifier raises a

question: does “if these are negotiable on the capital market” refer to potential negotiability or to actual trading?

The answer determines whether Law 3301/2004 applies to unlisted shares. According to the prevailing opinion in legal theory and transactional practice, unlisted shares fall outside the scope of Law 3301/2004. From a doctrinal perspective, a literal interpretation of the relevant provision appears to exclude assets that are not listed. From a transactional perspective, the application of Law 3301/2004 to unlisted shares also raises practical difficulties, particularly regarding the valuation of the collateral. While the valuation of listed shares does not generally present significant difficulty due to the constant availability of a market price, the valuation of unlisted shares may become considerably more complex. Unless the valuation process is comprehensively agreed upon in advance, it may significantly delay the enforcement and, consequently, undermine one of the significant advantages of the financial collateral regime, namely the creditor’s ability to obtain swift and effective satisfaction of its claims without following the ordinary enforcement proceedings. A minority view reads the negotiability of financial instruments as simply the absence of prohibitions or restrictions on the transferability of the financial instruments. On that reading, the exclusion of unlisted shares from the scope of Law 3301/2004 could not be justified solely on the grounds that they are not listed on a capital market.

Lastly, the EU framework governing financial collateral is currently undergoing a reform. In December 2025, the European Commission presented a proposal for the amendment of Directive 2002/47/EC on financial collateral arrangements, as part of a broader reform of the EU framework governing settlement finality and financial market infrastructure. The proposed amendments aim, among other things, to modernise the existing framework and adapt it to developments in financial markets and technology. This ongoing reform highlights the importance of clarifying the scope of the financial collateral regime and the assets that may benefit from its enhanced enforcement mechanisms.

In the meantime, lenders taking security over unlisted shares should proceed on the basis that Law 3301/2004 is unlikely to apply. A pledge under the Civil Code, with a carefully drafted enforcement mechanism that includes an agreed valuation procedure, remains the safer foundation, and any benefit from the financial collateral regime is best treated as an upside.

