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The Insolvency Service
Policy Directorate
21 Bloomsbury Street
Zone B, 3rd Floor
London WC1B 3QW

Your reference: Policy Unit

6 December 2010

Dear Sirs

New Insolvency Rules

The City of London Law Society ("CLLS") represents approximately 14,000 City lawyers through individual and corporate membership including some of the largest international law firms in the world. These law firms advise a variety of clients from multinational companies and financial institutions to Government departments, often in relation to complex, multi-jurisdictional legal issues.

The CLLS responds to a variety of consultations on issues of importance to its members through its 17 specialist committees. This letter has been prepared by the CLLS Insolvency Committee, whose purpose is to represent the interests of those members of the CLLS involved in insolvency, in response to your letter to stakeholders dated 28 October 2010 inviting views upon whether work the Insolvency Service have been undertaking to re-write the Insolvency Rules should be continued or whether the Service should the more limited alternative option of correcting errors which have become apparent since the April 2010 amendments were made.

The Committee's members do not regard either option as representing the highest priority. The Committee attaches more importance to addressing aspects of the 1986 Rules which affect the substantive rights of creditors but which do not work in their present form. For example, by:

- Removing the uncertainty as to administration set-off (as identified in the Financial Markets Law Committee paper of November 2007: [http://www.fmlc.org/papers/Issue108\(nov07\).pdf](http://www.fmlc.org/papers/Issue108(nov07).pdf) and in their letter of 9 November 2010);
- Clarifying the rules on post-administration trading of claims;
- Reformulating the rules regarding administration expenses;

- Introducing a method for bondholders to be able to form part of a formal creditor committee in circumstances where the bondholder trustee is the only creditor of record; and
- Clarifying the timing of any bar date for the filing of unsecured claims and the consequences of late filing.

(There are other important matters going beyond the present scope of the 1986 Rules, for example the question of recognition of English schemes of arrangement and the valuation principles applicable to schemes and pre-packs.)

The Committee is also conscious of the increasingly incoherent position resulting from the rules applicable to special administration regimes having been based on different versions of the 1986 Rules as from time to time amended - a problem which would be exacerbated by the adoption of a new set of rules unless all the special regimes were brought into line concurrently.

As regards question 2, we doubt the implicit premise that a new set of rules would itself be free from an ongoing process of amendment as problems are from time to time encountered.

Finally, on the more specific question concerning prescribed forms, the Committee would like to register its support for the retention of the forms. Although they limit flexibility, they ensure that the recipient knows what is being received and can more easily check whether the information being provided is complete. The forms are already in soft copy format and can be scanned and emailed as necessary for electronic delivery; this has not been an issue, for example, in the case of Companies House prescribed forms. The Committee is not convinced that the alternative suggestion of acceptable templates would offer advantages over the present system outweighing the potential disadvantages for recipients.

Yours sincerely

David McIntosh
Chair
CLLS

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**THE CITY OF LONDON LAW SOCIETY
INSOLVENCY COMMITTEE**

Individuals and firms represented on this Committee are as follows:

Hamish Anderson, Norton Rose LLP (Chair)
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Nigel Barnett, SNR Denton UK LLP
Tony Bugg, Linklaters LLP
Adrian Cohen, Clifford Chance LLP
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