

Implementation of UNCITRAL Model Law on Cross-Border Insolvency in Great Britain

August 2005



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The Purpose of this Consultation

The UNCITRAL Model Law on Cross-Border Insolvency was adopted by the United Nations Commission on International Trade Law in 1997 and is designed to assist States to equip their insolvency laws with a modern, harmonised and fair framework, which will address more effectively cases of cross-border insolvency. This would include cases where the insolvent debtor has assets in more than one State or where some of the creditors of the debtor are not from the State where the insolvency proceeding is taking place. The Model Law respects the differences among different national procedural laws and does not attempt to impose a substantive unification of insolvency law.

This consultation seeks to build on the Government's commitment to reduce red tape and to produce clearer information on regulatory issues. The aim of the consultation is to provide a background and explanatory information and to seek views on the implementation of the Model Law on Cross-Border Insolvency with specific comments on the draft articles and procedural rules. The Regulation will provide effective mechanisms for dealing with cases of cross-border insolvency so as to promote the following objectives:

- 1) Cooperation between the courts and other competent authorities in Great Britain and foreign States involved in cases of cross-border insolvency
- 2) Greater legal certainty for trade and investment
- 3) Fair and efficient administration of cross-border insolvencies that protects the interests of all creditors and other interested persons, including the debtor
- 4) Protection and maximisation of the value of the debtor's assets; and
- 5) Facilitation of the rescue of financially troubled businesses, thereby protecting investment and preserving employment

This paper is being sent to those with experience of insolvency law and other interested parties.

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Respond by	14 th November 2005
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Executive Summary

1. National insolvency laws are often not designed to cope with cross-border insolvencies and the problems that arise, both jurisdictional and practical, make it difficult for insolvency officeholders to administer such insolvencies speedily and effectively. The uncertainty that arises in cross-border insolvencies is widely seen as a barrier to trade and the flow of investment from country to country. A universal approach to cross-border insolvencies is crucial, as is the co-operation between national courts, authorities and practitioners.

2. One of the obstacles to the flow of trade is the conflict of laws between different jurisdictions with regard to insolvency proceedings, which can result in the dissipation of assets and the loss of an opportunity to save a viable business. The UNCITRAL Model Law on cross-border insolvency is that body's attempt to promote modern and fair legislation for cases where the insolvent debtor has assets in more than one State.

3. Implementation of the Model Law will be beneficial in serving the cause of fairness towards creditors worldwide and will provide an example to other States in terms of our readiness to engage in a genuinely two-way process of cooperation in international insolvency matters. Over time, when other States implement the Model Law, GB officeholders will progressively enjoy the same benefits abroad, in terms of reduced administrative costs incurred in recovering assets from overseas, thereby increasing funds available for distribution to creditors.

4. Section 14 of the Insolvency Act 2000 gives the Secretary of State power to enact the Model Law, with or without modification, by secondary legislation approved by resolution of each House of Parliament. As the Regulations extend to Scotland and deal with some devolved matters, s.14 requires the agreement of the Scottish Ministers as well as the Lord Chancellor. The Regulations do not extend to Northern Ireland.

5. The Model Law addresses specific issues set out in the body of its text. These issues are the recognition of foreign proceedings, co-ordination of proceedings concerning the same debtor, rights of foreign creditors, the rights and duties of foreign representatives, and co-operation between authorities in different States. It does not address nor does it seek to unify the substantive and procedural law on insolvency of the enacting States. It simply seeks to ease the access of foreign representatives and creditors to our courts and insolvency procedures.

6. The Model Law entitles a foreign representative to apply directly to the courts of the enacting State to commence insolvency proceedings under the laws of that State and to participate in such a proceeding once commenced. The Model Law also sets out a procedure for a foreign representative to seek recognition and relief for foreign insolvency proceedings. Proceedings will be recognised as main proceedings or as non-main proceedings depending on

where the debtor has its Centre of Main Interests (COMI). In simple terms the location of a debtor's COMI will be the habitual residence or registered office but may depend on factors such as the whereabouts of the main trading presence or business or where the main administrative functions are carried out.

7. The Model Law is a legislative text that forms the basis of a recommendation to States for incorporation into their national law. When drafting the articles, we have tried to stay as close to the drafting in the Model Law as possible to try and ensure consistency, certainty and harmonisation with other States enacting the Model Law and to provide a guide for other States who are considering enacting the law. Our policy has been to try and enact as drafted, which may result in the use of some terms, which may not be standard in British insolvency law.

8. The Model Law is quite general in its detail and broad brush in its use of terminology, which is again something not normally found in British legislation. However, the courts will be able to interpret the text and apply it to the detail of specific cases.

9. The Insolvency Service intends to implement the Model Law by 31 March 2006. This consultation seeks views on the draft articles and the procedural rules implementing the Model Law.

REGULATORY IMPACT ASSESSMENT

A cross-border insolvency arises when an insolvent entity is placed into a form of insolvency administration in one State but has assets or debts in other States. Such a proceeding can be inefficient and costly and in addition the costs of accessing foreign courts can be prohibitive.

There have been relatively few cases to date of cross-border insolvency proceedings involving GB entities. There is no typical case profile and no statistics kept in respect of number, costs or impact. The assumption remains that the incidence of cross-border insolvencies will be very low although it should be noted that such cases might involve substantial assets or debts and by their very nature, be complex.

The implementation of the UNCITRAL Model Law on Cross-Border Insolvency is procedural in nature and will establish effective co-operation between States in the event of a cross-border insolvency. The framework should enable businesses and individuals to act with certainty by providing a low cost predictable regime for initiating cross-border proceedings. The key benefits will be greater legal certainty and predictable procedures. There have been no specific compliance cost issues identified to date.

As the incidence of cases using the Model Law is predicted to be relatively low and any costs and/or regulatory impact is likely to be negligible, a regulatory impact assessment would not appear to be necessary as part of this consultation. However we would be interested to hear your views on the likely costs or benefits of implementing the Model Law. (see paragraph 87).

How to respond

Responses to this consultation document should be sent to:

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Or by DX subscribers to:

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Or by fax to:

020 7291 6746

Tel: 020 7637 6515

When responding please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of an organisation, please make clear who the organisation represents and, where applicable, how the views of members were assembled.

A copy of the Consultation Response form is enclosed at Annex B. An electronic version is also available at www.insolvency.gov.uk.

If you have any questions about the consultation document you can contact us at the above address or speak to:

Muhunthan Vaithianathar Telephone: 020 7637 6515

A list of those organisations consulted is in Annex D. We would welcome suggestions of others who may wish to be involved in this consultation process.

Additional Copies

This document is available electronically. If this causes difficulty for anyone, we will provide a hard copy. Contact details given above.

