

THE CITY OF LONDON LAW SOCIETY INSOLVENCY LAW COMMITTEE
MINUTES FOR THE MEETING BY VIDEO CONFERENCE CALL
ON THURSDAY 16 MARCH 2023 AT 8.30am

In attendance:

Jennifer Marshall
Catherine Balmond
Ben Klinger
Jo Windsor
Dom McCahill
Jamie Leader
Simon Thomas
Matthew Rous
Tim Symes
Adrian Cohen
Melissa Coakley
Kevin Pullen
Emma Simmonds
Ben Larkin
Ian Benjamin
Joe Bannister
David Ereira
James Maltby
Inga West
Katharina Crinson
Gabrielle Ruiz
Helen Coverdale

Apologies

James Stonebridge
Olga Galazoula

1 Opening of meeting by Chair, Jennifer Marshall

2 Minutes of the meeting held on 19 January 2023:

The Committee noted and approved the draft minutes of the previous meeting held on 19 January 2023.

3 Current consultations/proposals

The Committee noted and discussed the following consultations and calls for evidence:

Terms of reference	Working party	Comments/Update
A. Consultation on the Insurance Company Resolution Regime	TBC	Consultation on proposals to provide the Bank of England

		<p>with new powers and tools to manage the failure of a major insurer, while aligning the UK with relevant international standards.</p> <p>It was noted that the Treasury had requested a meeting with the CLLS to discuss the consultation.</p> <p>Closes 20 April 2023.</p>
<p>B. Aligning the ring-fencing and resolution regimes: Call for Evidence - GOV.UK (www.gov.uk)</p>	TBC	<p>Call for Evidence on ongoing benefits that ring-fencing provides to financial stability not found elsewhere in the regulatory framework and on the steps that could be taken to better align the ring-fencing and resolution regimes without losing financial stability benefits. This follows the independent review on ring-fencing, chaired by Sir Keith Skeoch, which found that the benefits of the ring-fencing regime would likely reduce over time.</p> <p>Call for evidence closes 7 May 2023.</p>
<p>C. Future financial services regulatory regime for cryptoassets - GOV.UK (www.gov.uk)</p>	TBC	<p>Consultation paper sets out proposals for the future regime. The government proposes insolvency powers under part 24 of FSMA will apply, enabling the FCA to participate in insolvency</p>

		<p>proceedings. The government will consider introducing a bespoke resolution regime in the future.</p> <p>Consultation closes 30 April 2023.</p>
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4 Bank insolvency procedure (BIP) under the Banking Act 2009

The Committee noted the recent case of Silicon Valley Bank UK Limited being acquired by HSBC Bank Plc pursuant to special resolution powers under the Banking Act 2009.

Committee members noted that the case had highlighted the need to update and maintain the special resolution regime to reflect changes in insolvency legislation since the special resolution regime was introduced, for example relating to electronic communications.

5 Recent cases

The Committee noted the following cases:

- *Re Sova Capital Ltd* (company number 04621383) (in special administration) [\[2023\] EWHC 452 \(Ch\)](#)
- *Re MBI International & Partners Inc* (in liquidation); *Mitchell v Al Jaber* [\[2023\] EWHC 364 \(Ch\)](#)
- *Re Khilji* (in bankruptcy) [\[2023\] EWHC 298 \(Ch\)](#)
- *Marwaha v Entertainment One Ltd* [\[2023\] EWHC 480 \(Ch\)](#)
- *Re Hawking plc* [\[2023\] EWHC 407 \(Ch\)](#)
- *Re Listrac Midco Ltd* [\[2023\] EWHC 460 \(Ch\)](#)
- *Mizen Design/Build Ltd* (in company voluntary arrangement); *Newlon Housing Trust v Mizen Design/Build Ltd* [\[2023\] EWHC 127 \(Ch\)](#)
- *OOO Nevskoe v UAB Baltijos Saliu Industrinio Perdirbimo Centras* (formerly 'UAB Alfagra') (a company incorporated in Lithuania) and another
- *Re Veon Holdings BV* [\[2022\] EWHC 3473 \(Ch\)](#)
- *Phoenix Group Foundation* (a foundation established under the laws of Panama) *v Harbour Fund II LP and others* [\[2023\] EWCA Civ 36](#)
- *Kaye v Lees* [\[2023\] EWHC 152 \(KB\)](#),
- *Re Traxx (Aggregates) Ltd* [\[2023\] EWHC 236 \(Ch\)](#)
- *Re an Unregistered Company* [\[2023\] EWHC 114 \(Ch\)](#)

- Tradition Financial Services Ltd v Bilta (UK) Ltd [\[2023\] EWCA Civ 112](#)
- *Re Petropavlovsk plc (in administration) and other companies* [\[2023\] EWHC 264 \(Ch\)](#)
- *Re Dolfin Financial (UK) Ltd* [\[2023\] EWHC 123 \(Ch\)](#)
- *Re Kieran Looney & Co Ltd (in liquidation); sub nom Davidson and another (acting as joint liquidators of Kieran Looney & Co Ltd) and another v Looney* [2023] EWHC 197 (Ch)

6 Any other business

The Committee noted that the rule in *Gibbs* is one of the topics for discussion at the Insolvency Service conference in November.

7 Next meeting

The next meeting will be held on 18 May 2023 due to be hosted by Ben Larkin, Jones Day.

8 Close