

Protecting Privilege in Internal Investigations

Rarely does a week pass in white collar and investigation or SEC-regulatory outside counsel life that an auditor or government enforcement attorney does not request some form of interim or final read-out or update. These requests for information can encompass investigative process and factual findings, lists of search terms, interview outlines, or similar investigative materials. However, this information, if provided, presents a very real risk of privilege waiver. This article encourages pushback against the "nobody else ever fights us on this" contention often heard from government enforcers and outside auditors wanting to "better understand" a client's internal investigation making these requests.

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