Neutral Citation Number: [2025] EWHC 1915 (Comm)

Case No: CL-2020-000859

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
KING'S BENCH DIVISION
COMMERCIAL COURT

Royal Courts of Justice, Rolls Building
Fetter Lane, London, EC4A 1NL

Date: 24/07/2025

Before :

Paul Stanley KC
(sitting as a Deputy Judge of the High Court)

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Between :

Crane Bank Limited and Others	**Claimants**
- and -	
DFCU Bank Limited and Others	**Defendants**

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Hannah Brown KC, David Caplan and Lauren Hitchman (instructed by **Greenberg Taurig LLP**) for the **Claimants**
Joe Smouha KC, Tom Ford and Jackie MacArthur (instructed by **Freshfields Bruckhaus Deringer LLP**) for the **First and Second Defendants**

Hearing dates: 22–23 July 2025

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Approved Judgment

This judgment was handed down by the judge during a hearing and by circulation to the parties' representatives by email and release to The National Archives. The date and time for hand-down is deemed to be Thursday 24 July 2025 at 10:30am.

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PAUL STANLEY KC SITTING AS A DEPUTY JUDGE OF THE HIGH COURT

Paul Stanley KC :

1. Crane Bank Ltd ("CBL") was a Ugandan bank. The claimants in this action are CBL and some of its significant shareholders. On 20 October 2016, the Bank of Uganda—which regulated CBL—placed CBL under "statutory management", and announced that it was doing so because CBL was "a significantly undercapitalised institution … poses a systemic risk to the stability of the financial system, and … the continuation of [CBL]'s activities in its current form is detrimental to the interests of its depositors". On 24 January 2017 it placed CBL into receivership, and the following day the Bank of Uganda, as receiver, agreed to transfer most of CBL's assets and liabilities to the first defendant ("DFCU"—for present purposes I do not need to distinguish between it and the second defendant, which is its parent company).

2. The claimants allege that this was the result of corruption. CBL was, they say (quoting from paragraph 8 of the particulars of claim) "one of Uganda's leading banks", with a "strong balance sheet", attested by financial statements audited by KPMG, a "strong financial position", and "highly profitable". Their case is that Bank of Uganda manufactured pretend concerns about its financial stability, as part of a corrupt scheme to take over and sell CBL or its assets, which they allege began in 2016 and continued to early 2017, by which time DFCU (and the other defendants) were participants in it. The sale to DFCU was, they maintain, at a "gross undervalue", and followed a "sham bidding process" orchestrated by the Bank of Uganda and its officials.

3. This is heavy litigation. The particulars of claim run to 60 pages. DFCU's defence to nearly 90. On this CMC, the bundles of primary material before me have significantly exceeded 10,000 pages. It is listed for a 12 week trial to begin in Michaelmas term next year.

4. The issue before me is, however, narrow issue about pleading amendments. It really comes down to an objection to one long additional paragraph that DFCU wishes to add to its defence. The issue before me is whether permission should be given to make that amendment, which (as the parties ultimately agree) is a matter of discretion in application of the overriding objective to deal with the case "justly and at proportionate cost".

5. I have decided that permission to make the amendments to which objection is made should partly be granted, and partly refused. I refuse the permission in so far as the amendments do or may purport to incorporate, as factual allegations that DFCU will prove at trial, conclusions set out in two reports prepared by a third party. I grant permission in so far as they seek to rely on the existence or terms of those reports, but without alleging that the reports are correct.

The PWC Reports

6. The argument is all about some reports produced by a company called Pricewaterhouse Coopers Ltd ("PWC"). Although Ms Brown KC, who appeared for the claimants, said that this company was not to be confused with the well-known international accountancy firm, there does not seem much room for doubt that PWC is indeed ostensibly part of that global "firm", whether or not it is entitled to provide the services that it did under Ugandan law.

7. DFCU's case is that PWC was instructed by Bank of Uganda on 28 October 2016—about a week after CBL had been placed under supervision—to prepare a report. At least two versions are available, and relied on: a preliminary report which was dated 21 December 2016, and a final report which was dated 13 January 2017. Although Ms Brown made submissions that various other versions of the reports call into question their dating, and that they (or parts of them) may have been written either earlier or later than those dates, I could not begin to decide those questions now, nor need I. I shall proceed on the basis that DFCU has an arguable case, as it plainly does, that PWC produced the reports on those dates.

