

**The City of London Law Society  
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Hannah Gurga  
Financial Stability and Risk  
Room 3/19  
HM Treasury  
1 Horse Guards Road  
London SW1 2HQ

16 October 2008

Dear Sirs

**Modernising the Insolvency Protections for the Operation of Financial Markets -  
Proposals to Reform Part VII Companies Act 1989**

The City of London Law Society is the local Law Society of the City of London and represents City solicitors, who make up 15% of the profession in England and Wales. Members of the Regulatory Committee advise a wide range of firms in the financial markets including banks, brokers, investment advisors, investment managers, custodians, private equity and other specialist fund managers as well as market infrastructure providers such as the operators of trading, clearing and settlement systems.

We welcome the proposals in the consultation document and support the response made by the CLLS Financial Law Committee.

We would in particular highlight the need to:

1. Extend Part VII to protect the operation of a Multilateral Trading Facility ("MTF"). Investment firms, in pursuit of their duties of best execution, are increasingly executing transactions on MTFs and it would be important in the event of a default of a member that the MTF could take action under its default rules and have the protection of Part VII. Without such protection the risk of market disruption is potentially significantly increased. We consider that the protection should cover operators who are established in, or providing services into, the UK.
2. The Part VII protection needs to reflect the developments in the clearing and settlement markets, particularly in those arrangements which involve competitive clearing models. In such arrangements one central counterparty may have arrangements with another central counterparty to deal with a range of potential default situations. The central counterparties concerned may not all be recognised clearing houses, indeed there is no requirement that a person be a recognised clearing house as opposed to an authorised firm. We therefore consider that the protection of the interoperability provisions should be extended to any appropriately authorised UK or overseas entity.

3. As a more general comment, we could encourage the Treasury to review with European counterparts the need for European level legislation on the winding up of investment firms, equivalent to that already in place in respect of credit institutions and insurance firms. The absence of such a framework has been a complicating factor in dealing with the fall-out from the Lehman administration.

Yours sincerely



pp. **Margaret Chamberlain**  
**Chair CLLS Regulatory Committee**

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