

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

Minutes of a meeting of the Committee held at Bingham McCutchen (London) LLP,
41 Lothbury, London EC2R 7HF on Thursday 11 October 2012 at 12.30 p.m.

Present:

Ken Baird, Freshfields Bruckhaus Deringer LLP (Chair)
Ben Larkin, Berwin Leighton Paisner LLP
Lynda Elms, Slaughter and May
Mike Woollard, SJ Berwin LLP
Byron Nurse, Eversheds LLP
Peter Wiltshire, CMS Cameron McKenna LLP
James Terry, Bingham McCutchen LLP
Nigel Barnett, SNR Denton UK LLP
Rachael Hoar, Herbert Smith Freehills LLP
Dominic McCahill, Skadden Arps Slate Meagher & Flom (UK) LLP
Jo Windsor, Linklaters LLP
Adrian Cohen, Clifford Chance LLP
Patrick Corr, Sidley Austin LLP

In attendance:

Katharina Crinson, Freshfields Bruckhaus Deringer LLP

Apologies:

Hamish Anderson, Norton Rose LLP
Jennifer Marshall, Allen & Overy LLP
Tom Astle, Hogan Lovells International LLP
Stuart Frith, Stephenson Harwood
Stephen Foster, Hogan Lovells International LLP
Stephen Gale, Herbert Smith Freehills LLP
Ian Hodgson, Slaughter and May

1 Opening of meeting

The Chairman opened the meeting.

2 Minutes of the meeting held on 10 May 2012

The draft minutes of the meeting held on 10 May 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 European Insolvency Regulation	Stephen Gale and Collette Walsh submitted response.	21 June 2012. Noted that the final proposal is due to be published by the European Commission on 12 December 2012.
C. Cabinet Office red tape challenge	Noted. Ken Baird's response to Hamish Anderson's email to be circulated to the members of the Committee.	27 September 2012. Revised deadline of end of October 2012.
D. HM Treasury consultation: Financial sector resolution: broadening the regime	CLLS Finance Committee submitted a response.	24 September 2012
E. Ministry of Justice stakeholder consultation: European Account Preservation Orders	Noted but no further action to be taken.	18 October 2012
F. European Commission consultation on a possible framework for the recovery and resolution of non bank financial institutions	Noted. To be confirmed with Finance Committee if it is submitting a response and would like further input from the Committee	28 December 2012

4 Statement by Pensions Regulator July 2012 on FSDs and insolvency

The Committee noted the statement issued by the Pensions Regulator and discussed its impact and merit.

5 The Insolvency Practitioners and Insolvency Services Account (Fees) (Amendment) Order 2012 No. 2264

Noted by the Committee.

6 Tribunals, Courts and Enforcement Act 2007 (Consequential Amendments) Order 2012 (SI 2012/2404) came into force on 1 October 2012,

Noted by the Committee.

7 New Land Registry Practice Guide 36A - Receivers appointed under the provisions of the Law of Property Act 1925

Noted by the Committee.

8 Insolvency Service Statistics for second quarter 2012

Noted by the Committee.

9 The Committee noted the following recent cases:

Cartwright and another v The Registrar of Companies [2012] EWCA Civ 1159

Lavin and others v Swindell [2012] EWHC 2398 (Ch)

Re Eco Link Resources Ltd (in CVL) (Case No: 8326 of 2012, Birmingham District Registry)

Sparkasse Hilden Ratingen Velbert v Benk and another [2012] EWHC 2432 (Ch)

Peaktone Ltd v Joddrell [2012] EWCA Civ 1035

Bilta (UK) Ltd (in liquidation) and others v Nazir and others [2012] EWHC 2163 (Ch)

Assenagon Asset Management SA v Irish Bank Resolution Corporation Ltd [2012] EWHC 2090 (Ch)

10 Any other business

The Committee noted the Australian case of *Westpac Banking Corporation v The Bell Group Ltd (in Liq)* [2012] WASCA 157.

The Committee further noted the case of *Re Globespan Airways Ltd (In Liquidation)* [2012] EWCA Civ 1159 and noted that despite the clarifications in the case it was still not possible to determine the time (rather than the date) of when an administration was converted into a creditors' voluntary liquidation.

11 Next meeting

The Committee noted that the next meeting was on 15 November.

12 Close of business

There being no further business the meeting closed.