8. The reports are largely but not completely identical (there are some potentially significant differences). They are long documents, running in each case to roughly 150 single-spaced pages. The versions before me, and apparently available to the parties, do not include appendices that they appear originally to have contained, and which are referred to in footnotes. Nor do they include any record of some of the primary material referred to, including information extracted from computers and records of various interviews on which PWC relied. They span a broad period, sometimes going back to events in the early 2000s. Their findings relate to numerous points of detail, and if accurate, can fairly be described as serious, indicating mismanagement of the bank in a number of respects, including the creation of a deliberately false impression on its balance sheet, disguising the identity of shareholders, improper diversion of bank money and sweetheart deals with insiders. If CBL was operated as the PWC reports suggested then it is on the face of it arguable that its management was not such as any sensible regulator would wish to see operating a strategically important bank.

9. The reports have, potentially at least, various types of relevance to this case. They go in at least three ways to the allegation that Bank of Uganda was simply pretending to have concerns about CBL in furtherance of a corrupt plan to strip its assets. As to that (a) it may be said to be inconsistent with such a plan that Bank of Uganda chose to instruct PWC to investigate at all, unless it were to be said (which it is not) that PWC was part of the conspiracy. (b) It may be said that the fact that PWC was reported (rightly or wrongly) a view that CBL was subject to serious mismanagement further undermines the proposition that similar allegations made by Bank of Uganda were made in bad faith—for how likely would it be that a non-conspirator would happen to agree with a story that had been conjured for corrupt purposes from nothing? And (c) it may be said that the Bank of Uganda relied, and (even if the Bank of Uganda was in fact acting nefariously) that a central bank regulator acting properly would have relied, on the PWC reports in taking action after 21 December 2016. The first two points are relevant to liability; the last to liability, causation and quantum.

10. Those arguments do not depend on PWC's conclusions being correct. The defendants may "rely on the PWC reports" to make each of those points without seeking to persuade the trial judge that PWC's conclusions are correct. The arguments depend simply on the facts that PWC were instructed to prepare the reports, and that the reports that they prepared took the form that they did. The reports' apparent cogency, the expertise and qualifications of those preparing them, the extent to which they can be cross-checked to other material known to the Bank of Uganda may all be in issue. But it will not be necessary for the trial judge to decide whether the allegations the reports contain have been proved.

11. The second set of arguments go to the propositions that CBL was (as it claims) a bank with a "strong balance sheet" and a "strong financial position". It thereby also, indirectly, goes to the allegations that the sale to DFCU was at a "gross undervalue" and—if it comes to that—to any assessment of loss, either on the basis that CBL would have continued its business profitably, or on the basis that if sold it would have been sold for more than it was.

12. Those arguments, however, unlike the first set, may depend on whether PWC's conclusions are correct. DFCU would "rely on the reports", to the extent that it does, for their truth. If their conclusions are false then the inferences will not have such force. They might still have *some* force, even then, since when one is asking what central bank will permit, or what a potential purchaser will demand, even "issues" that, if bottomed out, might prove to be unimportant may affect value.

13. In broad terms, the basic issue that divides the parties is whether DFCU should be permitted, as a matter of pleading, to rely on the PWC reports "for their truth". In other words, it is common ground that DFCU may legitimately make any point that flows from the fact that the reports were prepared and provided to the Bank of Uganda in the form they were. But the claimants object to the manner in which DFCU is proposing, or may be proposing, to plead the reports as a way of alleging that PWC's conclusions are facts that the trial judge should find.

Legal principles: pleading and amendment

14. The purpose of a pleading is to give notice of the primary facts that a party intends to prove at trial. CPR 16.5 provides that a defence must identify which of the allegations in the particulars of claim are denied, and "their reasons for doing so". Where a defendant intends to "put forward a different version of events from that given by the claimant, they must state their own version". The Commercial Court Guide asks for statements of case to be "as concise as possible", and that "evidence should not be included": para C1.1.

15. Although it is simple enough in theory to gesture at the line between allegations of "primary fact", "particulars" which are properly pleaded, and "evidence" which is not, drawing the line in any actual case is often a matter of pragmatic art. Moreover, there are some cases where the rules or practice directions require additional detail including (rarely) evidential matters (16 PD para 8.1) and, more commonly particulars of "any allegation of fraud" (16 PD para 8.2 (1)), "details of any misrepresentation" (16 PD para 8.2 (3)) and "notice or knowledge of any fact" (16 PD para 8.2 (5)).

