

THE CITY OF LONDON LAW SOCIETY

Minutes of a meeting of the ESG Committee (the “Committee”) held in person and via Webex

at 16:30 to 17:30 on 24 September 2024

1. Welcome and apologies

- 1.1 In attendance: Roger Leese (Chair) (Clifford Chance), Paul Davies (Latham & Watkins), Greg Norman (Skadden, Arps, Slate, Meagher & Flom), Sahba Mohtadi (Jones Day), Naomi Roper (Capsticks), Mindy Hauman (White & Case), Harry Hecht (Slaughter and May), Peter Wickham (Slaughter and May), Emma Giddings (Norton Rose Fulbright), Sophie Kemp (Kingsley Napley), Rebecca Perlman (Kirkland & Ellis), Simon Witney (Travers Smith).
- 1.2 Apologies: Kevin Hart (CLLS), Kerry Stares (Charles Russell Speechlys), Michelle Bradfield (Jones Day), Matthew Townsend (A&O Shearman), Simon Davis (CLLS), Sung-Hyui Park (Bates Wells).
- 1.3 Observer: Helena Campbell (Slaughter and May).

2. Approval of previous minutes

- 2.1 Draft minutes from the previous session were approved.

3. Working groups update

- 3.1 There were no updates on separate working group meetings.

Law Society Draft Climate Change Risk and Conveyancing Practice Note

- 3.2 An update was provided on the work that took place over the summer (led by Norton Rose Fulbright) to feedback on the Law Society’s Draft Climate Change Risk and Conveyancing Practice Note. The Law Society has requested a meeting to discuss the draft Practice Note, which has been scheduled for Thursday 10 October, following which Paul will report back to the Committee. A number of other individuals are also involved in this workstream, including from Slaughter and May and Travers Smith.
- 3.3 It was noted that the draft Practice Note has been updated considerably following feedback on the first draft that was circulated, and it is important to see the work that committees such as the Committee can do by engaging in consultation exercises.

4. Consultations

- 4.1 An overview was provided of three upcoming consultations which may be of relevance to the Committee:

- (a) Second tranche of TNFD sector guidance (closing 27 September);
 - (b) Consultation on the new Public Offers and Admissions to Trading Regulations regime (POATRs) (closing 18 October); and
 - (c) TNFD nature transition planning guidance consultation (to be released at COP16, October).
- 4.2 It was noted that the consultation on the TNFD sector guidance is quite granular and technical and that the deadline for a response is very soon (27 September), and as a result it was agreed that the Committee would not look to respond to this consultation.
- 4.3 The second TNFD consultation on nature transition planning guidance was thought to be of more interest, and it was agreed that the Committee will keep this consultation on the watchlist and update each other when the consultation is released so that a response can be prepared if thought appropriate.
- 4.4 It was noted that there are ESG-related aspects of the new POATRs, including the disclosure of risks and opportunities, the protected forward-looking statement regime, and sustainability-labelled debt securities. The Committee considered whether it would be sensible to contribute to this consultation. The Chair noted that this is an area that it would be good to be involved in, but queried whether the CLLS Company Law Committee might already be looking at this.
- 4.5 It was noted that there may be an opportunity to prepare a joint submission with the CLLS Planning and Environmental Law Committee, and it was agreed that this would be raised at the next CLLS Planning and Environmental Law Committee meeting. White & Case offered to coordinate with debt financing colleagues for their input.
- 4.6 It was agreed that the Committee will liaise with the CLLS Company Law Committee and the CLLS Planning and Environmental Law Committee to see whether they are planning to respond to the consultation, and if they are, to look to feed in to their response(s). If they are not, the Committee will then consider preparing its own response, and will look for volunteers for doing this.

5. Reflections on change of government

- 5.1 It was noted that it is helpful to monitor what the new government might do and to discuss what has been said so far, with one of the most pressing items being ISSB reporting. Other items flagged on the agenda were transition plans, the TNFD and the UK green taxonomy. It was noted that the government does not seem to be prioritising the development of a UK green taxonomy.
- 5.2 The Chair observed that planning was emphasised heavily by the government during the general election, and asked whether the CLLS Planning and Environmental Law Committee is following this. It was also reported that they are, and that significant changes to the planning regime are expected including the encouragement of development on brownfield and grey sites, but there will be multiple consultations on these points which may slow things down.
- 5.3 It was noted that judicial direction may be an important area to follow, in light of recent case law (including *Finch*, the Cumbria Coal Mine case, and the 2023 Mozambique

LNG judicial review); trying to reconcile the different judgments is not straightforward and this is an interesting area to watch for those involved in the energy transition.