An electronic version can be found at www.insolvency.gov.uk

Other versions of the document in Braille, Welsh or other languages, or audio cassette are available on request.

Confidentiality

The Insolvency Service may make your response public. If you do not wish your response (or any part of it) or your name made public, please state this clearly in your reply. Any confidentiality disclaimer that may be generated by your organisation's IT system or included as a general statement in your fax coversheet will be taken to apply only to information in your response for which confidentiality has been requested.

We will handle any personal data you provide appropriately and in accordance with the Data Protection Act 1998.

Help with queries

A copy of the Code of Practice on Consultation is included at Annex C. If you have any comments or complaints about the way this consultation has been conducted, these should be sent to:

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TIMETABLE FOR RESPONSES

In order that your comments can be given full consideration as part of the implementation of this Regulation, please ensure that your reply is sent to us by 14 November 2005. Contact details are listed at page 7.

The proposals

Introduction

11. UNCITRAL (the United Nations Commission on International Trade Law) was established in 1966 in order to reduce obstacles to the flow of trade. With the increasing globalisation of trade and increase in multi-national companies, business itself has become more globally interdependent and so too will business failures. Severe problems may arise when a business that has trading establishments, assets and creditors in more than one State becomes insolvent.

12. National insolvency laws are often not designed to cope with cross-border insolvencies and the problems that arise, both jurisdictional and practical, make it difficult for insolvency officeholders to administer such insolvencies speedily and effectively. The uncertainty that arises in cross-border insolvencies is widely seen as a barrier to trade and the flow of investment from State to State. A universal approach to cross-border insolvencies is crucial, as is the co-operation between national courts, authorities and practitioners.

13. One of the obstacles to the flow of trade is the conflict of laws between different jurisdictions with regard to insolvency proceedings, which can result in the dissipation of assets and the loss of an opportunity to save a viable business. The UNCITRAL Model Law on cross-border insolvency is that body's attempt to promote modern and fair legislation for cases where the insolvent debtor has assets in more than one State.

14. The text of the Model Law was adopted by UNCITRAL on the 30 May 1997 and formally agreed by the United Nations General Assembly on 15 December 1997.

15. The text of the Model Law is made up of 32 articles and accompanied by an Explanatory Guide to Enactment. The Guide to Enactment was published in 1999. Its modest aims are to provide a background to the Model Law and to serve as a tool to guide States during the process of adopting the Model Law. The text and the Guide to Enactment can be viewed on the UNCITRAL website

www.uncitral.org/uncitral/en/uncitral_texts/insolvency/1997Model.html

16. So far, only a handful of States have adopted the Model Law: British Virgin Islands, Eritrea, Japan, Mexico, Poland, Romania, South Africa, within Serbia and Montenegro, Montenegro and the United States of America. Other countries intending to adopt the Model Law include Canada, New Zealand and Australia, and along with the USA, we believe most requests for recognition and relief are likely to come from these States.

17. Implementation of the Model Law will be beneficial in serving the cause of fairness towards creditors worldwide and will provide an example to other States in terms of our readiness to engage in a genuinely two-way process of cooperation in international insolvency matters. Over time, when other States implement the Model Law, GB officeholders will progressively enjoy the same benefits abroad, in terms of reduced administrative costs incurred in recovering assets from overseas, thereby increasing funds available for distribution to creditors.

18. Section 14 of the Insolvency Act 2000 gives the Secretary of State power to enact the Model Law, with or without modification, by secondary legislation approved by resolution of each House of Parliament. As the Regulations extend to Scotland and deal with some devolved matters, s.14 requires the agreement of the Scottish Ministers as well as the Lord Chancellor. The Regulations do not extend to Northern Ireland.

19. The Model Law addresses specific issues set out in the body of its text. These issues are the recognition of foreign proceedings, co-ordination of proceedings concerning the same debtor, rights of foreign creditors, the rights and duties of foreign representatives, and co-operation between authorities in different States. It does not address nor does it seek to unify the substantive and procedural law on insolvency of the enacting States. It simply seeks to ease the access of foreign representatives and creditors to our courts and insolvency procedures.

20. The Model Law entitles a foreign representative to apply directly to the courts of the enacting State to commence insolvency proceedings under the laws of that State and to participate in such a proceeding once commenced. The Model Law also sets out a procedure for a foreign representative to seek recognition and relief for foreign insolvency proceedings. Proceedings will be recognised as main proceedings or as non-main proceedings depending on where the debtor has its Centre of Main Interests (COMI). In simple terms the location of a debtor's COMI will be the habitual residence or registered office but may depend on factors such as the whereabouts of the main trading presence or business or where the main administrative functions are carried out.

21. The Model Law is a legislative text that forms the basis of a recommendation to States for incorporation into their national law. When drafting the articles, we have tried to stay as close to the drafting in the Model Law as possible to try and ensure consistency, certainty and harmonisation with other States enacting the Model Law and to provide a guide for other States who are considering enacting the law. Our policy has been to try and enact as drafted, which may result in the use of some terms, which may not be standard in British insolvency law. The full text of the articles and the procedural rules and forms are attached at Annex A.

22. The Model Law is quite general in its detail and broad brush in its use of terminology, which is again something not normally found in British legislation.

However, the courts will be able to interpret the text and apply it to the detail of specific cases.

23. We do not propose to have any transitional arrangements for the Model Law other than in relation to article 23 (see paragraph 69 below). With that exception, a foreign representative will have the right to invoke any of the provisions of the Model Law in respect of existing proceedings.

24. We are particularly seeking comments on the individual questions raised by ourselves, but views on the other articles where we have not asked specific questions and on the Model Law, procedural rules and forms will be welcomed.

The Cross-Border Insolvency Regulations 2006

25. Regulation 2 provides that the UNCITRAL Model Law in the form set out in Schedule 1 to the Regulations shall have the force of law in Great Britain. Regulation 2(2) expressly allows the courts to use the Guide To Enactment produced by UNCITRAL and working papers as a guide to interpretation of the Model Law. Given the use of broad-brush terminology in the text of the Model Law, the Guide to Enactment will be an important tool for the courts in interpreting the meaning of the text and in maintaining uniformity of interpretation throughout enacting States.

26. Regulation 3 provides that British insolvency law is to apply with any modifications necessary for the purpose of giving effect to the Model Law. In other words, our approach has been to “graft” the Model Law on to British insolvency law rather than to undertake detailed textual amendments of the Insolvency Act 1986 and other insolvency legislation.