16. To serve its purpose as a tool for the parties and the court to prepare for trial, a pleading needs to be unambiguous, and coherent: there should be no doubt what is being alleged, and the pleading should make sense. Lack of ambiguity, however, should not be turned into a demand for unreasonable precision, or excessive detail (which may, indeed, obscure the real issues); coherence does not prevent alternative pleas, provided the relationship between them is clear; and "making sense" does not mean that the pleading need state an overwhelmingly strong case. A pleading serves its purpose if it adequately defines a case worthy of consideration at trial.

17. When it comes to amendments, the overriding consideration is the overriding objective: where possible the court wishes to be put in a position to determine the real issues at trial, which in turn means that those issues should be squarely, fairly, and comprehensibly set

out in the pleadings. As has rightly been said, "the circumstances in which amendments may be put forward are infinitely variable and … each contested application will require an exercise of the court's discretion that takes into account the particular facts of the case at hand": *Vilca v Xstrata Ltd* [2017] EWHC 2096 (Comm) [22].

18. Nevertheless, although circumstances vary, certain patterns repeat, so that in broad terms various common objections emerge in the cases. One possible taxonomy might suggest that there are three broad categories of objection:

    i) Objections to the proposed pleading *as a pleading*. This category includes objections that the proposed amendment will not properly serve a pleading's intended function, for example because the other parties and the court cannot understand it or work out what fact is being alleged, or because it impermissibly pleads evidence or narrative background rather than primary fact, or because it does not give sufficient detail for the other party to respond to it or prepare its case, or because it will be difficult or impossible for the party responding to it to "plead back", or because it raises irrelevant points which will simply obscure relevant issues. These are all objections which could, if no amendment were required, be made under CPR 3.4 (b) which permits the court to strike out a statement of case which "is an abuse of the court's process or is otherwise likely to obstruct the just disposal of proceedings".

    ii) Objections to the proposed pleading *on the merits.* The classic cases is one in which the amendments allege facts that, if proved, would not establish a claim, or not establish a defence, and which (if made in a statement of case) would be liable to be struck out under CPR 3.4 (a), which empowers the court to strike out a statement of case which "discloses no reasonable grounds for bringing or defending the claim". But the point may go further than that, for the court may refuse to permit amendments even if the fact (if proved) would be important, but where the evidential basis for the allegation is so thin that the person seeking to make the amendment has no realistic prospect of getting that ball into the net: *Kawasaki Kisen Kaisha Ltd v James Kemball Ltd* [2021] 3 All ER 978 at [18].

    iii) Objections *on case management grounds*. Some amendments cause only modest expense, and do not pose any risk of disrupting an established timetable (for example, an amendment to plead a new legal theory based on already-pleaded facts made long before trial). Others are much more disruptive and costly, involving for instance the need to re-visit disclosure searches that have been completed, or obtain new evidence, or—in an extreme case—resulting in the adjournment of a trial. The more disruptive the amendment, the less likely it is to be allowed: see *CIP Properties (AIPT) Ltd v Galliford Try Infrastructure Ltd* [2015] EWHC 1345 (TCC) at [19]. It is in this context that "late amendments" are sometimes dealt with as if they occupied a special category, though I would be inclined to think that this simply reflects points on a spectrum, rather than any sort of watershed.

19. The cases indicate that, in accordance with the overriding objective, the court must balance the prejudice to each party—to the amending party if the amendment is refused, and to the responding party if it is allowed. Although I am sure that balancing is always required, I do not think that every issue on an amendment application can be turned into a balancing act. For instance, where the court disallows—after argument—an amendment which discloses no reasonable claim it is not balancing anything, and since the claim is

not one that could succeed there is no prejudice to the amending party to balance. The cost and disruption considerations, however, will always involve some element of balance.

The position here

20. The claimants realistically do not generally object to those amendments that plead the PWC reports *as* facts: *that* PWC was instructed, *that* they reported as they did, and the consequences that *that* fact would have for the actions or reactions of the Bank of Uganda, an honest and reasonable central bank regulator in the position of the Bank of Uganda, or third party prospective purchasers of CBL's business.

21. The claimants' first specific objection is to paragraph 24.2 of the defence. Paragraph 24 as a whole is responding to an allegation that the Bank of Uganda placed CBL under statutory management on 20 October 2016, and that this was done "in bad faith and to advance the Corrupt Scheme". Paragraph 24 of the defence admits that the Bank of Uganda placed CBL under statutory management on that date, but does not admit that it was done in bad faith or to advance the alleged "Corrupt Scheme", and maintains that there was a proper basis on which the Bank of Uganda could determine that CBL should be put under statutory management. Paragraph 24.2 is part of setting out those reasons.

