

THE CITY OF LONDON LAW SOCIETY INSOLVENCY LAW COMMITTEE
MINUTES OF MEETING HELD AT AKIN, EIGHTTH FLOOR, TEN BISHOPS SQUARE
LONDON E1 6EG
AND BY VIDEO CONFERENCE CALL
ON THURSDAY 23 NOVEMBER 2023 AT 8.30AM

In attendance:

Jennifer Marshall (Chair)
Catherine Balmond
Joe Bannister
Jo Windsor
David Ereira
Ian Johnson
Simon Thomas
Demonic McCahil
Emma Simmonds
Olga Galazoula
Ian Benjamin
James Stonebridge
Peter Wiltshire
Ben Klinger
Adrian Cohen
Ian Fox
Jamie Leader
Gabrielle Ruiz
Inga West
Helen Coverdale (Secretary)

Apologies:

Kevin Hart
Tim Symes
Matthew Rous
Melissa Coakley

- 1 Opening of meeting by Chair, Jennifer Marshall**
- 2 Minutes of the meeting held on 21 September 2023**

The Committee noted and approved the minutes of the previous meeting held on 21 September 2023.

3 Current consultations/proposals

Terms of reference	Working party	Comments/Update
A. Managing the failure of systemic digital settlement asset (including stablecoin) firms	-	<p>The Committee noted that the government had published its response to the consultation 'Managing the failure of systemic Digital Settlement Asset (including stablecoin) firms'.</p> <p>The Committee had responded to the consultation on 2 August 2022.</p> <p>Managing the failure of systemic Digital Settlement Asset (including stablecoin) firms - GOV.UK (www.gov.uk)</p>
B. Public consultation on digital assets and English insolvency law	Jennifer Marshall, David Ereira, Jo Windsor, Joseph Bannister, Dominic McCahill	<p>The Committee noted that the UK Jurisdiction Taskforce of the LawtechUK Delivery Panel has commenced a consultation on digital assets and English insolvency law. The consultation closes on 4 December 2023:</p> <p>The Committee agreed to form a joint working group and produce a joint response with the CLLS Financial Law Sub-Committee.</p> <p>UK Jurisdiction Taskforce (UKJT) Home (lawtechuk.io)</p>
C. Call for Evidence – National Security and Investment Act	Gabrielle Ruiz, Catherine Balmond, Adrian Cohen, Ian Johnson, Jo Windsor	<p>The Committee noted that the government is seeking views on the National Security and Investment Act, including in particular:</p> <ol style="list-style-type: none"> 1. The impact of the system on businesses and investors, and their experience interacting with the process; 2. Whether the scope and requirements of the system are proportionate and effective; and 3. How well stakeholders understand the NSI system, how it is likely to be used, and what national security risks may be posed by investments. <p>The Call for Evidence closes on 15 January 2024.</p> <p>The Committee agreed to produce a response on specific questions relevant to</p>

		<p>insolvency law.</p> <p>Call for Evidence - National Security and Investment Act - GOV.UK (www.gov.uk)</p>
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4 **Economic Crime and Corporate Transparency Act 2023**

The Committee noted that the Act is in force and discussed the need for further clarity in relation to the impact on insolvencies and insolvency practitioners.

5 **The Retained EU Law (Revocation and Reform) Act 2023**

The Committee discussed the potential impact of the legislation in relation to insolvent banks and building societies.

6 **HMRC guidance: Using debt management schemes to restructure a company's finances**

The Committee noted HMRC's new guidance setting out the conditions on which it is likely to support a Part 26 scheme of arrangement or Part 26A restructuring plan:

[Using debt management schemes to restructure a company's finances - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/guidance/using-debt-management-schemes-to-restructure-a-company-s-finances)

7 **Practice Note on qualifying floating charge holder (QFCH) out of court appointments**

The Committee noted the new practice note providing clarity on out of court appointments by QFCHs:

[Practice Note: QFCH out of court appointments \(judiciary.uk\)](https://www.judiciary.uk/practice-note-qfch-out-of-court-appointments/)

8 **Recent cases**

The Committee noted the following cases:

- *R (on the application of Palmer) v Northern Derbyshire Magistrates Court* [2023] UKSC 38
- *Secretary of State for Business and Trade v Barnsby* [2023] EWHC 2284 (Ch)
- *Bridger & Co v Specialist Lending Ltd* [2023] EWHC 2562 (Ch)
- *Hotel Portfolio UK Ltd (in liquidation) and another v Ruhan and others* [2023] EWCA Civ 1120
- *Boura v LYHFL Ltd* [2023] EWHC 2585 (Ch)
- *Darty Holdings SAS v Carton-Kelly (as liquidator of CGL Realisations Ltd)* [2023] EWCA Civ 1135

- *Lavery v Greensill Bank AG* [2023] EWHC 2429 (Ch)
- *Khan v Singh-Sall and another* [2023] EWHC 1119 (Ch)
- *LFC Horkstow Ltd v Wallis* [2023] EWHC 2205 (Ch)
- *Re Yunneng Wind Power Co. Ltd* [2023] EWHC 2275 (Ch)

9 Any other business

The Chair informed the Committee that Elisabeth Baltay of Proskauer Rose LLP will be attending future committee meetings as an observer.

10 Next meeting

The next meeting will be held on 18 January 2024 and is due to be hosted by Ross Miller at Simmons & Simmons LLP.

11 Close