

When Does a Company Have the Choice to Waive its Attorney-Client Privilege in the USA?

Two Cozen O'Connor lawyers discuss in a white paper the waiver policies of U.S. federal enforcement agencies overseeing the financial services industry, including the U.S. Department of Justice, Securities and Exchange Commission Commodity Futures Trading Commission and Financial Industry Regulatory Authority, as well as certain others.

Linda Riefberg, a member of Cozen O'Connor's Commercial Litigation Department, and Christopher Passavia, an associate in the Commercial Litigation Department, are the authors of the paper, which was published in Journal of Securities Operations & Custody.

The article provides some guidance to parties and counsel regarding when waiver may be necessary or advisable and concludes with support for a uniform standard that is protective of the attorney-client and work product privileges, permitting the privilege holder to make a true choice as to whether to waive, free from any obligation or pressure to waive from U.S. agencies, the firm says on its website.

Read the white paper.