27. With regard to Regulation 5, procedural matters in Scotland, the intention is that Schedule 3 will contain provisions only in relation to those procedural matters that cannot be dealt with in Scottish court rules. This approach has been used previously in relation to the implementation in Scotland of the UNCITRAL Model Law on International Commercial Arbitration. Any necessary changes to Scottish Court rules will therefore be made by Acts of Sederunt. The intention is that the procedural requirements will, however, be as similar as possible to those in Schedule 2 for England and Wales.

28. Regulation 7 deals with the enforcement of court orders made in different jurisdictions within Great Britain, i.e. England and Wales and Scotland and provides that court orders in either jurisdiction will be enforceable in the other. This does not include orders which relate to property in which case separate orders from the court in the jurisdiction where the property is located will be required. These provisions mirror those in section 426(1) and (2) of the Insolvency Act 1986 which already apply in the case of insolvency proceedings in different parts of the UK.

29. The intention is that a recognition order by a court in England and Wales, for example, would be enforceable in Scotland and vice versa. However

specific orders under articles 19 or 21 of the Model Law which related to property would need to be applied for in the relevant jurisdiction and would not be enforceable across the border.

Schedule 1 – Articles of the Model Law

30. Article 1 refers to the scope of the Model Law and as part of a pre-consultation, we asked Government departments and regulatory bodies with policy responsibility for various entities, whether they wanted the Model Law to apply to those entities or not. We have highlighted where the Model Law will not apply. In most cases, this involves entities that have their own special insolvency regimes. In addition, the Model Law will not affect the protection afforded to certain financial market transactions or that given to third party purchasers under section 26 of the Land Registration Act 2002.

Q1. Are the exceptions to the use of the Model Law clear, do you agree with the exclusions and do you believe any other entities should be excluded, if so why?

31. The Model Law applies to collective insolvency proceedings and the definitions in Article 2 have largely been taken from the text of the Model Law.

32. Article 3 of the Model Law as originally drafted could not be included in Schedule 1. This is because in the UK an obligation in a treaty would not prevail over domestic law unless the treaty obligation itself had been enacted in the UK. However, we have used article 3 instead to highlight that in any case where the EC Regulation on Insolvency Proceedings (Council Regulation 1346/2000/EC) applies, it prevails over the Model Law. This means that the Model Law can apply to the extent the EC Regulation does not apply or to the extent that the Model Law does not conflict with the EC Regulation. This approach allows the courts maximum flexibility to apply the Model Law even in cases involving an EU business/individual, provided the EC Regulation is not breached. We imagine that in the majority of cases where the debtor's COMI is in an EU Member State other than the UK (or Denmark), the EC Regulation will apply so as to prevent the courts being able to grant recognition or material relief to foreign representatives under the Model Law. However, there may be exceptions, for example, where a non-EU branch of a business with its COMI in another Member State is subject to insolvency proceedings outside the EU and the foreign representative seeks the assistance of the British courts in relation to a specific asset in Great Britain which he believes should be dealt with in those proceedings. Obviously, the courts will need to assess on a case by case basis whether assistance under the Model Law can be granted where the debtor has a presence in an EU Member State. In addition, the Regulations include provisions allowing courts to modify relief granted. These powers could be used should circumstances later arise which require relief granted under the Model Law to be modified to comply with the EC Regulation. This approach provides flexibility and allows the Model Law to be applied to the maximum extent permissible.

33. An alternative approach would have been to have drawn clear lines between the EC Regulation and the Model Law by stipulating, for example, that the Model Law could not apply in any case where the debtor had its COMI in an EU Member State other than the UK (or Denmark). This would have had the advantage of greater clarity but would have led to gaps between the two regimes with some cases falling within neither.

Q2. What are your views on the way in which the interaction between the Model Law and the EC Regulation has been dealt with and have you any suggestions for alternative approaches that may provide greater clarity?

34. Article 4 deals with issues of jurisdiction. As part of the pre-consultation, we contacted various bodies and people with an interest in international insolvency about which courts would be the most appropriate to hear applications under the Model Law. The general consensus was that by restricting applications to the High Court in London and the Court of Session in Edinburgh, this will more likely lead to a consistency of approach, and a centre of excellence and expertise. The main aim is to have an appropriate place to hear cases which may be of a complex nature. We do not expect there to be a great deal of cases heard under the Model Law and so a central court may be appropriate. We have drafted Article 4 accordingly and would welcome your views on this.

35. We also had to consider how to determine whether the courts in England or Wales or Scotland should have jurisdiction in connection with the subject matter of the Regulations.

36. In most cases, the answer will be clear. However, where there are places of business or assets in both jurisdictions, there might be complications if, for example, foreign proceedings were recognised in England and Wales but British insolvency proceedings then started in Scotland. As relief under the recognition proceedings needs to be tailored to what is happening in the British proceedings, this would require co-operation and co-ordination between the England and Wales recognition proceedings and the insolvency proceedings in Scotland.

37. One option would be to give the courts a high degree of flexibility in determining whether they have jurisdiction with regards to requests for assistance from foreign courts or representatives but, in the case of an actual application for recognition, to provide that, where the debtor has a registered office or habitual residence in England and Wales or in Scotland, then it is the court in that part of Great Britain which is to have jurisdiction. This would eliminate some cases where there might otherwise need to be cooperation between courts in England and Wales and Scotland, as it means that recognition has to be applied for in the jurisdiction where winding up or bankruptcy would occur for British companies/residents. However, it would not eliminate it entirely. For example, in the case of non-British businesses, where there are principal places of business in both places, the need for cross-border cooperation could still arise because winding up could happen

either in England and Wales or in Scotland. The same would be true where there were only assets in Great Britain and they were in both parts of Great Britain.

38. A second option, the one we have chosen, is to allow the courts a complete discretion as to whether they take on jurisdiction but to ask them to bear in mind the location of any existing or future proceedings under British insolvency law. As mentioned above, in most cases it would be preferable for the court making the recognition order to be in the same jurisdiction as any possible British insolvency proceedings. However, the option we have chosen also caters for cases where greater flexibility may be desirable. For example, there might be a scenario where a debtor has an England and Wales registered office, a branch in the USA and a place of business/office in Scotland. The branch in the US is subject to US insolvency proceedings and the US liquidator is interested in a particular asset in Scotland that he believes should be dealt with in the US proceedings. In a case of emergency he would want to apply to the Scottish courts for recognition of the US proceedings as a non-main proceeding and ask for immediate interim relief under article 19 from the Scottish court. Under the first option discussed above, he would not be able to do this. He would have to apply to the High Court in London for recognition (which would involve notice to the debtor), wait until the application is determined, take the recognition order to the Scottish courts and then get relief under article 21 from the Scottish courts in relation to the relevant asset. The article 21 application would also require notice to the debtor. This would involve delay and the debtor being able to take avoiding action. It is not clear how likely this sort of scenario would be and of course the foreign representative has the right to make applications under the Insolvency Act 1986 for some transactions to be avoided (although prevention is better than cure). However, on balance, we considered that the second option discussed is preferable in order to allow for cases like this where greater flexibility may be desirable.

