Nathaniel Lalone Shares Insight as EU Debates No-Action Relief Options

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Financial Services partner Nathaniel Lalone spoke with *Risk.net* on efforts by EU financial firms to pursue an equivalent to US no-action letters from regulators. Nate suggested that the three European Supervisory Authorities (ESAs) should be able to delay primary and secondary rules, stating, "If [the delay] is only level two—level two is only giving effect to level one—and if you can't suspend the level one obligation, then does that really give market participants certainty they are not required to comply?" Additionally, he came out against time limits as a part of the no-action mechanism, noting, "You want to have formal forbearance power that can hold everything in that area constant until a time where the market and regulators are ready to go. There seems to be no principled reason to set an arbitrary number of months."

Nate stressed the importance of crafting the right no-action tool for maximum effectiveness. "There is value in formalizing a no-action mechanism but it needs to be done correctly. It would be better to keep things informal and ad hoc as now, than to adopt a formal process that isn't fit for purpose. For example, some proposals would only allow for a temporary delay of nine or 12 months or only for secondary and not primary legislation—those may be too caveated to be meaningful." He also warned against valuing veto capabilities at the expense of being able to implement real no-action relief. He stated, "Any power needs to have a check and balance and so the check and balance here would be for the co-legislators to have the right to step in, but that risks diverting attention and resources to process, rather than actually addressing the substantive issue in order to provide certainty to the market." ("Europe Inches Closer to Own Version of No-Action Relief," November 2, 2018)

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