

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

Minutes of a meeting of the Committee held at Allen & Overy LLP, One Bishops Square, London E1 6AD on Thursday 17 January 2013 at 8.30 a.m.

Present:

Hamish Anderson, Norton Rose LLP (Chair)
Jennifer Marshall, Allen & Overy LLP
Ken Baird, Freshfields Bruckhaus Deringer LLP
Mike Woollard, SJ Berwin LLP
Byron Nurse, Eversheds LLP
Peter Wiltshire, CMS Cameron McKenna LLP
James Roome, Bingham McCutchen LLP
Rachael Mackay, Herbert Smith Freehills LLP
Chris Mallon, Skadden Arps Slate Meagher & Flom (UK) LLP
Jo Windsor, Linklaters LLP
Gabrielle Ruiz, Clifford Chance LLP

In attendance:

Rebecca Oliver, Norton Rose LLP

Apologies:

Nigel Barnett, SNR Denton UK LLP
Stephen Gale, Herbert Smith Freehills LLP
Adrian Cohen, Clifford Chance LLP
Stuart Frith, Stephenson Harwood
Stephen Foster, Hogan Lovells International LLP
Ian Hodgson, Slaughter and May
Patrick Corr, Sidley Austin LLP
Ben Larkin, Berwin Leighton Paisner LLP

1 Opening of meeting

The Chairman opened the meeting.

2 Minutes of the meeting held on 11 October 2012

The draft minutes of the meeting held on 11 October 2012 were approved.

3 Current consultations

The Chairman noted the following ongoing consultations:

Terms of reference	Working party	Deadline
A. Modernisation of Insolvency Rules	Noted and to be kept under observation.	Draft rules and consultation expected

		2013 and new rules not expected to come into force before October 2014.
B. European Commission consultation on a possible framework for the recovery and resolution of non bank financial institutions	No response submitted.	28 December 2012
C. Department of Health consultation on draft regulations for a special administration procedure for companies providing NHS services designed to safeguard the interests of patients if a provider fails.	Committee in agreement with R3 response.	4 January 2013
D. Review of the Investment Bank Special Administration Regime - call for evidence	No response submitted but the Committee noted that Peter Bloxham conducting the call for evidence has spoken to several members of the Committee and a further consultation process is expected.	10 January 2013
E. European Account Preservation Order - Ministry of Justice seeking views	No response submitted by the Committee but it was noted that the ILA, R3 and Insol have responded.	15 January 2013
F. Euroclear consultation on CREST Rule 13: settlement finality in respect of complex transactions	Hamish Anderson and Gabrielle Ruiz represented the Committee at a meeting with representatives of the Financial Law Committee at a presentation given by Euroclear UK & Ireland on 16 January. The Financial Law Committee will be	31 January 2013

	<p>responding with the support of the Committee taking a neutral stance on whether Euroclear has exceeded its authority in re-enabling members in insolvency under rule 13 of CREST with the consent of, or at the request of an appointed insolvency practitioner.</p>	
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4 European Commission proposal for amending the European Insolvency Regulation 12 December 2012

The Committee will hold a further meeting to discuss the proposed amendments, Jo Windsor agreed to collect comments from the Committee for the purposes of such discussion. Hamish Anderson to write to Dean Beale of the Insolvency Service on behalf of the Committee to invite him to discuss the proposed amendments.

5 Federal Deposit Insurance Corporation and the Bank of England joint paper: Resolving Globally Active, Systemically Important, Financial Institutions, 10 December 2012

Jennifer Marshall and Hamish Anderson reported that they had attended a presentation by FDIC and the Bank of England on how it is intended that both establishments would work together to resolve potential failures of systemically important financial institutions with both the UK and US intending some sort of bail in by shareholders and write down of unsecured creditors at holding company level to return a group to solvency and/or transfer solvent parts of the business.

6 Insolvency fees review

Noted by the Committee.

7 Insolvency Service response to consultation on Bank Accounts for Bankrupts

Noted by the Committee.

8 House of Commons, Oral Evidence, taken before the Business, Innovation and Skills Committee from Dr Richard Judge and Graham Horne of the Insolvency Service on Tuesday 23 October 2012

Noted by the Committee.

- 9 Charitable Incorporated Organisations (Consequential Amendments) Order 2012 and Charitable Incorporated Organisations (Insolvency and Dissolution) Regulations 2012 laid before Parliament on 30 October 2012 came into force 2 January 2013**

Noted by the Committee.

- 10 HM Treasury publishes responses to consultation document “Financial sector resolution: broadening the regime”**

Noted by the Committee.

- 11 Report stage of The Enterprise And Regulatory Reform Bill - Proposed Amendments**

Noted by the Committee.

- 12 Insolvency Service Statistics for third quarter 2012**

Noted by the Committee.

- 13 Insolvency Service Investigation and Enforcement News**

Noted by the Committee.

- 14 The Committee noted the following recent cases:**

Rubin and another v Eurofinance SA and others and New Cap Reinsurance Corporation (in liquidation) and another v Grant and others [2012] UKSC 46

SNR Denton UK LLP v Kirwan and others UKEAT/0158/12

Re Quantum Distribution (UK) Ltd [2012] Scot CSOH 191

- 15 Any other business**

None.

- 16 Next meeting**

The Committee noted that the next meeting was on Thursday 21 March 2013, to be hosted by Stephen Gale, Herbert Smith Freehills LLP at 12.30p.m.

- 17 Close of business**

There being no further business the meeting closed.