39. It should be remembered that in any case where there are assets on both sides of the border, a certain amount of cross-border co-operation and dual applications will be necessary.

Q3. What are your views on restricting applications to the High Court in London and Court of Session in Edinburgh and the drafting of Article 4 with regard to which courts should have jurisdiction in connection with the subject matter of the Regulations?

40. Article 7 makes it clear that the Model Law is not the only option available to a foreign officeholder.

41. Once the Model Law is implemented, Great Britain will be in the unique position of having three formal statutory procedures available in cross-border insolvency cases as well as the flexibility of common law. Our intention is that section 426 of the Insolvency Act 1986 will continue to be available to provide assistance on the current terms. Accordingly, a foreign representative in one of the countries or territories designated for the purposes of section 426 would

have the right to choose whether to use the Model Law or Section 426 when requiring assistance from the British courts.

42. We considered whether any amendments were required to section 426 to deal with any interaction between the two regimes. In particular, we considered whether there might be concurrent applications under the two regimes from foreign representatives in different jurisdictions dealing with the same debtor. However, we concluded on balance that no amendments were required to section 426 to deal with this.

43. In any application for recognition under the Model Law, a foreign representative would have to inform the court of any other proceedings under British insolvency law in relation to the debtor and of any requests for assistance in accordance with section 426 of which he was aware. Moreover, we believe that it would be unlikely that a foreign representative in one of the relevant section 426 territories/countries would apply to his local courts to make a request to the British courts under section 426 without revealing that there were proceedings under the Cross-Border Insolvency Regulations 2006 in relation to the same debtor, if that were the case. We believe that were there to be concurrent proceedings under the Model Law and under or by virtue of section 426 in relation to the same debtor, the courts handling those proceedings would be able to cooperate under their inherent or existing powers and tailor relief appropriately. Moreover, the Model Law contains a number of provisions allowing for relief granted to be modified where appropriate. We also note that there are no provisions currently in section 426 to deal with the possibility of concurrent applications under section 426 from courts in different jurisdictions. We therefore propose to allow the two regimes to operate in parallel without making any substantive amendments to section 426.

Q4. What are your views on the interaction between the different laws dealing with cross-border insolvency? Do you believe it is practical to allow the Model Law and section 426 to operate in parallel? Do you believe any amendments are required to section 426 in the light of the implementation of the Model Law and, if so, what amendments would you propose?

44. Article 8 has been included as consistent global interpretation of the text is an important goal. Adding this provision would be a useful reminder to the court to have regard to the Guide to Enactment of the Model Law and to decisions available on CLOUT (Case Law on UNCITRAL Texts) information system. However there is no question of a British Court being bound by any decisions in other jurisdictions.

45. The sole purpose of Article 9 is to convey that a foreign representative has no need of licences or consular formalities before he can apply to a British court under or by virtue of the Model Law.

46. Article 12 allows the foreign representative to participate in British insolvency proceedings in his capacity as a foreign representative. We have

not attempted to define 'participate'. Having reviewed the relevant UNCITRAL working papers, we believe that the term was deliberately chosen by those drafting the Model Law for its breadth and flexibility. Given that the right of the foreign representative to participate in proceedings is not limited to intervention in actual court proceedings but is intended to allow participation in the insolvency process as a whole, it would in any event be difficult to define participate without narrowing the scope of the intended rights of the foreign representative. We consider that given the explanation of article 12 in the Guide To Enactment, a court would in the event of a dispute be able to determine on a case by case basis whether a particular intervention in insolvency proceedings was permitted.

Q5. Do you agree with our approach to Article 12 of the Model Law or do you believe we should attempt to define participation in greater detail?

47. Article 13 prevents discrimination against foreign creditors. Whilst in a British insolvency proceeding foreign creditors would normally be treated in the same way as British creditors, including this paragraph provides clarity for foreign creditors and officeholders. Moreover, we have also implemented article 13 in such a way that in future foreign revenue claims will also be admissible in a British insolvency proceeding. This brings the rest of British insolvency law in line with cases where the EC Regulation applies.

48. Article 14 requires notice to be given individually to known foreign creditors in cases where notice is given to British creditors. It is already the position under British insolvency law that in a case where individual notice is to be given to British creditors, notice would also be given to foreign creditors. However, article 14 goes further and requires individual notice to be given to known foreign creditors even when the notice to be given to British creditors is in the form of public advertisement only (e.g. under rule 4.21(4) or 6.46(2) of the Insolvency Rules 1986). Officeholders are however given the right to apply to the court for an order that some other form of notification would be more appropriate.

49. As far as the language of any notification is concerned, we have decided not to legislate on translations, and to leave it to existing treaties or EC Directives and the law of the receiving State to determine what is required.

50. It should be noted that in the case of creditors with their habitual residences, domiciles or registered offices in a Member State, articles 40 and 42 of the EC Regulation would prevail over article 14 of the Model Law. These articles provide that where insolvency proceedings are opened in a Member State, creditors in other member states must be notified of the insolvency proceedings including a form bearing a heading in all the official languages of the EU.

51. Article 15 sets out the requirements for an application under the Model Law for recognition. In Article 15(3), we have asked for details of foreign proceedings and also proceedings under British Insolvency law and requests for assistance under section 426 of the Insolvency Act 1986 known to the

foreign representative. This will give the court more information when it comes to looking at applications for recognition and in particular the relief requested by the foreign representative. This will also help to ensure that the court has the necessary information to comply with articles 29 and 30 on the coordination of concurrent proceedings. Details of how to make the application will be in the procedural rules.

52. We also believe it would be better to have a mandatory requirement to supply a copy of the supporting documents in English. The foreign representative would be required to provide both the original document as well as the translation.

Q6. Do you agree that the foreign representative should provide details of all insolvency proceedings and that any supporting documents in their application to court should be in or translated into English?

53. Article 16 deals with presumptions concerning recognition.

Article 16(2) dispenses with any need for documents presented to the court in support of a recognition application to be legalised. The term ‘legalised’ is defined in the Guide to Enactment as a term often used for the formality by which a diplomatic or consular agent of the State in which the document is to be produced certifies the authenticity of the signature, the capacity in which the person signing the document has acted, and where appropriate, the identity of the seal or stamp on the document. It is already the case that documents from overseas do not need to be legalised to be accepted by a British court but this provision of the Model Law is retained to provide clarity for foreign representatives.

