

**THE CITY OF LONDON LAW SOCIETY**  
**INSOLVENCY LAW COMMITTEE**  
(the **Committee**)

Minutes of a meeting of the Committee held at SJ Berwin LLP,  
10 Queen Street Place, London EC4R 1BE  
on Thursday 17 March 2011 AT 8.30am

**Present:** Hamish Anderson, Norton Rose LLP (Chair)  
Mike Woollard, SJ Berwin LLP  
Ian Hodgson, Slaughter and May  
Ken Baird, Freshfields Bruckhaus Deringer LLP  
Alex Wood, Hogan Lovells International LLP  
Jennifer Marshall, Allen & Overy LLP  
Ben Larkin, Berwin Leighton Paisner LLP  
Stephen Gale, Herbert Smith LLP

**Apologies:** Nigel Barnett, SNR UK LLP  
Rita Lowe, CMS Cameron McKenna LLP  
James Roome, Bingham McCutchen LLP  
Tony Bugg, Linklaters LLP  
Stephen Foster, Hogan Lovells International LLP  
Adrian Cohen, Clifford Chance LLP  
Chris Mallon, Skadden Arps Slate Meagher & Flom (UK) LLP  
Patrick Corr, Sidley Austin LLP  
Stuart Frith, Stephenson Harwood

**In attendance:** Rebecca Oliver, Norton Rose LLP (secretary)

**1 Opening of meeting**

The Chairman opened the meeting.

**2 Minutes of the meeting held on 20 January 2011**

The draft minutes of the meeting held on 20 January 2011 were approved.

**3 Current consultations**

The Chairman noted the following ongoing consultations:

<b>Terms of reference</b>	<b>Working party</b>	<b>Deadline</b>
A. Modernisation of Insolvency Rules  The Committee discussed the stakeholder meeting of 31 January 2011, noted the response of Hamish Anderson, Ken Baird and Jennifer Marshall of 4 March 2011 to an Insolvency Service letter of 3 February 2011 and looked forward to discussing the issues further with the Insolvency Service in due course.		Ongoing

B. HM Treasury consultation: A new approach to financial regulation: building a stronger system	Jennifer Marshall to contact Dorothy Livingstone to discuss a joint working party with the Financial Law Committee  Ben Larking volunteered to assist	14 April 2011
C. Consultation on reforms to the regulation of insolvency practitioners	Hamish Anderson to liaise with ILA	6 May 2011
D. EU consultation on framework for Bank Recovery and Resolution	It was noted by the Committee that Jennifer Marshall contributed to the CLLS Financial Law Committee response of 8 March 2011	Deadline passed
E. Request from Insolvency Service to review draft judicial materials produced by UNCITRAL for the Model Law on cross-border insolvency proceedings	Gabrielle Ruiz James Roome Nick Segal Jennifer Marshall Mike Woollard Patrick Corr	April 2011

**4 The Insolvency Act 1986 Amendment (Appointment of Receivers) (Scotland) Regulations 2011 (SSI 2011/140)**

Noted by the Committee.

**5 Legal Services Institute paper titled ‘The Regulation of Legal Services: What Is The Case For Reservation?’ 10 February 2011**

Noted by the Committee.

**6 The Investment Bank Special Administration Regulations 2011 (SI 2011/245) and The Investment Bank (Amendment of Definition) Order 2011 (SI 2011/239)**

It was noted by the Committee that these became effective on 8 February 2011.

**7 Insolvency Service Fourth Quarter Statistics**

Noted by the Committee.

**8 The Committee noted the following recent cases:**

*Barke and others UKEAT 0320/09 and other cases*

*Spencer v Lehman Brothers Ltd (in administration) and others ET/3201700/2009*

*Holland v Revenue and Customs & Anor [2010] UKSC 51*

*Global Distressed Alpha Fund 1 LP v PT Bakrie Investindo [2011] EWHC 256 (Comm)*

*BNY Corporate Trustee Services Ltd v Eurosail-UK 2007-3BL PLC and others [2011] EWCA Civ 227* - reservations were expressed by some members of the Committee about the Court of Appeal's decision that the "balance sheet test" of insolvency, where liabilities exceed assets, also requires assessment of whether the company "has reached the point of no return".

**9 Any other business**

None reported.

**10 Next meeting**

Thursday 19 May 2011, to be hosted by Rita Lowe, CMS Cameron McKenna LLP at 8.30am.

**11 Close of business**

There being no further business the meeting closed.