

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

Minutes of a meeting of the Committee held at Akin Gump Strauss Hauer & Feld LLP,
 Bishops Square, London E1 6EG on Thursday 20th September 2018 at 8.30am

Present: Jennifer Marshall, Allen & Overy LLP (Chair)
 James Roome, Akin Gump Strauss Hauer & Feld LLP
 Stuart Frith, Stephenson Harwood LLP
 Catherine Balmond, Freshfields Bruckhaus Deringer LLP
 Gabrielle Ruiz, Clifford Chance LLP
 Joe Bannister, Hogan Lovells International LLP
 Jo Windsor, Linklaters LLP
 Ian Johnson, Slaughter and May
 Ben Larkin, Jones Day
 Kevin Pullen, Herbert Smith Freehills LLP
 Giles Boothman, Ashurst LLP
 Inga West, Ashurst LLP

Apologies: Adrian Cohen, Clifford Chance LLP
 Ross Miller, Simmons & Simmons LLP
 Hamish Anderson, Norton Rose Fulbright LLP
 Peter Wiltshire, CMS Cameron McKenna LLP
 Ben Klinger, Sidley Austin LLP
 Dominic McCahill, Skadden Arps Slate Meagher & Flom (UK) LLP
 Byron Nurse, Dentons UKMEA LLP

Present: Rebecca Oliver, Norton Rose Fulbright LLP (secretary, by phone)

1 Opening of meeting

The meeting opened and Jennifer Marshall welcomed Kevin Pullen as a new member of the Committee.

2 Minutes of the meeting held on 17th May 2018

The draft minutes of the meeting held on 17th May 2018 were approved.

3 Consultations

The Chair noted the following on-going consultations:

Terms of reference	Working party	Comments/Update
A. BEIS response on insolvency and corporate governance consultations of 2016 and 2018 published 26 August 2018: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/736163/ICG_-_Government_response_doc_-_24_Aug_clean_version_with_Minister_s_photo_and_signature_AC.pdf	CLLS response to March 2018 Insolvency and Corporate Governance consultation submitted 13 June 2018 by working party: Jennifer Marshall Catherine Balmond Katharina Crinson Jo Windsor Ian Johnson Inga West Dominic McCahill	Committee will seek a stakeholder meeting with the Insolvency Service to assist with suggestions for progressing the proposals and identifying areas of potential uncertainty.

Terms of reference	Working party	Comments/Update
	Hamish Anderson (See also CLLS Company Law Committee submission)	
B. Proposed EU Directive on preventive restructuring frameworks Proposed directive: http://ec.europa.eu/information_society/newsroom/image/document/2016-48/proposal_40046.pdf Legislative observatory link: http://www.europarl.europa.eu/oeil-mobile/fiche-procedure/2016/0359(COD)		
C. HMRC Discussion Document: Tax Abuse and Insolvency https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/698173/Tax_Abuse_and_Insolvency_A_Discussion_Document.pdf	CLLS Revenue Law Committee response Noted by the Committee.	Closing date 20 June 2018
D. HM Treasury technical consultation on the draft Banks and Building Societies (Priorities on Insolvency) Order 2018	No response to be submitted.	Closing date 10 October 2018
E. Department for Transport interim report in airline insolvency review https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/724883/airline-insolvency-review-interim.pdf	Noted by the Committee. Jennifer Marshall to discuss with Adrian Cohen and Catherine Balmond whether a stakeholder meeting would be useful.	
F. Department of Work and Pensions Consultation Paper entitled “Protecting Defined Benefit Pension Schemes – A Stronger Pensions Regulator” https://www.gov.uk/government/consultations/protecting-defined-benefit-pension-schemes-a-stronger-pensions-regulator	Noted by the Committee but no response submitted.	Closing date 21 August 2018

4 BEIS Brexit – implications for restructuring and insolvency

BEIS and MoJ [guidance](#) “Handling civil legal cases that involve EU countries if there’s no Brexit deal”.

Noted by the Committee.

5 UNCITRAL adopts Model Law on the recognition and enforcement of insolvency-related judgments

http://www.uncitral.org/pdf/english/commissionsessions/51st-session/Final_Edited_version_in_English_28-8-2018.pdf

Noted by the Committee that the final version of the Model Law was not yet available.

6 Update to the Insolvency Proceedings Practice Direction

<https://www.judiciary.uk/wp-content/uploads/2018/07/pd-insolvency-proceedings-july-2018.pdf>

Noted by the Committee.

7 Insolvency Regulation (Recast): Regulation amending Annexes A and B to Regulation (EU) 2015/848 on insolvency proceedings published in the Official Journal

https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2018.171.01.0001.01.ENG&toc=OJ:L:2018:171:TOC

Noted by the Committee.

8 Guidance notes published by the Pension Protection Fund on its approach to CVAs, insolvency practitioner remuneration, pre-packaged administrations and potential legal action contemplated by IPs where a pension scheme is in an assessment period

https://www.pensionprotectionfund.org.uk/DocumentLibrary/Documents/RandI_Guidance_Note%204_CVA_2018.pdf

https://www.pensionprotectionfund.org.uk/DocumentLibrary/Documents/PPF%20guidance_IP%20remuneration_v2_June%202018.pdf

<https://www.pensionprotectionfund.org.uk/DocumentLibrary/Documents/Pre%20pack%20guidance%20note%20revised%20June%2018.pdf>

[https://www.pensionprotectionfund.org.uk/DocumentLibrary/Documents/PPF%20guidance_potential%20legal%20action_\(revised%20June%202018\).pdf](https://www.pensionprotectionfund.org.uk/DocumentLibrary/Documents/PPF%20guidance_potential%20legal%20action_(revised%20June%202018).pdf)

Noted by the Committee.

9 Insolvency Statistics: April to June 2018

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/729810/Insolvency_Statistics_Commentary_-_Q2_2018.pdf

Noted by the Committee.

10 The Committee noted the following recent cases:

Re LB Holdings Intermediate 2 Ltd (in administration) and Re Lehman Bros Holdings plc (in administration) [2018] EWHC 2017 (Ch)

Re Videology Ltd [2018] EWHC 2186 (Ch)

Re Lehman Brothers International (Europe) (in administration) [2018] EWHC 1980 (Ch)

LF2 Ltd v Supperstone and another (Administrators of Pennyfeathers Ltd) [2018] EWHC 1776 (Ch)

Heis and others v Financial Services Compensation Scheme Ltd and another [2018] EWCA Civ 1327

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11 Any other business

None.

12 Next meeting

Thursday 15th November 2018, to be hosted by Catherine Balmond, Freshfields Bruckhaus Deringer LLP at 8.30am.

13 Close of business

There being no further business the meeting closed.