54. The term “centre of main interests” is not strictly speaking defined in the Model Law. Paragraph 3 of Article 16 creates a rebuttable presumption that a debtor’s centre of main interests will be its registered office or, in the case of an individual, habitual residence. Because the presumption is rebuttable, in appropriate cases, the court could hear evidence to the contrary. It is clear from the Guide to Enactment (paragraph 72) and UNCITRAL working papers (A/52/17, Para 153) that those drafting the Model Law thought that jurisprudence on the meaning of the term as used in the context of EC Regulation “would be useful” for its interpretation in the context of the Model Law.

Q7. Are you content for the court to decide the debtor’s COMI based on the limited definitions in the Model Law or do you think some further guidance should be provided?

55. Article 17 deals with the decision to recognise a foreign proceeding. Paragraph 4 of Article 17 has been expanded to allow the court, either on the application of the foreign representative or affected parties or of its own motion, to modify the terms of recognition. If, for example, in a case where the court has granted recognition to a foreign main proceeding, proceedings are later opened in France concerning the same debtor and it is claimed that the

debtor's centre of main interests is, in fact, in France, then it would be important to be able to re-open the earlier recognition proceedings.

Q8. Do you agree with the inclusion of the additional words in paragraph 4 of Article 17 detailing how a recognition order can be modified or revoked?

56. Article 19 deals with the granting of any provisional relief that may be requested when an application for recognition of a foreign proceeding is made. The details of how to make the application for interim relief and notice requirements will be in the procedural rules.

Q9. Do you agree that the details of how to make the application and notice requirements should be in the procedural rules rather than the body of the text, i.e. in Article 19?

57. Article 20 details the relief that will automatically apply when a foreign main proceeding is recognised. We have drafted a provision which will equate the relief provided for under Article 20 with that which applies when a winding-up order or bankruptcy order is made under British insolvency law. This automatic relief may be supplemented or in effect varied by the court granting further discretionary relief under Article 21 if a foreign representative requests it (e.g. where the foreign proceeding is a rescue/reorganisation and different relief in Great Britain would be more appropriate).

58. Article 20(2) is drafted in a broad-brush manner that is intended to capture all the effects of a British winding up or bankruptcy without having to list them in detail. In other words, it is intended, for example, that the provisions of Part 7 of the Companies Act 1989 would apply to the article 20 stay and suspension, as would the provisions of sections 183 -185 of the Insolvency Act 1986 and sections 346 and 347. In each case, obviously, those provisions would have to be applied with any necessary modifications to make them work in the context of recognition. Other limitations or exceptions to the stay and suspension such as secured creditor rights, rights of set off and to repossess goods subject to hire purchase and retention of title are also intended to apply.

59. Again, in paragraph 3 of article 20, we have allowed the court, either on the application of the foreign representative or affected parties or of its own motion, to modify the terms of the stay and suspension.

60. We have also specified that Article 20 does not affect the right to commence or continue criminal proceedings or actions or proceedings taken by a regulatory body or authority.

Q10. What are your views on the drafting of Article 20 and in particular the moratorium provisions and the role of the court? Do you feel this can work well with the discretionary provisions of Articles 19 and 21?

61. Article 21 allows the court to make orders granting further relief in addition to or in effect varying that already applied by article 20 for foreign main proceedings and to grant relief for foreign non-main proceedings.

62. Article 21 does not contain any provision equivalent to article 20(2) because the courts need to be able to tailor the relief they grant to the specific circumstances of each case. However this means that in making an order a court would have to detail exactly what the intended consequences of a particular stay or suspension were and the intended limitations or exceptions. We assume that where appropriate the court itself could adopt a formula similar to that used in article 20(2).

63. The court has great flexibility as to the type of relief to be granted under article 21. It is limited only by article 21 itself, the exceptions listed in article 2 and by its duty under the Model Law to consider the interests of creditors and other affected persons.

64. As a general comment there is no express provision in the Model Law or the Regulations as a whole about sanctions for breach of any of the relief provisions. However by virtue of article 20(2) dispositions of property in breach of the article 20 stay and suspension would, for example, be void (as section 127 or section 284 would effectively apply) and we assume that any court order under article 21 preventing dispositions of property would state that they were void if carried out without the leave of the court. Also any breach of a court order would of course put a person in contempt of court.

Q11. What are your views on the discretionary provisions of Article 21?

65. Article 22 intends to strike a balance between the relief that may be granted to the foreign representative and the interests of the persons that may be affected by such relief.

66. Paragraph 2 of Article 22 makes it clear that the court can require a foreign representative to provide bonding or security requirements, like British officeholders.

67. Article 23 provides the foreign representative with standing to commence actions to avoid transactions that are detrimental to creditors. Article 23 has been expanded to make it clear which sections of the Insolvency Act 1986 and Bankruptcy (Scotland) Act 1985 the foreign representative can bring actions under and to provide for specific modifications to those sections.

68. Within paragraph 4 of Article 23, the definition of the date of commencement of the foreign proceeding has been based on that in the EC Regulation. That definition itself is not without problems. However, to avoid any significant difference of meaning between the term as used in the Model Law and the EC Regulation it was decided to use the phrase without any additional gloss and leave it to the court to determine its meaning following any ECJ decisions.

69. Paragraph 6 of Article 23 has been drafted so as to avoid the difficulties of an England and Wales court possibly giving leave for an application to a Scottish Court (and vice versa). If there are British insolvency proceedings, the foreign representative needs to get leave of the higher court in the jurisdiction where those proceedings are taking place, i.e. the High Court in London for England and Wales proceedings and the Court of Session for Scottish insolvency proceedings. This would be the case even if the actual recognition order had been granted in the other jurisdiction.

70. Paragraph 8 of article 23 is a transitional provision that prevents the foreign representative from setting aside transactions that occurred prior to the coming into force of the Model Law. This is to avoid transactions, which were not vulnerable at the point they were made, subsequently being made liable to attack by a foreign representative. Obviously if the transactions in question are capable of being the subject of an action under British insolvency proceedings, it will be up to the British insolvency officeholder to take appropriate action in the normal way. It should be borne in mind that a foreign representative is given the right to initiate such proceedings.

Q12. What are your views on the drafting of Article 23 and is it clear how this article will apply?

71. Article 24 allows the foreign representative the right to intervene in any proceedings in which the debtor is a party. In keeping with our decision wherever possible to leave the Model Law text as drafted to help maintain consistency between enacting States, we have not defined the term “intervene”. We considered that the term when taken together with the explanation given by the Guide to Enactment will not lead to any practical problems of interpretation.

Q13. Do you agree that it is not necessary to define ‘intervene’ in relation to Article 24?

72. Articles 25 to 27 deal with co-operation between British Courts, British insolvency officeholders, and foreign courts and foreign representatives. Articles 28 to 32 deal with the co-ordination of concurrent proceedings regarding the same debtor.

