

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

Minutes of a meeting of the Committee held at CMS Cameron McKenna LLP, Cannon Place,
78 Cannon Street, London EC4N 6AF on Thursday 16th March 2017 at 12.30pm

Present: Jennifer Marshall, Allen & Overy LLP (Chair)
Catherine Balmond, Freshfields Bruckhaus Deringer LLP
Peter Wiltshire, CMS Cameron McKenna LLP
James Roome, Akin Gump Strauss Hauer & Feld LLP
Jo Windsor, Linklaters LLP
Ben Larkin, Jones Day
Adrian Cohen, Clifford Chance LLP
Laurence Elliott, Herbert Smith Freehills LLP
Inga West, Ashurst LLP
Latifa Mohamed, Slaughter and May

Apologies: Dominic McCahill, Skadden Arps Slate Meagher & Flom (UK) LLP
Hamish Anderson, Norton Rose Fulbright LLP
Byron Nurse, Dentons UKMEA LLP
Giles Boothman, Ashurst LLP
Joe Bannister, Hogan Lovells International LLP
Ben Klinger, Sidley Austin LLP
Ian Johnson, Slaughter and May
Stuart Frith, Stephenson Harwood LLP

Present: Rebecca Oliver, Norton Rose Fulbright LLP (Secretary)
Katharina Crinson, Freshfields Bruckhaus Deringer LLP

1 Opening of meeting

2 Minutes of the meeting held on 18th January 2017

The draft minutes of the meeting held on 18th January 2017 were approved.

3 Current consultations

The Chair noted the following on-going consultations:

Terms of reference	Discussion	Deadline
A. HM Treasury Banking Liaison Panel meetings	Jennifer Marshall reported that there had been no meetings of the Panel since the Committee last met.	Ongoing
B. Insolvency Service review of the corporate insolvency framework: consultation on options for reform	The Committee noted there was no further indication of timing of the proposed reforms.	Closed

4 Proposed EU Directive on preventive restructuring frameworks

Jennifer Marshall and Inga West noted that they would be attending a stakeholder meeting organised by the Insolvency Service to discuss the EU proposals.

Jo Windsor noted that the reasoned opinions of Dáil Éireann and Seanad Éireann on behalf of Ireland had been posted to the EU Legislative Observatory website.

5 Brexit – implications for restructuring and insolvency

Jennifer Marshall reported that the working party had met and Joe Bannister was drafting a letter to the Insolvency Service making the following points and offering the Committee's support in progressing them:

1. The UK reforms have become even more important in light of Brexit and the aim should be to make UK procedures the procedures of choice whatever the outcome of the Brexit negotiations may be.
2. The UK reforms need to be considered in light of the proposed harmonisation directive, even if the UK is not required to implement that directive post Brexit, to ensure that we adopt the best suggestions from that directive.
3. The future of the EUIR / Recast needs to be considered in the wider context of the recognition and enforcement of judgments / choice of English law. The ideal solution would be to retain the benefits of mutual recognition under the EUIR / Recast as part of the exit agreement. We can consider alternatives if that ideal solution is not achievable.

6 Insolvency (England and Wales) Rules 2016 and Insolvency (England and Wales) (Amendment) Rules 2017: commencement 6 April 2017

Katharina Crinson flagged to the Committee certain amendments made by the Amendment Rules, and other amends possibly required which had not been addressed by the Amendment Rules but had been notified to the Insolvency Service.

7 New SIP 15 on Reporting and Providing Information on their Committees and Commissioners effective from 1 March 2017

Noted by the Committee.

8 New SIP 6 on Decision Making in Insolvency Proceedings effective from 6 April 2017

Noted by the Committee.

9 Electronic filing at the Rolls Building (mandatory from 25 April 2017 also for insolvency cases)

Katharina Crinson and Lucy Aconley had been in discussions with the courts and the Insolvency Service regarding the new mandatory electronic filing system being adopted at the Rolls Building from 25 April, and as a result had produced a question and answer based document covering some of the likely issues to arise in relation to insolvency filings. Katharina noted that they had not yet seen the new Practice Direction 51O which will govern the electronic working filing scheme which was expected to be published with the new version of the White Book in April. The Committee thanked Katharina and Lucy for their time and sharing this with the group.

10 Insolvency Statistics October to December 2016

Noted by the Committee.

11 Annexes to Recast Insolvency Regulation updated for changes to Polish law

Noted by the Committee.

12 Some recent cases

The following cases were noted by the Committee:

Tchenguiz and others v Kaupthing Bank HF and another [2017] EWCA Civ 83

Akers and others v Samba Financial Group [2017] UKSC 6

In the matter of Dee Valley Group PLC [2017] EWHC 184 (Ch)

Commerzbank v Liquimar [2017] EWHC 161 (Comm)

13 Any other business

14 Next meeting

Thursday 18th May 2017, to be hosted by Joe Bannister, Hogan Lovells International LLP at 12.30p.m.

15 Close of business

There being no further business the meeting closed.