

THE CITY OF LONDON LAW SOCIETY INSOLVENCY LAW COMMITTEE
MINUTES OF MEETING HELD AT ALLEN & OVERY LLP, ONE BISHOPS SQUARE,
LONDON E1 6AD
AND BY VIDEO CONFERENCE CALL
ON THURSDAY 18 JANUARY 2024 AT 8.30AM

1 Opening of meeting by Chair, Jennifer Marshall

In attendance:

- Jennifer Marshall (Chair)
- Jo Windsor
- Ian Fox
- Adrian Cohen
- Dom McCahill
- Tim Symes
- Ian Benjamin
- Peter Wiltshire
- Ben Larkin
- James Stonebridge
- Ben Klinger
- Helena Potts
- Melissa Coakley
- Kevin Pullen
- Emma Simmonds
- Catherine Balmond
- James Maltby
- Ian Johnson
- Gabrielle Ruiz
- Katharina Crinson
- Inga West
- Elisabeth Baltay (Observer)
- Helen Coverdale (Secretary)

Apologies:


- Jamie Leader
- Simon Thomas
- Joe Bannister
- David Ereira
- Olga Galazoula
- Kevin Hart


2 Minutes of the meeting held on 23 November 2023

The Committee approved the draft minutes of the previous meeting held on 23 November 2023.



3 Current consultations/proposals

Terms of reference	Working party	Comments/Update
<p>A. Enhancing the Special Resolution Regime</p>	<p>Jennifer Marshall, Gabrielle Ruiz, Jo Windsor, Ian Johnson</p>	<p>The Committee noted that HM Treasury has launched a consultation on proposals to enhance the UK’s resolution regime for banking institutions (banks, building societies, and PRA-designated investment firms).</p> <p>A working party was appointed to prepare a response.</p> <p>The consultation closes on 7 March 2024.</p> <p>Enhancing the Special Resolution Regime: Consultation - GOV.UK (www.gov.uk)</p>
<p>B. Call for Evidence – National Security and Investment Act (NISA)</p>	<p>Gabrielle Ruiz, Jennifer Marshall, Jo Windsor, Inga West, Katharina Crinson, Joe Bannister</p>	<p>The Government has consulted on the NISA. The consultation covered:</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 consultation closed on 15 January 2024. The Chair confirmed that the Committee’s response had been submitted.</p> <p> UKP1-#2023344680- v2 CLLS Insolvency Lc</p> <p>Call for Evidence - National Security and Investment Act - GOV.UK (www.gov.uk)</p>

<p>C. Public consultation on digital assets and English insolvency law</p>	<p>David Ereira, Jo Windsor, Joseph Bannister, Dominic McCahill, Jennifer Marshall</p>	<p>The UK Jurisdiction Taskforce of the LawtechUK Delivery Panel launched a consultation on digital assets and English insolvency law. The Chair confirmed that the Committee's joint response, prepared with the Financial Law Sub-Committee, had been submitted.</p> <p>The consultation closed on 4 December 2023:</p> <div style="text-align: center;">  <p>CLLS response to UKJT consultation on</p> <p>UK Jurisdiction Taskforce (UKJT) Home (lawtechuk.io)</p> </div>
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4 Central Counterparties Special Resolution Regime

The Committee noted that new secondary legislation and guidance has been introduced:

- HM Treasury's Central Counterparties Special Resolution Regime Code of Practice: [FINAL CCP Resolution Regime Code of Practice.pdf \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/118444/FINAL_CCP_Resolution_Regime_Code_of_Practice.pdf)
- Resolution of Central Counterparties (Modified Application of Corporate Law and Consequential Amendments) Regulations 2023, SI 2023/1313
- Financial Services and Markets Act 2023 (Resolution of Central Counterparties: Deferment of Provisions in Resolution Instruments) Regulations 2023, SI 2023/1190
- Financial Services and Markets Act 2023 (Resolution of Central Counterparties: Calculation of Maximum Amounts for Cash Calls and Use of Specified Funds) Regulations 2023, SI 2023/1195
- The Financial Services and Markets Act 2023 (Resolution of Central Counterparties: Partial Property Transfers and Safeguarding of Protected Arrangements Regulations 2023, SI 2023/1316
- The Resolution of Central Counterparties (Modified Application of Corporate Law and Consequential Amendments) Regulations 2023, SI 2023/1313

5 Retained EU Law (Revocation and Reform) Act 2023

The Committee noted the provisions in force from 1 January 2024

6 Water Industry Special Administration Regime

The Committee noted the following new secondary legislation aimed at modernising the regime:

- The Flood and Water Management Act 2010 (Commencement No. 10) Order 2024, SI 2024/35, in force from 12 January 2024
- The draft Water Industry Act 1991 (Amendment) Order 2024
- The draft Water Industry (Special Administration) Regulations 2024

7 Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters, 2019

The Committee noted that the Government has confirmed the UK will join the Convention. It was noted that the Convention contains an insolvency carve-out, but that the Convention may have relevance for schemes.

8 Recent cases

The Committee noted the following cases:

- *Buyers and others v Saudi National Bank* [2023] UKSC 51
- *The Joint Administrators of Lehman Brothers Holdings plc (in administration) v LB GP No,1 Ltd (in liquidation)* [2023] EWHC 3056(Ch)
- *Re Tiuta International Ltd; Bouchier and another v Booth and another* [2023] EWHC 3195 (Ch)
- *Re Hall Media Group Ltd* [2023] EWHC 3110 (Ch)
- *Brittain and another v Raja* [2023] EWHC 2274 (Ch)
- *Re Lehman Brothers (PTG) Ltd* [2023] EWHC 3084 (Ch)
- *Re Grove Independent School Ltd* [2023] EWHC 2546 (Ch)
- *Ms Lending Group and another v LVP Capital and another* [2023] EWHC 2509 (Ch)
- *Re Atento UK Ltd* [2023] EWHC 2754 (Ch)
- *Re CB&I UK Ltd* [2023] EWHC 2987 (Ch)
- *Worsley v Gould* [2023] EWHC 3181 (Ch)
- *Re Redhill Residential Park Ltd; Allen and another v Sines Parks Holdings Ltd* [2023] EWHC 3104 (Ch)
- *Bv8 Ltd v Bv9 Ltd and others* [2023] EWHC 3048 (Ch)
- *Bridger & Co Ltd v Specialist Lending Ltd* [2023] EWHC 2562 (Ch)

9 Any other business

The Chair informed the Committee that a new membership application has been received from Tina Lockwood of Simmons & Simmons LLP.

Next meeting

The next meeting will be held on 21 March 2024 and will be hosted by Adrian Cohen at Proskauer Rose LLP.

10 Close