73. With regard to Articles 25, 29 and 30, we propose replacing the duty on the courts to seek cooperation and coordination with a power to do so. This is to avoid the court being under a duty to cooperate on its own initiative, which is not practical. However we want to stay within the spirit of the Model Law, and have kept the words ‘cooperate to the maximum extent possible’.

74. We would also be wary of limiting the cooperation further by restricting it to instances where there has been a specific request for cooperation/assistance as that might exclude some necessary flexibility. Take, for example, a case where there had been recognition of a foreign main proceeding and then a subsequent British liquidation. If the British liquidator applied to the court for directions concerning a proposed course of action but did not request

coordination or cooperation with the foreign court/representative, we would not want the court to be prevented from asking the foreign court/representative for its views or cooperating by whatever means it thought appropriate.

Q14. Do you believe using the word ‘may’ cooperate in Articles 25, 29 and 30 instead of ‘shall’ is sufficiently strong in the context of these articles, whilst not wanting to impose a duty on the court?

75. Article 27 details the forms of cooperation that may be used in implementing any cooperation between courts and/or insolvency officeholders.

76. With regard to the forms of cooperation under Article 27, we have not added any additional forms of cooperation to those already listed, as it is clear that in any event the list is not intended to be exhaustive.

Q15. Do you believe it would be beneficial to add any other specific forms of cooperation to Article 27 and, if so, what would you propose adding?

77. Article 28 provides that, where a foreign main proceeding has been recognised, any insolvency proceedings in Great Britain can only be initiated if the debtor has assets here. This is a change from the existing position where in order for the courts to assert winding up jurisdiction over a foreign “unregistered company”, it is not necessary for the company to have assets in the jurisdiction. The position is different where the EC Regulation applies and main proceedings have already opened in a Member State, because in such a case secondary proceedings can only be started in another Member State if the debtor has an establishment in that Member State. There are also restrictions on what proceedings can be opened prior to the opening of main proceedings. This is closer to (and, indeed, more restrictive than) the situation Article 28 is attempting to create. We would be interested in your views on whether you believe Article 28 as drafted poses a problem or if it is worthwhile amending Article 28 to preserve the current position under British Law (for non-EU cases).

Q16. Do you believe the current drafting of Article 28 will pose any particular problems or would you prefer if it were amended to preserve the current position under British Law (for non-EU cases)?

Schedule 2 – Procedural Rules (England and Wales)

78. Schedule 2 to the Regulations sets out procedural matters in relation to proceedings under the Model Law in England and Wales. Parts 2 to 5 of the Schedule contain details of the form and content of specified applications under the Model Law and Part 6 sets out more detailed procedural requirements in respect of those applications. Part 7 of Schedule 2 provides for applications to be made in appropriate cases to the Chief Land Registrar in connection with court orders under the Regulations. Part 8 provides for a

summary remedy against foreign representatives guilty of misfeasance. Parts 9 to 11 contain general provisions as to court procedure and practice in connection with proceedings under the Regulations, costs and other general matters.

79. As the provisions of Schedule 2 are largely self-explanatory we have not commented in detail on them. However, we are interested in any points you may have on the detail of specific provisions and we set out below some comments/questions of a general nature.

80. Because the Regulations are not made under the Insolvency Act 1986, the Insolvency Rules 1986 do not apply to proceedings made under the Regulations. Accordingly, we have created a stand-alone set of rules for proceedings under the Regulations, supported by the Civil Procedure Rules (CPR). Writing out the procedural rules in full, instead of applying parts of the Insolvency Rules 1986 with modifications, should make it easier for foreign representatives when making their applications to court.

Q17. Do you agree with the approach taken in the drafting of the procedural rules? What alternative approaches would you suggest?

81. The procedural rules are very closely modelled on the Insolvency Rules 1986. Whereas court practice in proceedings other than insolvency proceedings now favours the use of witness statements supported by a statement of truth to affidavits, we felt that greater weight would be given to affidavits by foreign insolvency representatives and have therefore retained their use in the principal applications to court made under the Regulations. It should be noted that Ministers have agreed that the Insolvency Rules should be consolidated and updated and that as part of that exercise, it is likely that the procedural requirements of the Rules will be aligned more closely with the CPR. In that case we may also review the use of affidavits in these Regulations.

Q18. Do you believe we should use an affidavit in support of the principal applications under the Regulations?

82. Part 2 of the rules details what information should be contained in the affidavit in support of a recognition application and also who should receive details of the application. It is important that the correct balance is struck between the court requiring information to make appropriate decisions and not imposing too great a regulatory burden on a foreign representative and keeping within the spirit of the Model Law. We would like to hear your views on whether you believe any other information should be included in the affidavit and who you believe should be notified of a recognition application.

Q19. What are your views on the contents of the affidavit in support of a recognition of foreign proceedings application and who is notified of an application?

Schedule 3 - Procedural Rules (Scotland)

83. The intention is that Schedule 3 will only make provision as regards those procedural steps that cannot be included in the Scottish court rules. Consequently, Schedule 3 is intended to be significantly shorter than the equivalent Schedule 2 for England and Wales. It is, however, intended that the procedural requirements will be as similar as possible in both jurisdictions. For example, as for England and Wales, an affidavit is expected to be utilised in support of applications under the Regulations. Discussions are ongoing with the Scottish courts with a view to ensuring that the necessary rules of court are in place for the implementation deadline.

Schedule 4 – Notices to the Registrar of Companies

84. Schedule 4 deals with notices to the Registrar of Companies. Our intention had been that court orders made under the Regulations implementing the Model Law should be filed at Companies House and made available for inspection, etc. i.e. available as per normal filed information. However the powers to enact the Model Law in section 14 of the Insolvency Act 2000 do not allow this.

85. What we want is for third parties to know if officeholders have received recognition for foreign proceedings from the court under the Model Law. We have come up with a temporary holding solution under which a note of the making of certain court orders under the Model Law can/will be made on the records of Companies House (without actual copies being sent out). This solution will apply until changes to Part 24 of the Companies Act 1985 (which sets out the powers and functions of the Registrars of Companies) are made under the proposed Company Law Reform Bill.

86. It is anticipated that the forthcoming Bill will make changes to the powers and functions of the registrar of companies which will mean that in future copies of court orders made under the Model law can be put on the register and disseminated by the registrar.

For the time being however, a note will be made on the “history screen” for any company that has a registered office or registered branch or place of business in Britain. The history screen for a company is something that can be viewed by those who subscribe to the Companies House Direct service. This is Companies House premier search tool for accessing and downloading company information directly to a PC. Companies House Direct is a subscription service charging a monthly fee of £5.00 in addition to the charges for any information ordered. Subscribers of Companies House Direct number around 15,000 and include the major accountancy firms, law firms and banks etc.) Details of all documents filed on a company are also available through the Companies House bulk date product. The note will record that notice of the making of a particular court order has been received and will give the name and address of the foreign representative from whom further details can be requested.

