

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

Minutes of a meeting of the Committee held at Slaughter and May, One Bunhill Row,  
London EC1Y 8YY on Thursday 19 September 2013 at 12.30 p.m.

**Present:** Hamish Anderson, Norton Rose Fulbright LLP (Chair)  
Jennifer Marshall, Allen & Overy LLP  
Ian Johnson, Slaughter and May  
Tony Bugg, Linklaters LLP  
Jo Windsor, Linklaters LLP  
Catherine Balmond, Freshfields Bruckhaus Deringer LLP  
Mike Woollard, SJ Berwin LLP  
Ben Larkin, Berwin Leighton Paisner LLP  
Gabrielle Ruiz, Clifford Chance LLP

**In attendance:** Anne Willcocks, Insolvency Service  
Dean Beale, Insolvency Service  
Rebecca Oliver, Norton Rose Fulbright LLP (Secretary)

**Apologies:** Stephen Gale, Herbert Smith Freehills LLP  
Adrian Cohen, Clifford Chance LLP  
James Roome, Bingham McCutchen LLP  
Peter Wiltshire, CMS Cameron McKenna LLP  
Nigel Barnett, Dentons UKMEA LLP  
Giles Boothman, Ashursts LLP  
Chris Mallon, Skadden Arps Slate Meagher & Flom (UK) LLP  
Stuart Frith, Stephenson Harwood  
Stephen Foster, Hogan Lovells International LLP  
Patrick Corr, Sidley Austin LLP

**1 Opening of meeting**

The Chairman opened the meeting and welcomed Anne Willcocks and Dean Beale of the Insolvency Service.

**2 Minutes of the meeting held on 8 May 2013**

The draft minutes of the meeting held on 8 May 2013 were approved.

**3 Current consultations**

The Chairman noted the following ongoing consultations:

| <b>Terms of reference</b>            | <b>Working party</b>   | <b>Deadline</b>                           |
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| A. Modernisation of Insolvency Rules | Anne Willcocks explained that the draft rules would be intended to | Draft rules and consultation to be issued |

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|   | <p>deal with many of the inconsistencies and issues raised by case law, the FMLC and other bodies over recent years. They will also embody the suggestions of the red tape challenge consultation to the extent they are supported, along with amendments necessary for the new adjudication provisions introduced by the Enterprise and Regulatory Reform Act 2013. On administration expenses the Insolvency Service were watching current cases with interest and would consider what changes needed to be made in the light of case developments. Noted and to be kept under observation.</p> | <p>shortly, with a 4 month consultation period until January 2014. The draft rules would be further developed in 2014 with the intention of coming into force Spring 2015.</p> |
| <p>B. HMRC consultation on modernising the rules governing the taxation of corporate debt (loan relationships) and derivative contracts. (Proposals may impact on restructurings and in particular debt to equity conversions).</p> | <p>Committee did not respond, but circulated to group for any individual firms to consider.</p>   | <p>29 August 2013</p>  |
| <p>C. BIS "Company Ownership: Transparency and Trust discussion paper"</p>  | <p>No formal response submitted but the Committee noted to Anne Willcocks</p>   | <p>16 September 2013</p>   |

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|  | and Dean Beal their thoughts on the proposals relating to wrongful trading.   |  |
| D. Parliamentary joint committee call for evidence on the draft Deregulation Bill  | No response submitted.  | 16 September 2013  |
| E. HM Treasury consultation "Industrial and Provident Societies: growth through co-operation".   | Committee members invited to give feedback to Rebecca Oliver to coordinate with Gabrielle Ruiz.   | No formal deadline but draft SIs expected September 2013 |
| F. Insolvency Service Red Tape Challenge consultation  | Jo Windsor summarised to the Committee the issues raised in his draft response and invited Committee members to comment by email in advance of the submission date. | 10 October 2013  |
| G. European Commission consultation "A new European approach to business failure and insolvency"   | Jennifer Marshall<br>Hamish Anderson<br>James Roome<br>Jo Windsor<br>Stephen Gale   | 11 October 2013  |
| H. PRA consultation "Schemes of Arrangement by General Insurance Firms"  | Committee members invited to give feedback to Rebecca Oliver to coordinate with Gabrielle Ruiz.   | 26 October 2013  |
| I. Insolvency Service request for comments on the draft report dated 11 September 2013 of the European Parliament Committee on Legal Affairs on the proposals to amend the European Insolvency Regulation published in December 2012 | Committee members invited to provide comments to Jennifer Marshall.   | Stakeholders invited to comment by 4 October 2013        |

#### 4 Insolvency Service review of the use of pre-packaged administrations, led by Teresa Graham

Noted by the Committee. The Committee remains of the view that pre-packs are an essential tool and that abuse is not generally experienced in the context of "City" cases but noted that proper compliance with SIP16 needed to be encouraged.

**5 Insolvency Service report on the review of insolvency practitioners fees by the independent reviewer, Emeritus Professor Elaine Kempson of Bristol University.**

Noted by the Committee.

**6 HMRC Revenue and Customs Brief 25/13**

Noted by the Committee.

**7 Insolvency Service Annual Report and Accounts**

Noted by the Committee.

**8 Insolvency (Amendment) Rules 2013 (SI 2013/2135)**

Noted by the Committee.

**9 FMLC: Appointment of administrators by companies and directors**

The Chairman reported the letter sent to the Insolvency Service on behalf of the Committee in support of the FMLC's paper.

**10 CLLS Open Forum with the Solicitors Regulation Authority 25<sup>th</sup> September 2013, for all CLLS members**

Noted by the Committee.

**11 The Committee discussed the following recent cases:**

*Re Nortel Companies and others [2013] UKSC 52*

*Re Casa Estates (UK) Ltd [2013] EWHC 2371 (Ch)*

*Bluecrest Mercantile BV and another v Vietnam Shipbuilding Industry Group and others [2013] EWHC 1146 (Comm) and Re Vietnam Shipbuilding Industry Group [2013] EWHC 2476 (Ch)*

*Re UK Housing Alliance (North West) Limited 2013 EWHC 2553 (Ch)*

*Hosking and another v NautaDutilh Avocats Luxembourg and others Ch D*

*Jetivia SA and another v Bilta (UK) Ltd and others [2013] EWCA Civ 968*

*Re Game Station Limited (Jervis v Pillar Denton Limited and others) [2013] EWHC 2171*

*Olympic Airlines SA Pension and Life Assurance Scheme v Olympic Airlines SA [2013] EWCA Civ 643*

**12 Any other business**

The Chairman noted that Committee member Byron Nurse had moved from Eversheds LLP to Dentons UKMEA LLP. Nigel Barnett of Dentons UKMEA

LLP is an existing member of the Committee, therefore in consequence of Byron Nurse's move, Nigel Barnett has tendered his resignation. No objections were raised.

**13 Next meeting**

The Committee noted that the next meeting would be held at 8.30am on Thursday 21 November 2013, at the offices of Norton Rose Fulbright LLP, 3 More London Riverside.

**14 Close of business**

There being no further business the meeting closed.