

Nathaniel Lalone Comments on Insolvency Issues for the Post-Brexit EU

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Financial Services partner Nathaniel Lalone was interviewed by *Risk.net* regarding potential changes EU member states will need to make domestically in order to ensure European firms using London-based foreign exchange service CLS still enjoy insolvency protection in the event that the UK leaves the European Union without a Brexit deal next March. Nate stated, "The question becomes: would a local EU27 court managing an insolvency defer to the actions taken by CLS [under English law] to enact their default rules and default management protocols? That's the big risk. There's no legal certainty in the way that there is now under the settlement finality regime." He added that very few member states have adopted settlement finality standards in a way that recognized third-country settlement systems, and that all eyes seem to be on a few key jurisdictions of internationalized financial markets, such as France, Germany and the Netherlands.

Nate indicated that there needs to be greater awareness of significant market infrastructure impacts to organizations such as CLS going into Brexit. Asked if he thought CLS was deliberately in the crosshairs of politicians two years ago, who began calling for the relocation of euro clearing after the Brexit vote, he says, "No, I wouldn't have thought so. CLS is more like a public-private partnership. Central banks supported its creation and use. While a private company, it's a public good, it's not a commercial plum—it is the absolute core of the international payments system. So its location is kind of irrelevant. It needs to work in the way it's supposed to, or the payments system seizes up." ("[CLS Seeking Legal Fix for Brexit Settlement Threat](#)," July 30, 2018)

CONTACTS

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