87. The objective for cross-border insolvency is to provide a modern, co-ordinated and fair framework to address, more effectively, instances of cross-border insolvency. This framework should enable businesses and individuals to act with certainty by providing a predictable regime, with low costs, for initiating cross-border proceedings. Key benefits will be greater legal certainty and predictable procedures for British businesses in accessing or initiating overseas insolvency proceedings. The main impact in Great Britain may be the interpretation of the procedural rules in any application by a foreign representative. There will also be a need for solicitors and insolvency practitioners to familiarise themselves with the Model Law and its impact on cross-border insolvencies, but it is thought that this could be done during the normal course of their business. However, we would be interested in your views on the likely costs and benefits of implementing the Model Law.

Q20. What are your views on the costs and benefits of implementing the Model Law and would you be able to quantify them?

What happens next?

88. The results of the consultation will be published on The Service's website.

89. We would aim to bring the regulation into force no later than the 31 March 2006.

ANNEX A: THE CROSS-BORDER INSOLVENCY REGULATIONS 2006

[Click here to go to the draft regulations](#)

UNCITRAL Model Law on Cross-Border Insolvency

Consultation Response Form

The closing date for this consultation is 14 November
2005

The Service may, in accordance with the Code of Practice on Access to Government Information, make available, on public request, individual consultation responses. This will extend to your comments unless you inform us that you wish them to remain confidential.

Please tick if you want us to keep your response confidential

Name _____

Organisation (if applicable) _____

Address _____

Return completed forms to:

Muhunthan Vaithianathar
The Insolvency Service
Policy Unit
Area 5.7
21 Bloomsbury Street
London
WC1B 3QW

Tel: 020 7637 6515

Fax: 020 7291 6746

E-mail: muhunthan.vaithianat@insolvency.gsi.gov.uk

Respondents are asked to tick one box from the following list of options which best describes them as a respondent.

<input type="checkbox"/>	Representative Organisation
<input type="checkbox"/>	Interest Group
<input type="checkbox"/>	Insolvency Practitioner
<input type="checkbox"/>	Legal Practitioner
<input type="checkbox"/>	Other (please describe):

Q1. Are the exceptions to the use of the Model Law clear, do you agree with the exclusions and do you believe any other entities should be excluded, if so why?

Comments:



Q2. What are your views on the way in which the interaction between the Model Law and the EC Regulation has been dealt with and have you any suggestions for alternative approaches that may provide greater clarity?

Comments:



Q3. What are your views on restricting applications to the High Court in London and Court of Session in Edinburgh and the drafting of Article 4 with regard to which courts should have jurisdiction in connection with the subject matter of the Regulations?

Comments:



Q4. What are your views on the interaction between the different laws dealing with cross-border insolvency? Do you believe it is practical to allow the Model Law and section 426 to operate in parallel? Do you believe any amendments are required to section 426 in the light of the implementation of the Model Law and, if so, what amendments would you propose?

Comments:



Q5. Do you agree with our approach to Article 12 of the Model Law or do you believe we should attempt to define participation in greater detail?

Comments:



Q6. Do you agree that the foreign representative should provide details of all insolvency proceedings and that any supporting documents in their application to court should be in or translated into English?

Comments:



Q7. Are you content for the court to decide the debtor's COMI (centre of main interests) based on the limited definitions in the Model Law or do you think some further guidance should be provided?

Comments:



Q8. Do you agree with the inclusion of the additional words in paragraph 4 of Article 17 detailing how a recognition order can be modified or revoked?

Comments:



Q9. Do you agree that the details of how to make the application and notice requirements should be in the procedural rules rather than the body of the text, i.e. Article 19?

Comments:



Q10. What are your views on the drafting of Article 20 and in particular the moratorium provisions and the role of the court? Do you feel this can work well with the discretionary provisions of Articles 19 and 21?

Comments:




Q11. What are your views on the discretionary provisions of Article 21?

Comments:



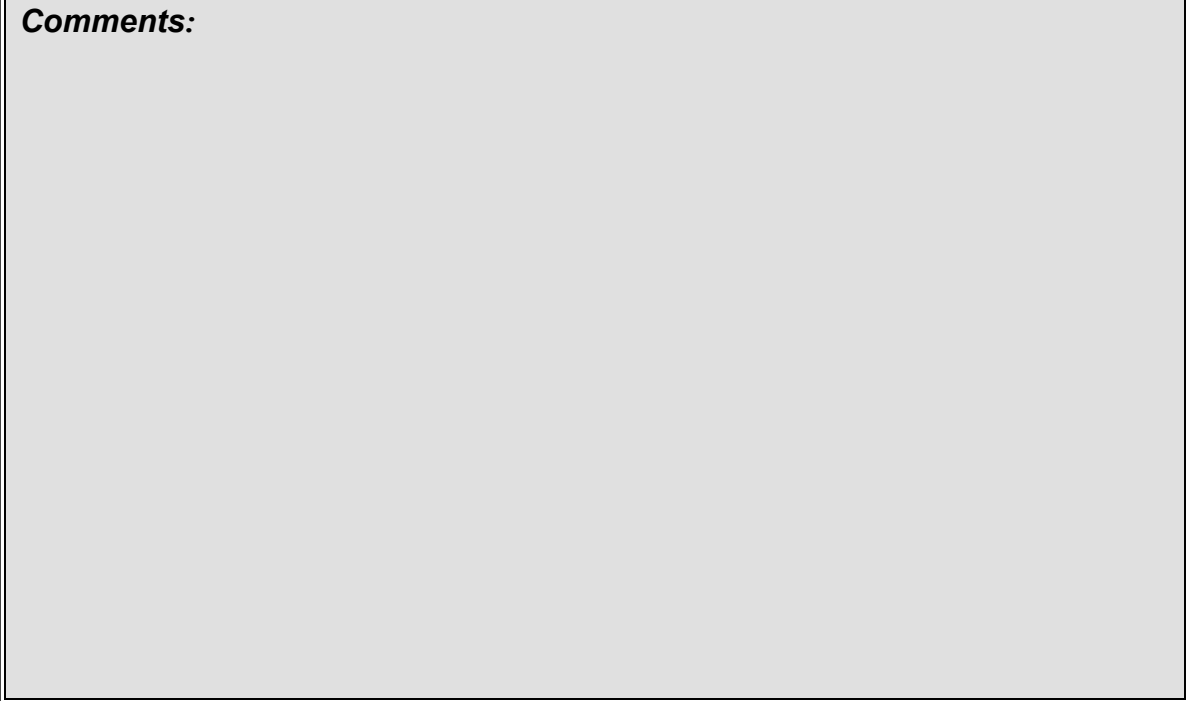
Q12. What are your views on the drafting of Article 23 and is it clear how this article will apply?

