

Nathaniel Lalone and Neil Robson Analyze Proposed Financial Regulatory Oversight Changes in the UK for *Law360*

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Helping *Law360* examine proposed Financial Services and Markets Bill amendments, Financial Markets and Funds partners Nathaniel Lalone and Neil Robson share what it means for HM Treasury and the oversight capabilities of the Financial Conduct Authority (FCA) and the Bank of England's Prudential Regulation Authority (PRA).

Nate attributed the decision to give Treasury "call-in" powers to stop or alter rules of regulators to newly installed Prime Minister Liz Truss and her penchant for challenging tradition. Noting some concern for the methodology, he suggested that procedural safeguards be put in place, ensuring government intervention would be a last resort. "The call-in powers, if misused, could politicize a very complex area of law with potentially unpredictable consequences."

A second reading of the bill had Treasury indicating that the amendment would give them the power to intervene in rulemaking, a move that could jeopardize the balance between regulatory independence and Parliament accountability. Nate stated, "The government's announcement puts the [FCA] and [PRA] on notice that their decisions from now are subject to heightened scrutiny, which will affect behavior regardless of the form that the intervention powers take. The PRA's discussion paper now ensures the regulator's views are included in the debate over these powers from the beginning. This could make it more likely that the powers are sufficiently circumscribed to limit the risk of political intervention."

Nate suggested that there are both pros and cons to the amendment. The Treasury could intervene as a last resort to fill regulatory gaps as well as arm the FCA and PRA with tools to handle situations that require a time-sensitive solution faster than the legislative process. However, he raised the concern that politicians could intervene on behalf of specific companies at the expense of the markets. He added that there is potential for ministers to change boundaries that establish which type of firms are regulated in a sector. "This could happen with capital requirements or brokerage

practices, where an aggrieved portion of an industry uses its political ties to do an end-run around regulatory supervision and oversight."

Speaking to Truss's proposal to merge the FCA, the PRA and the Payment Systems Regulator, Neil argued that it would only be effective if it provided enhanced consumer protection and opened the institutional sector to international investors. The new regulator would need to be an "ally of business" to make a merger worthwhile.

["Treasury Poised To Get New Power To Direct Regulators,"](#) *Law360*, September 7, 2022

["Financial Watchdog To Tailor Post-Brexit Rules To UK,"](#) *Law360*, September 8, 2022

["Attys Warn Gov't Risks Ruining Financial Regs With Reforms,"](#) *Law360*, September 9, 2022

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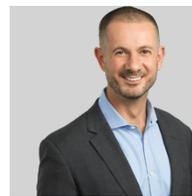
For more information, contact your Katten attorney or any of the following attorneys.



Nathaniel Lalone

+44 (0) 20 7776 7629

nathaniel.lalone@katten.co.uk



Neil Robson

+44 (0) 20 7776 7666

neil.robson@katten.co.uk

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