

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

Minutes of a meeting of the Committee held at Herbert Smith Freehills LLP,
 Exchange House, Primrose Street, London EC2A 2EG on Wednesday 18th May 2016 at 12.30pm

Present: Jennifer Marshall, Allen & Overy LLP (Chair)
 Catherine Balmond, Freshfields Bruckhaus Deringer LLP
 Laurence Elliott, Herbert Smith Freehills LLP
 Hamish Anderson, Norton Rose Fulbright LLP
 Megan Sparber, Slaughter and May
 Jo Windsor, Linklaters LLP
 Joe Bannister, Hogan Lovells International LLP
 Byron Nurse, Dentons UKMEA LLP
 James Roome, Akin Gump Strauss Hauer & Feld LLP

Apologies: Ben Klinger, Sidley Austin LLP
 Adrian Cohen, Clifford Chance LLP
 Dominic McCahill, Skadden Arps Slate Meagher & Flom (UK) LLP
 Ian Johnson, Slaughter and May
 Ben Larkin, Jones Day
 Peter Wiltshire, CMS Cameron McKenna LLP
 Mike Woollard, King & Wood Mallesons SJ Berwin LLP
 Stuart Frith, Stephenson Harwood LLP
 Giles Boothman, Ashurst LLP
 Tony Bugg, Linklaters LLP

Present: Rebecca Oliver, Norton Rose Fulbright LLP (Secretary)

1 Opening of meeting

2 Minutes of the meeting held on 16th March 2016

The draft minutes of the meeting held on 16th March 2016 were approved.

3 Current consultations

The Chair noted the following on-going consultations:

Terms of reference	Discussion	Deadline
A. Revised Insolvency Rules	Noted that the revised rules had not been published in April 2016 as expected. The Insolvency Service has indicated previously that if the timetable slipped, there would still be a six month period between publication of the rules and their coming into force. If the Insolvency Service stick to this, it is unlikely the revised rules will now come into force in October 2016.	
B. HM Treasury Banking Liaison Panel	Dorothy Livingstone, CLLS	Ongoing

meetings	Financial Law Committee Jennifer Marshall	
C. HM Treasury consultation paper: Reforms to the investment bank special administration regime	Jennifer Marshall Ben Larkin Kay Morley Hamish Anderson	Response submitted 22 April 2016
D. European Commission consultation on an effective EU insolvency framework	Jennifer Marshall Catherine Balmond Katharina Crinson Hamish Anderson Jo Windsor Adrian Cohen Joe Bannister Inga West Laurence Elliott Jennifer Marshall will be circulating a draft response to the Committee prepared by the working group.	14 June 2016

4 Third Parties (Rights against Insurers) Act 2010 comes into force on 1 August 2016

Noted by Committee.

5 Changes to Statements of Insolvency Practice 2 and 4

Noted by Committee.

6 Consultation on revision of Statement of Insolvency Practice 13 – acquisition of assets by connected parties in an insolvency process

Noted by Committee.

7 Insolvency Statistics: January to March 2016

Noted by Committee.

8 Some recent cases

The following cases were noted by the Committee:

Lehman Brothers Luxembourg Investments S.à.r.l v Lehman Brothers UK Holdings Ltd (in administration) [2016] EWHC 617 (Ch), [2016] All ER (D) 183 (Mar)

Indah Kiat International Finance Company BV [2016] EWHC 246

PST Energy 7 Shipping LLC and another v OW Bunker Malta Ltd and another [2016] UKSC 23

DTEK Finance BV scheme of arrangement

Abengoa SA - US chapter 15 proceedings

9 Any other business

(i) Persons with Significant Control regime

Members reported that the scope of the PSC regime and its application to insolvency and restructuring procedures was by no means clear. It was suggested that a working party might be formed with the CLLS Company Law Committee to consider the issues further.

(ii) Brexit

Members noted that contingency planning was difficult without knowledge of any exit strategy which would be considered over a two year period following the referendum if there were a Brexit vote.

(iii) Special administration regimes

Members reported difficulties of placing certain types of company into administration where factors such as potential environmental risks and retaining key licences, made continuing for a period of trading to sell any part of the business as a going concern difficult. It was suggested there may be a case for a special administration regime to apply, for example in the energy sector. The current alternative is for the official receiver to appoint a special manager.

10 Next meeting

Thursday 15th September 2016, to be hosted by Giles Boothman, Ashurst LLP at 8.30a.m.

11 Close of business

There being no further business the meeting closed.