Comments:



Q13. Do you agree that it is not necessary to define 'intervene' in relation to Article 24?

Comments:



Q14. Do you believe using the word 'may' cooperate in Articles 25, 29 and 30 instead of 'shall' is sufficiently strong in the context of these articles, whilst not wanting to impose a duty on the court?

Comments:



Q15. Do you believe it would be beneficial to add any other specific forms of cooperation to Article 27 and, if so, what would you propose adding?

Comments:



Q16. Do you believe the current drafting of Article 28 will pose any particular problems or would you prefer if it were amended to preserve the current position under British Law (for non-EU cases)?

Comments:



Q17. Do you agree with the approach taken in the drafting of the procedural rules? What alternative approaches would you suggest?

Comments:



Q18. Do you believe we should use an affidavit in support of the principal applications under the Regulations?

Comments:



Q19. What are your views on the contents of the affidavit in support of a recognition of foreign proceedings application and who is notified of an application?

Comments:



Q20. What are your views on the costs and benefits of implementing the Model Law and would you be able to quantify them?

Comments:



Q21. Do you have any other comments or suggestions?

Comments:



Thank you for taking the time to let us have your views. We do not intend to acknowledge receipt of individual responses unless you tick the box below.

Please acknowledge this reply

ANNEX C: The Consultation Code of Practice Criteria

1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
2. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
3. Ensure that your consultation is clear, concise and widely accessible.
4. Give feedback regarding the responses received and how the consultation process influenced the policy.
5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.
6. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

The complete code is available on the Cabinet Office's web site, address <http://www.cabinet-office.gov.uk/servicefirst/index/consultation.htm>.

Comments or complaints

If you wish to comment on the conduct of this consultation or make a complaint about the way this consultation has been conducted, please write to Philip Martin, DTI Consultation Co-ordinator, Room 723, 1 Victoria Street, London SW1H 0ET or telephone him on 020 7215 6206 or email to: Philip.Martin@dti.gsi.gov.uk

ANNEX D: List of Individuals/Organisations Consulted

Association of Business Recovery Professionals (R3)
Association of Chartered Certified Accountants
City of London Law Society
Court Service
Department for Constitutional Affairs
Insolvency Court Users' Committee
Insolvency Lawyers Association
Insolvency Practitioners Association
Institute of Chartered Accountants in England and Wales
Institute of Chartered Accountants in Scotland
Law Commission
The Scottish Law Commission
The Law Society
The Law Society of Scotland
Professor Ian Fletcher – University College London
Geoffrey Yeowart – Lovells
Bank of England
Professor Sir Roy Goode – St John's College, Oxford
High Court Judges of the Chancery Division - Sir Andrew Morritt – The Vice-Chancellor
Stephen Baister – Bankruptcy Registrar RCJ London
DTI
OFWAT
Charity Commission
Postcomm
Department for Transport
DETINI – Department of Enterprise, Trade and Investment, Northern Ireland
Land Registry
Registers of Scotland
Companies House, England and Wales
Registrar of Companies, Scotland
CBI
HM Treasury
Financial Services Authority

International Insolvency Institute
Scottish Executive
Lord President's Office
Office of the Deputy Prime Minister
The Housing Corporation
Sally Willcock – Weil, Gotshal & Manges LLP
Sally Unwin – Herbert Smith
Maureen McGinn – Herbert Smith
Richard Calnan – Norton Rose
Hamish Anderson – Norton Rose
Nick Martin – Clifford Chance
Martin Farley – Linklaters
Lynda Elms – Linklaters
Kay Evans – Jones Day
Alison McMillan – UNIDROIT
Martin Fowke – UNCITRAL
Jenny Clift – UNCITRAL
Hakan Friman
Akiko Sudo
J Goodwin – Mayer Brown Rowe & Maw
Tahir Khan – Lovells
Sophia Hermens – Lovells
Sharon Jewkes – Freshfields
Catherine Burton – DLA Piper Rudnick Gray Cary UK LLP
Mike Woollard – DLA Piper Rudnick Gray Cary UK LLP
Gordon Stewart – Allen & Overy
Jennifer Marshall – Allen & Overy
Philip Wood – Allen & Overy
John Pennie – Dickinson Dees Law Firm
Giles Frampton – Richard J Smith & Co., Accountants
Glen Davis – 3/4 South Square
William Trower QC – 3/4 South Square
Richard Snowden QC – Erskine Chambers
Registrar Jaques – Registrar in Bankruptcy of the High Court
His Honour Judge Behrens – Circuit Judge, Leeds Combined Court Centre
District Judge Bullock – District Judge, Newcastle
Felicity Toubé – 3/4 South Square

Gabriel Moss QC – 3/4 South Square
Mike Rollings – Ernst & Young
David Harrison – Insolvency Practitioners Council
Heather Callow – INSOL International
Non-Administrative Receivers Association (NARA)
Gillian Thompson – Accountant in Bankruptcy
International Association of Insolvency Regulators (IAIR)
Eric Leenders - British Bankers Association
Nicky Steele - Finance and Leasing Association
Kate Sharp – Factors and Discounters Association
John Armour – Centre for Business Research, University of Cambridge
Richard Nolan – Centre for Business Research, University of Cambridge
Professor Maria Carapeto – CASS Business School
Dr Sandra Frisbee – School of Law, University of Nottingham
Alan Katz – Lancaster University
Riz Mokal – Faculty of Law, University College London
Michael Mumford – Lancaster University Management School
Adrian Walters – Department of Academic Legal Studies, Nottingham Trent University
Professor Sarah Worthington – Law Department, London School of Economics
Fiona Tolmie – Centre for Insolvency Law and Policy, School of Law, Kingston University
Ian Grier – Sprecher Grier Halberstam LLP
Nigel Braddock – Eversheds
Louise Verrill – Addleshaw Goddard
Steve Hill – Moon Beaver
Grant Jones – Haarmann Hemmelrath
Richard Baron – Institute of Directors
Sumeet Desai – Reuters
Brian Moher – Accountancy Age
Kate Beddington-Brown – Institute of Credit Management
Emmeline Owens – British Chambers of Commerce
Mark Andrews – Denton Wilde Sapte
Tom Pritchard – Slaughter & May
John Verrill – Lawrence Graham
Nigel Boobier – Osborne Clark
Professor David Milman – University of Manchester

Professor Len Sealy – University of Cambridge