- 5.4 It was further noted that the new government has a focus on private investment, and the question of what private investment will look like in practice will be interesting, given ESG concerns. The Chair noted that the overall topic of ‘investability’ and the legal component of making various aspects of ESG investment investable is going to be interesting.
- 5.5 The Chair suggested that the Committee should consider themes for the future and noted that the Committee has not as of yet developed areas or themes to consider in more depth or explored the possibility of creating some guidance for such themes. Examples given included greenwashing and proposals to make biodiversity investible. It was agreed that the Committee should take this away and try to develop some areas or themes to focus on.

6. Events

Joint event with Livery Companies

- 6.1 The Chair noted the upcoming joint event with the livery companies, for which the partners will be the accountants, marketers and investment managers. The first call is scheduled for 1 October at 2pm. The Chair noted that if other Committee members would like to get involved they should email him.
- 6.2 The Chair noted that the topic for the event will be greenwashing. It is hoped that it might be possible to discuss developments resulting from the change in government at the event. The event will be in the form of a dinner at a London club and will take place in mid to late January, although a date has yet to be agreed upon. It was agreed that the best date is earlier in January and the Chair noted that he will aim to confirm the date as soon as possible.
- 6.3 The Chair noted that members of the Committee will have the opportunity to invite people to the event.

WWF Nature Event

- 6.4 It was noted that the event is scheduled for 4 November and will feature a panel of speakers following a film screening. A legal counsel at WWF was keen to promote biodiversity issues amongst corporate lawyers and it was noted that lawyers are the target audience for the event. Members of the Committee were encouraged to invite five or more people to the event.
- 6.5 It was agreed that the invitation details would be recirculated to the Committee members to prompt the members to invite guests and advertise the event more widely at their firms, and to consider inviting in-house counsel too. The invitation has been shared with members of the CLLS Planning and Environmental Law Committee. Following re-circulation of the invitation and checking numbers of sign-ups the Committee will consider reaching out more widely, for example to members of UKELA.

Suggestions for future events

- 6.6 The Chair noted that in terms of dates, the Committee is considering putting on an event between January-April 2025. It was agreed that the Committee members will take this away and consider what sort of events could be put on. This work may link to deciding which themes the Committee would like to focus on and what its purpose will be. One idea raised was to contribute a ‘side event’ to a conference, which may be slightly easier than organising a standalone event.

7. Recruitment of additional Committee members

- 7.1 The Chair noted that there have been some recent changes; some people have left the Committee, including Anna-Marie Slot, one of the Vice Chairs, and it will be important to refresh the Committee as a result. It was noted that any recruitment process should comply with the CLLS rules regarding transparency and that it will be important to consider what the Committee is looking to achieve which will impact the skillsets and backgrounds that are looked for when recruiting.
- 7.2 It was noted that other committees from time to time look at replacing members who don’t participate, along with retirees. It was noted that the Committee keeps a note of members who do not join the calls and that there is an expectation for people to attend most meetings, to be engaged and participate.
- 7.3 The Chair noted that the Committee has received applications from individuals who are keen and who have a legal ESG background, and that it would be good to progress the list of who to propose via email outside of the meeting and to start the process.
- 7.4 A discussion was had regarding the focus of the Committee. It was noted that the Committee is currently involved in responding to consultations and commenting on draft guidance, and hosting events, but that the Committee does not yet have working groups. It was noted that small groups could be created to respond to a particular consultation exercise to ensure that everyone contributes and takes their turn.
- 7.5 It was noted that there is not currently a clear aim for the working group(s) and that there is not currently clarity regarding the CLLS ESG Committee’s mission, and whether or not it aims to be reactive or more proactive. The Chair noted that the Committee has a wide remit available to it and that it could develop in both a reactive and a proactive way (for example, producing a paper on a topic or hosting a discussion to drive the conversation forwards in a particular area).
- 7.6 It was agreed that Committee members should be asked to identify areas of interest that they have and/or that they would be willing to lead on, and groups can then be formed. This should also assist with the recruitment of additional Committee members.

8. AOB

- 8.1 None.