


**THE CITY OF LONDON LAW SOCIETY INSOLVENCY LAW COMMITTEE**  
**MINUTES OF THE MEETING BY CONFERENCE CALL**  
**ON THURSDAY 19<sup>th</sup> NOVEMBER 2020 AT 8.30am**


**Present:** Jennifer Marshall, Allen & Overy LLP (chair)  
Catherine Balmond, Freshfields Bruckhaus Deringer LLP  
Katharina Crinson, Freshfields Bruckhaus Deringer LLP  
Hamish Anderson, Norton Rose Fulbright LLP  
Ian Johnson, Slaughter and May  
Giles Boothman, Ashurst LLP  
Inga West, Ashurst LLP  
Jo Windsor, Linklaters LLP  
James Roome, Akin Gump Strauss Hauer & Feld  
Kevin Pullen, Herbert Smith Freehills LLP  
Adrian Cohen, Clifford Chance LLP  
Joe Bannister, Hogan Lovells International LLP  
Dominic McCahill, Skadden Arps Slate Meagher & Flom (UK) LLP  
Ian Fox, Dentons UK and Middle East LLP  
Simon Thomas, Goodwin Procter (UK) LLP  
David Ereira, Paul Hastings (Europe) LLP  
Ben Larkin, Jones Day  
Ben Klinger, Seddons Law LLP  
Byron Nurse  
Peter Wiltshire, CMS Cameron McKenna LLP

**Apologies:** Stuart Frith, Stephenson Harwood LLP  
Ross Miller, Simmons & Simmons LLP

**In attendance:** Rebecca Oliver, Norton Rose Fulbright LLP (secretary)  
Kevin Hart, CLLS  
Jamie Leader, Eversheds Sutherland

- 1 Opening of meeting.
- 2 The minutes of the meeting held on 17<sup>th</sup> September 2020 were approved.
- 3 Current consultations/proposals

Terms of reference	Working party	Comments/Update
<p>A. Law Commission consultation on draft Bill on transfer of ownership in consumer contracts for the sale of goods</p> <p><a href="https://www.lawcom.gov.uk/project/consumer-sales-contracts-transfer-of-ownership/">https://www.lawcom.gov.uk/project/consumer-sales-contracts-transfer-of-ownership/</a></p>	<p>Jo Windsor  Inga West  Simon Thomas</p>	<p>Submission  3 November 2020</p> <p>  37420096_1.PDF</p> <p>As a follow up, Kevin Hart will contact the Law Commission to see if they would be available to attend a future meeting of the Committee to discuss.</p>
<p>B. Law Commission scoping paper on intermediated securities 11 November 2020</p> <p><a href="https://www.lawcom.gov.uk/project/intermediate">https://www.lawcom.gov.uk/project/intermediate</a></p>		<p>Noted that the CLLS Financial Law Committee are responding.</p>

<a href="#">d-securities/</a>		
<p>C. EU consultation on further harmonisation of insolvency laws</p> <p><a href="https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12592-Enhancing-the-convergence-of-insolvency-laws">https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12592-Enhancing-the-convergence-of-insolvency-laws</a></p> <div style="text-align: center;">  <p>Inception impact assessment.pdf</p> </div>		<p>Closing date 9 December 2020</p> <p>The Committee's response to a similar consultation by the Commission in 2013 can be found <a href="#">here</a>.</p>

#### 4 Brexit – implications for restructuring and insolvency

The Committee will continue to offer support to the Insolvency Service and bring to their attention ongoing cases where cross-border recognition is in issue.

It was noted that a consultation is expected on the UNCITRAL model law on Recognition and Enforcement of Insolvency-Related Judgements. Jennifer Marshall, Inga West, Joe Bannister, Hamish Anderson, Adrian Cohen and Catherine Balmond offered to form a working party to consider the consultation when published.

#### 5 Corporate Insolvency & Governance Act 2020

The Committee noted the first Part 26A restructuring plans in relation to Virgin Atlantic and Pizza Express.

It is believed that there have not been many Part A1 moratoria to date and the Committee considered these would be confined to SMEs or combined with contractual arrangements with finance creditors.

It remains unknown whether the temporary measures extended until the end of 2020 will be further extended.

#### 6 Pre-pack sales in administration: Outcome of review of industry reforms to pre-pack sales in administration

Pre-pack sales in administration report:

<https://www.gov.uk/government/publications/pre-pack-sales-in-administration/pre-pack-sales-in-administration-report>

Proposed draft regulations to require scrutiny of pre-pack sales to connected parties:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/922229/Draftregulationstext\\_1.odt](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/922229/Draftregulationstext_1.odt)

Jennifer Marshall and Inga West will liaise on supporting the ILA response to the Insolvency Service.

#### 7 Pension Schemes Bill

Noted by the Committee that the Bill had its report stage and third reading on Monday 16 November 2020 and was reported with amendments. The Bill will now return to the House of Lords for consideration of the Commons amendments.

CLLS/ILA letter of Insolvency Service 10 January 2020:



CLLS response to  
Pension schemes bill

The Committee will share their concerns with the Insolvency Service again.

**8 Extended temporary insolvency practice direction 2 October 2020**

[https://www.judiciary.uk/wp-content/uploads/2020/04/TIPD-extended-and-revised-02\\_10\\_20-1.pdf](https://www.judiciary.uk/wp-content/uploads/2020/04/TIPD-extended-and-revised-02_10_20-1.pdf)

Noted by the Committee.

**9 Protecting schemes from sponsoring employer distress - guidance for trustees of defined benefit (DB) schemes**

<https://www.thepensionsregulator.gov.uk/en/document-library/regulatory-guidance/protecting-schemes-from-sponsoring-employer-distress>

Noted by the Committee.

**10 Some recent cases noted by the Committee:**

*Re PizzaExpress Financing 2 plc [2020] EWHC 2873 (Ch)*

*Cage Consultants Ltd v Iqbal (Re Totalbrand Ltd) [2020] EWHC 2917 (Ch)*

*Re Tokenhouse VB Limited (Formerly VAT Bridge 7 Limited) [2020] EWHC 3171 (Ch)*

*Re Industrial North West LLP (in administration) Kendall and another (administrators of Industrial North West LLP) v Morley and others [2020] EWHC 3052 (Ch)*

*RESAM Cork UC & Anor v Monsoon Accessorize Ltd & Anor, Apperley Investments Ltd & Ors v Monsoon Accessorize Ltd1*

**11 Any other business**

None.

**12 Next meeting**

Thursday 21st January 2020, to be hosted by Peter Wiltshire, CMS Cameron McKenna Nabarro Olswang LLP, at 12.30pm.