22. The claimants' first objection in that paragraph is to the inclusion of reference to the PWC reports in this context (the words objected to are in italics):

> "As appears from BoU's letter to CBL dated 1 July 2016, from the executed Memorandum of Understanding between the BoU and CBL dated 16 August 2016 *and from paragraphs 3.18 to 3.31 of the PwC Forensic Review and from paragraphs 3.17 to 3.30 of the PwC January Report*, serious issues in relation to the financial position, management and risks surrounding CBL had been identified by the BoU … in 2015 and during Spring to Summer 2016 and/or during previous on-site examinations…."

23. The claimants say that although the first two documents referred to may arguably be material which shows the Bank of Uganda's state of mind on 20 October 2016, the PWC reports cannot, because they were not available then. Moreover, the incorporation by reference of those paragraphs of the PWC reports (they are in substance identical) is, they say, objectionable. How should they respond to the range of allegations in those paragraphs—by no means all of which, or most of which, purport to set out anything known to the Bank of Uganda on 20 October 2016?

24. Mr Ford, who argued the application of DFCU with great economy and realism, defended the italicised words as a fair and helpful explanation of *why* DFCU thought the allegation maintainable. I do not accept that this is necessary or desirable in a pleading, unless pleading particulars of knowledge. The reasons why a party makes an allegation are, at best, evidence—and sometimes not even that. They do not need to be given, and generally should not be. The first two items listed, to which the claimants do not object, probably fall into a different category since they are, at least implicitly, providing "particulars of knowledge" (i.e. the reasons why DFCU says that the Bank of Uganda believed CBL was financially precarious); at any rate, they have not been objected to. I agree with the claimants that the inclusion of any reference to the PWC reports here simply obscures the real issues.

25. I shall not therefore give permission to make that amendment.

26. The other amendment to which the claimants object is in paragraph 24.2.1, in which DFCU pleads:

> "As at 31 March 2016, CBL had a high level of non-performing loans ('NPLs') amount to UGX 243.6bn or 21.44% of the total credit portfolio, *and accounting for a significant proportion of the total NPLs in the Ugandan banking sector as a whole.*"

27. In this case, I see no legitimate objection to the amendment as drafted. True, DFCU seems to have derived its allegation from the PWC reports but (precisely because it is not necessary to explain where an allegation comes from) that does not matter. The allegation, for whatever it is worth, is simply a factual allegation that DFCU can make.

28. I shall therefore grant permission for this amendment.

29. We then enter the most contested area, which is paragraph 24.4.

30. That paragraph begins by pleading (a) that it is—at present—not suggested that PWC was part of the conspiracy and (b) that those taking decisions at a central bank would have been "reasonably entitled to regard the matters as identified in the PwC Forensic Review and/or the PwC January Report to be credible" and (c) that they would have "supported a good faith belief" that provisions and write offs were appropriate, wrongdoing had been prevalent at CBL and that CBL, as hitherto managed, represented a "systemic risk" so that the replacement of its existing management was detrimental to the interests of depositors.

31. I see nothing in that part of the pleading which could fairly be regarded as anything further than an allegation that a regulator in the position of Bank of Uganda would have been entitled to act on the assumption that the PWC reports were credible and supported the regulatory action referred to. I do not think that is ambiguous or unclear. And, so understood, I see no legitimate objection to it. The only room for possible complaint is that paragraph 24.4 does not belong where it has been placed in the defence, because it must be alleging conclusions that would have been drawn by the Bank of Uganda, or a central bank in its position, after the PWC reports were to hand, not in October. Mr Ford told me that there was no magic to the positioning of the allegation: this had been though as good a place as any. It would, I think, be better if the plea were moved to elsewhere and become a free-standing plea rather than looking like a response to paragraph 21 of the Particulars of Claim, which it logically and practically is not. But with that minor point, I see nothing problematic about it.

32. Paragraph 24.4, however, thereafter continues, with the introductory words "The matters identified by the PwC Forensic Review and the PwC January report included:", to introduce seven paragraphs which summarise—and sometimes refer to—many pages of the conclusions of those reviews.

