

THE CITY OF LONDON LAW SOCIETY INSOLVENCY LAW COMMITTEE
MINUTES OF THE MEETING HELD BY VIDEO CONFERENCE CALL
ON THURSDAY 20th JANUARY 2022 AT 8.30am

Present: Jennifer Marshall, Allen & Overy LLP (chair)
 Catherine Balmond, Freshfields Bruckhaus Deringer LLP
 Katharina Crinson, Freshfields Bruckhaus Deringer LLP
 Ian Johnson, Slaughter & May
 Hamish Anderson, Norton Rose Fulbright LLP
 Giles Boothman, Ashurst LLP
 Inga West, Ashurst LLP
 Jo Windsor, Linklaters LLP
 Joe Bannister, Hogan Lovells International LLP
 Dominic McCahill, Skadden Arps Slate Meagher & Flom (UK) LLP
 David Ereira, Paul Hastings (Europe) LLP
 Simon Thomas, Goodwin Procter (UK) LLP
 Adrian Cohen, Clifford Chance LLP
 Gabrielle Ruiz, Clifford Chance LLP
 James Roome, Akin Gump Strauss Hauer & Feld
 Kevin Pullen, Herbert Smith Freehills LLP
 Ben Larkin, Jones Day
 Ian Benjamin, Stephenson Harwood LLP
 Peter Wiltshire, CMS Cameron McKenna LLP
 Ross Miller, Simmons & Simmons LLP
 Ian Fox, Dentons UK and Middle East LLP

Apologies: Ben Klinger, Seddons Law LLP
 Byron Nurse

In attendance: Rebecca Oliver, Norton Rose Fulbright LLP (secretary)
 Jamie Leader, Enyo Law LLP
 Matthew Rous, CLLS
 Kevin Hart, CLLS

- 1 Opening of meeting and welcome to new member Ian Benjamin.
- 2 The minutes of the meeting held on 18th November 2021 were approved.
- 3 Current consultations/proposals

Terms of reference	Working party	Comments/Update
A. BEIS, HM Treasury and HMRC joint consultation on Corporate Re-domiciliation https://www.gov.uk/government/consultations/corporate-re-domiciliation	Jennifer Marshall Joe Bannister David Ereira	Insolvency law committee submission 7 January 2022: https://www.citysolicitors.org.uk/storage/2022/01/Corporate-re-domiciliation-consultation-on-government-proposals-07-01-22.pdf CLLS company law committee submission 12 January 2022:

		https://www.citysolicitors.org.uk/storage/2022/01/Response-to-consultation-on-Corporate-Redomiciliation.pdf
B. Insolvency Service consultation on the future of insolvency regulation https://www.gov.uk/government/consultations/the-future-of-insolvency-regulation	Jennifer Marshall Hamish Anderson Joe Bannister Jo Windsor Dominic McCahill David Ereira Ian Fox	Consultation closes 24 March 2022 Jamie Leader noted he is part of response group for the Law Society and noted R3 are also responding. Ian Benjamin noted he has partners who act on professional negligence cases who would be happy to join in the discussions.

4 Rating (Coronavirus) and Directors Disqualification (Dissolved Companies) Act 2021

https://www.legislation.gov.uk/ukpga/2021/34/pdfs/ukpga_20210034_en.pdf

Noted by the Committee.

5 National Security and Investments Act 2021 – implications on taking and enforcing security

The Committee noted that the Act had been in force since 4 January and discussed implications for taking and enforcing security. In particular, only the appointment of administrators and not other insolvency office-holders benefit from the notification carve out; any subsequent sale by a company in administration would not benefit from the mandatory notification carve out; enforcing security more generally will also be caught by the regime; and creation of security may require pre-notification because of the drafting referencing “taking any interest” which could extend to equitable mortgages and charges; provisions on looking through security trustees to syndicate lenders may require notification on all debt transfers; flipping of voting rights to share security holders following a debt default may trigger notification when that default may be unknown and lack of clarity on the carve out for voting rights relating to preserving value of, or enforcing security.

6 Recent cases noted by the Committee:

Smile Telecoms Holdings Limited (12 January)

Costley-Wood and others v Rowley & Anor (Re Patisserie Holdings Plc and others) [2021] EWHC 3205 (Ch)

Windhorst v Levy [2021] EWCA Civ 1802

7 Any other business

The CLSC/CLLS Committees dinner for members of the CLLS Specialist Committees was noted.

8 Next meeting

Thursday 17th March 2022, due to be hosted by Ian Fox, Dentons UKMEA LLP, at 8.30am.