

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

Minutes of a meeting of the Committee held at Skadden, Arps, Slate, Meagher & Flom (UK) LLP, 40 Bank Street, London E14 5DS
on Thursday 10th May 2012 at 8.30a.m.

Present:

Hamish Anderson, Norton Rose LLP (Chair)
Ken Baird, Freshfields Bruckhaus Deringer LLP
Dominic McCahill, Skadden Arps Slate Meagher & Flom (UK) LLP
Jennifer Marshall, Allen & Overy LLP
Ben Larkin, Berwin Leighton Paisner LLP
Tom Astle, Hogan Lovells International LLP
Lynda Elms, Slaughter and May
Mike Woollard, SJ Berwin LLP
Gabrielle Ruiz, Clifford Chance LLP

In attendance:

Rebecca Oliver, Norton Rose LLP

Apologies:

Tony Bugg, Linklaters LLP
Stephen Gale, Herbert Smith LLP
Byron Nurse, Eversheds LLP
Stuart Frith, Stephenson Harwood
Patrick Corr, Sidley Austin LLP
Adrian Cohen, Clifford Chance LLP
Stephen Foster, Hogan Lovells International LLP
Chris Mallon, Skadden Arps Slate Meagher & Flom (UK) LLP
Rita Lowe, CMS Cameron McKenna LLP
Ian Hodgson, Slaughter and May
James Roome, Bingham McCutchen LLP
Nigel Barnett, SNR Denton UK LLP

1 Opening of meeting

The Chairman opened the meeting.

2 Minutes of the meeting held on 15 March 2012

The draft minutes of the meeting held on 15 March 2012 were approved.

3 Current consultations

The Chairman noted the following ongoing consultations:

Terms of reference	Working party/Action	Deadline

A. Modernisation of Insolvency Rules	Noted and to be kept under observation.	Draft rules and consultation expected first half 2012 and new rules not expected to come into force before October 2013.
B. European Commission consultation on European Insolvency Regulation http://ec.europa.eu/justice/newsroom/civil/opinion/120326_en.htm	Further Committee Meeting planned for 3pm, 30 May 2012 to be hosted by Norton Rose LLP to discuss response.	21 June 2012
C. Proposed abolition of S51(2ZA), IA 86	Nothing further to add to Hamish Patrick's views to Finance Law Committee.	
D. EU Discussion Paper on Regulatory Bail-in as a resolution tool	Financial law committee consulted Jennifer Marshall for the insolvency committee	Ended April 2012

4 Report on the implementation of Law Commission proposals including update on implementation of the Third Parties (Rights against Insurers) Act 2010

The Committee noted that implementation is likely to be delayed until 2013.

5 Director Disqualifications and Bankruptcy Restrictions Search – withdrawal of online databases

Noted by the Committee.

6 Secured Lending Reform Bill 2010-12

The Committee noted that the Bill failed to progress through Parliament.

7 Insolvency Service Statistics for first quarter 2012

Noted by the Committee.

8 The Committee noted the following recent cases:

Lomas v JFB Firth Rixson [2012] EWCA Civ 419

McAteer v Lismore [2012] NICH 7

Adjei and others v Law For All [2011] EWHC (Ch) 2672

Re MF Global Overseas Ltd [2012] EWHC 1091 (Ch)

The Committee were of the view that following the line of recent cases challenging out of court appointments, the administration appointment forms should be updated to avoid the risk that the out of court appointment procedure is no longer favoured. The Committee will consider further how to take this forward at its next meeting.

Leisure Norwich (II) Ltd and others v Luminar Lava Ignite Ltd and others [2012] EWHC 951 (Ch)

F-Tex (Judicial cooperation in civil matters) [2012] EUECJ C-213/10

9 Any other business

Following the FMLC's paper on set-off, a consultation was arranged with the Insolvency Service attended by Jennifer Marshall but further action is unlikely.

Hamish Anderson reported that he had contacted the FMLC in connection with clarifying the statutory provisions relating to administration expenses and is awaiting a further response.

10 Next meetings

Wednesday 30 May 2012, at 3pm, to be hosted by Hamish Anderson, Norton Rose LLP to discuss the Committee's response to the EU Commission consultation on the European Insolvency Regulation.

Thursday 20 September 2012, to be hosted by James Roome, Bingham McCutchen LLP at a time to be confirmed. Baroness Hayter and Lord Harrison to be invited to attend.

11 Close of business

There being no further business the meeting closed.