33. I have considerable concern about those paragraphs, which seem to me to introduce a dangerous ambiguity. On the one hand, they are introduced as providing further details not of matters that are alleged to have been *true* but of matters that are alleged to have been *credible*, and one reading of "matters identified" would be in that spirit. That is

supported by aspects of the detail that is given. For example, it is not said that there *was* misrepresentation, but simply that there "was *evidence of* misrepresentation", and it is not said that IT staff *had* been instructed to withhold information or delete emails, but that PWC "*understood*" that had happened. On the other hand, some of the terms in which they are pleaded suggests that they *are* being put forward as allegations not simply that PWC reached conclusions, but that those conclusions were correct, and one reading of "matters identified" would be not merely that PWC reached a conclusion, but that it had discovered a truth. So, for instance, paragraph 24.4.2 frequently uses the expression "in reality" (though it also says that it describes what "PWC concluded"), and paragraph 24.4.3 appears to consist simply of allegations of fact. Moreover, later cross-references in DFCU's defence to paragraph 24 is in terms (by reference to "facts") or in contexts (where one would have thought that it is the true position, not simply PWC's conclusions about it) that suggests that what might be intended is an allegation that PWC had not simply reached conclusions, but that the facts were as PWC had concluded.

34. That sort of ambiguity seems to me to be inconsistent with the objective of a pleading to give clear notice of the case that the recipient must meet. That DFCU has not itself, in correspondence, its written submissions to me, and Mr Ford's oral submissions been completely consistent in the interpretation that it offers reinforces my concern in that respect.

35. Moreover, *if* the sub-paragraphs to paragraph 24 are intended to allege as facts the matters that DFCU will seek to prove at trial, I do not think they do so in a way that is consistent with the overriding objective. They effectively incorporate, sometimes explicitly by referring to paragraphs, sometimes indirectly by referring to matters such as "a number of elaborate fraudulent schemes", many paragraphs and pages of the PWC reports, covering many years. Occasionally, the detail in those paragraphs, when examined, differs between the reports in material ways (in particular, as to the financial effect on CBL's accounts of one particular alleged fraudulent scheme). Although a cross-reference to a long document meets one requirement of pleading, by being concise, it is ultimately unacceptable because it poses the immediate question: how would the claimants respond to this? Are they supposed to work through each PWC report, which in no way resembles a proper pleading, to set out their point-by-point rebuttal or admission of what PWC alleges? If the intention were to use these paragraphs as a way of incorporating, by reference, PWC's conclusions as allegations in this case, this is not the right way of doing so: it would obstruct the orderly resolution of the case.

36. In addition, I considered that there is force in Ms Brown's submission that if the effect of these paragraphs was to introduce what she aptly described as "swathes" of the PWC Reports into contention as primary facts, they would be likely to have a seriously disruptive effect on preparation for trial. For my part I find it hard to imagine how the parties could prepare for, or the court manage, a trial which might at any point have to turn to the detail of what are at least tens of interlinked factual contentions, often raising serious allegations, over several years. Many of them relate to events which occurred before the earliest date for which disclosure searches have been carried out (which is 2015). Some of the alleged frauds identified by PWC are indeed "elaborate", and cross-linked. Their pursuit as claims would itself require precise and detailed pleading, and be likely to produce a long and complex trial in its own right. The PWC reports, whatever their merits (which are hotly disputed) do not resemble a pleading.

37. If, on the other hand, these paragraphs are intended simply as summaries of what DFCU says are the "headline points" that a central bank regulator would have drawn from the PWC reports, they seem to be unnecessary. Such a summary might be valuable if DFCU's case was that there were only one or two specific conclusions in the PWC reports that would matter to a central bank regulator. But they don't do that, and they are introduced by the words—often a red flag in any pleading—that the reports "included" these matters, so they do not even purport to be comprehensive. They then essentially cover the entire ground, and simply clutter the pleading with unnecessary detail in which the only real argument could be the entirely sterile one of whether the learned pleader has adequately summarised a document that is before the court in full.

38. For those reasons, I will not give permission for the words "The matters identified …" or the sub-paragraphs to paragraph 24.4. I will, however, give permission for the body of paragraph 24.4 itself (though, subject to any submissions I may hear, perhaps not in that place, which is chronologically inapt) on the strict understanding that they allege, as I hold they do, merely that a central bank regulator would have been entitled to place reliance on the PWC reports and would have drawn certain conclusions from them, and not that DFCU is adopting those conclusions as factual allegations.

