

THE CITY OF LONDON LAW SOCIETY INSOLVENCY LAW COMMITTEE
MINUTES OF THE MEETING HELD AT CMS CAMERON MCKENNA NABARRO OLSWANG LLP,
78 CANNON STREET, LONDON AND BY VIDEO CONFERENCE CALL
ON THURSDAY 17 NOVEMBER 2022 AT 8.30am

Present:

Jennifer Marshall, Allen & Overy (chair)
Joe Bannister, DAC Beachcroft
Simon Thomas, Goodwin
Tim Symes, Stewarts
Adrian Cohen, Proskauer
Hamish Anderson, Norton Rose Fulbright
Ben Klinger, Simons Muirhead Burton
Ben Larkin, Jones Day
Catherine Balmond, Freshfields Bruckaus Deringer
David Ereira, Paul Hastings
Gabrielle Ruiz, Clifford Chance
Ian Fox, Dentons
Olga Galazoula, Ashurst
Inga West, Ashurst
Katharina Crinson, Freshfields Bruckaus Deringer
Peter Wiltshire, CMS Camerson McKenna Nabarro Olswang
James Stonebridge, Norton Rose Fulbright
Sarah Lawson, Dentons
Megan Sparber, Slaughter & May

Apologies:

Ian Benjamin, Stephenson Harwood
Ian Johnson, Slaughter & May
Giles Bootham, Ashurst
Emma Simmonds, Akin Gump
Matthew Rous, CLLS

In attendance:

Paul Bannister, The Insolvency Service
Helen Coverdale, Norton Rose Fulbright (secretary)
Kevin Hart, CLLS
Jamie Leader, Law Society Company Law Committee

1 Opening of meeting



Jennifer Marshall welcomed new member James Stonebridge to the Committee.

The minutes of the meeting held on 15 September 2022 were approved.

- 2** Paul Bannister provided an overview of the most recent insolvency statistics and updated the Committee on the Insolvency Service's policy priorities. He also reported to the Committee on current draft legislation and consultations.

3 Current consultations/proposals

The Committee noted that the following consultations:

Terms of reference	Working party	Comments/Update
<p>A. Insolvency Service: consultation on the implementation of the UNCITRAL Model Law on the Recognition and Enforcement of Insolvency-Related Judgments and the UNCITRAL Model Law on Enterprise Group Insolvency in UK law (7 July 2022)</p> <p>https://www.gov.uk/government/consultations/implementation-of-two-uncitral-model-laws-on-insolvency/implementation-of-two-uncitral-model-laws-on-insolvency-consultation#contents</p>	<p>Jennifer Marshall, Jo Windsor, David Ereira, Ian Fox and Simon Thomas</p>	<p>Response submitted 27 September 2022</p> <p> CLLS Response to UNCITRAL Model Law</p> <p>Jennifer Marshall explained that UNCITRAL intends to produce model provisions for choice of law and asset tracing, which would address some of the Committee's concerns about the government's current approach to adopting Article X without including choice of law safeguards. Katharina Crinson is attending the next UNCITRAL meeting aimed at drafting the new provisions.</p>
<p>B. Law Commission: Digital Assets, Consultation Paper and Consultation Paper Summary (28 July 2022)</p> <p>https://www.lawcom.gov.uk/project/digital-assets/</p>	<p>Simon Thomas and Jo Windsor</p>	<p> CLLS Insolvency Committee response¹</p> <p>Response submitted 3 November 2022</p>
<p>C. HM Treasury: consultation seeking views on establishing the Financial Market Infrastructure Special Administration Regime as the primary legal framework through which to address the failure of systemic digital settlement asset firms (31 May 2022)</p> <p>https://www.gov.uk/government/consultations/managing-the-failure-of-systemic-digital-settlement-asset-including-stablecoin-firms</p>	<p>Giles Boothman Tim Symes Simon Thomas Jennifer Marshall</p>	<p>Response submitted 2 August 2022</p> <p>https://www.citysolicitors.org.uk/storage/2022/08/UKP1-2017065734-v1-CLLS-Response-to-stablecoin-SAR-consultation.pdf</p>

4 Retained EU law (Revocation and Reform) Bill: impact on R&I

[Retained EU Law \(Revocation and Reform\) Bill - Parliamentary Bills - UK Parliament](#)

The Committee noted that the Bill is currently at the Committee Stage. The Committee considered that the large volume of laws that will need to be reviewed ahead of the December 2023 sunset date may require a deferral of the original date.

5 Recent cases noted by the Committee

The Committee noted the following recent cases:

BTI 2014 LLC v Sequana SA [2022] UKSC 25

Grant & Ors v FR Acquisitions Corporation (Europe) Ltd & Anor (Re Lehman Brothers International (Europe)) [2022] EWHC 2532

Manolete Partners plc v Rutter [2022] EWHC 2552 (Ch)

East-west Logistics LLP v Melars Group Ltd [2022] EWCA Civ 1419

Re Bitumina Industries Ltd [2022] EWHC 2578 (Ch)

Re Active Wear Ltd [2022] EWHC 2340 (Ch)

6 Any other business

The Committee noted that the CLLS annual dinner will be held in January 2023.

The Committee also noted that the CLLS is recruiting members for the new ESG and arbitration committees.

7 Next meeting

Thursday 19th January 2023 at 8.30am, due to be hosted by Joe Bannister DAC Beachcroft LLP, 25 Wallbrook EC4N 8AF. The following meeting will be held by Ben Klinger, Simons Muirhead Burton LLP on Thursday 16th March 2023.