Saturday, June 9, 2018
11:00 a.m. - 12:30 p.m.

Cross-Border Investigations: Navigating Attorney-Client Privilege and Other Thorny Issues in the Cross-Hairs of Competing Law Enforcement Regimes

Sponsoring Entity: Section of Litigation

This program will explore challenges to scoping and conducting corporate investigations that traverse U.S. and EU/U.K. regulatory and law enforcement frameworks. Using an interactive case study approach, the program will focus on differing -- and often conflicting -- approaches to the attorney-client privilege and work product protections in corporate investigations that span U.S. and EU/U.K. entities. Recent U.K. judicial decisions highlight the dramatically different approach to privilege between the U.S. and the U.K., and serve as a backdrop for discussion on how to navigate those differences. The program will highlight additional considerations that outside counsel and in-house counsel alike must evaluate before embarking on complex cross border investigations, including: the impact of data privacy restrictions on evidence collection, witness interviews, and transmission of evidence across borders; labor law restrictions on employee discipline and other potential remedial measures; and strategies for self-reporting to law enforcement in different jurisdictions. The case study will draw on recent headlines that highlight these issues, such as the German authorities' raid on Jones Day law office to gather information in the Volkswagen investigation. The program will feature high profile panelists who represent the views of U.S. and EU law enforcement, in-house counsel for multinationals, and outside counsel who conduct cross border investigations.