39. I have not, in reaching this conclusion, ignored Mr Ford's point that on the face of the pleadings as they stand there is an issue about what CBL's actual financial position was. That has been the subject of disclosure and will be the subject of expert evidence, and in particular a clear plea in paragraph 17 of the defence that its 2015 audited accounts "did not reflect the full position and/or materially misstated both the financial and regulatory compliance position of CBL". I also accept that the reply formally denies the accuracy of PWC's conclusions. But in circumstances where none of them had been specifically adopted by DFCU (and the claimants expressly reserved their position if they were) I do not think that takes matters further. How far, on the basis of this existing plea, DFCU and its experts will be entitled to rely on any of the underlying material on which the PWC reports are based, or indeed on the reports themselves, may well prove controversial. But that issue is not before me: there is no application to strike out any part of the existing pleadings; no application for further information; and no application to limit disclosure or expert evidence. I do not have to decide that, and do not do so. I am, however, quite clear that to the extent that DFCU wishes to plead, as factual allegations that it positively intends to prove, any of PWC's specific conclusions, paragraph 24.4 attempts to do so in a way that is inconsistent with effective preparation for a fair trial. Whether DFCU needs to do so in order to make the case it wishes to make is a matter I cannot and do not decide.

40. Nor am I willing to accede to Ms Brown's invitation to rule now that the PWC reports would be, as a matter of law, inadmissible to prove any primary fact. That submission was advanced on two bases. First, she said, under Ugandan law PWC was not authorised to provide accountancy services, so the evidence must be excluded. There is a dispute about whether the provision of the report would constitute the practice of accountancy under Ugandan law, which I could not decide. There is in any event a further question about whether, if they did, that would render the report inadmissible as a matter of English law—it would not necessarily do so. Those are both, and clearly, matters for the trial judge. Secondly, Ms Brown said that expert evidence along the lines of the accountancy report would be inadmissible because all or much of the reports consist of factual (or sometimes legal) conclusions based on an assessment of evidence. Again, I do not think this is a question that can be decided in the abstract. It seems to me, on the

face of it, eminently possible that there might be aspects of the PWC reports which would be admissible hearsay (for instance to prove what PWC had been told, or to provide secondary evidence about the contents of documents they had examined), and also quite likely that there would be other aspects where they might well be inadmissible or of negligible weight. All those things, if they arise, together with the other criticisms that Ms Brown made of the reports, are properly matters for trial.

41. The controversial amendments that remain all consist of cases where, in the context of its defence as to causation and quantum, DFCU inserts cross-references indicating that it intends to rely on paragraph 24. These are a mixed bag, in the sense that in some of them it seems likely that DFCU would be intending by that cross-reference to allege that a central bank regulator would have been likely to place reliance on PWC's conclusions (right or wrong). That is especially true of the paragraphs which relate to the action that a hypothetical regulator would have taken. I have in mind paragraphs 115.3.3, 115.4.2, 116.1. One other seems to be intended to refer to (or include) CBL's actual financial position, and might be based on the proposition that CBL had in fact committed the various wrongs that PWC considered were shown. I have in mind paragraph 114.2. However, it seems to me that so long as it is clear that paragraph 24.4 contains *only* an allegation that the PWC report was one on which a regulator was entitled to rely, there is no practical difficulty. The claimants may say that the cross-reference in paragraph 114.2 does not in fact advance DFCU's defence. But that is a matter for trial, and since it will (with or without any explicit cross-reference) be open to DFCU to rely in argument on any primary fact that it has properly pleaded and established in any event, I see no reason to micro-manage these references.

42. I am concerned that, lurking only barely below the surface of this application, there is an incipient case management issue. On the one hand, Mr Ford is clearly correct that the financial condition of CBL and the accuracy of its audited accounts is a relevant issue in the case, and issue joined on the pleadings about that. How far, however, it will be open to DFCU to advance, at trial, specific allegations about particular aspects of CBL's management and financial position, and how that will be done, offers fertile ground for ongoing debate. It may be that DFCU or its experts will either want or need to focus on some matters which are covered by the PWC reports, and that DCFU will seek to prove them as primary facts. As things stand, it is probable that if and when it does so, it will be met by the objection that it has not given adequate notice of that, and equally likely that it will respond—as Mr Ford did—by contending that it has already done enough. But, whatever the rights and wrongs of such arguments (which cannot sensibly be addressed in a vacuum and are not before me now), I do not think that they can be fairly resolved by the indiscriminate incorporation of the substance of both reports in the form that was before me, and it will be for the experienced solicitors and counsel on both sides to decide how next to proceed. I therefore grant permission only to the extent that I have indicated, and otherwise refuse it.