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**MANAGING A GLOBAL REGULATORY INVESTIGATION
– UNIQUE CHALLENGES IN CROSS-BORDER INVESTIGATIONS**

The variety of rules and approaches across jurisdictions raises risks and challenges for lawyers and their clients that are unique to multi-jurisdictional cross-border investigations. The authors address some of these, comparing U.S. rules and practices with those of other jurisdictions, notably the U.K., France, and the EU, among others. They discuss local attitudes towards internal investigations, employee privacy issues, and risks of cooperation with the government.

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The global regulatory environment has undergone a sea change in recent years, with greater international cooperation and coordination, ever-increasing penalties and sanctions, and seemingly unceasing expansion of jurisdictional theories, all contributing to an escalating risk profile for companies with operations in far-flung parts of the world, regardless of industry or sector. Conduct which in earlier times might have led to a resolution with a single regulator in one country now routinely involves multiple regulators and enforcers within one country and other regulators in multiple other countries. The need for large corporations and other entities to simultaneously investigate allegations of wrongdoing in different jurisdictions, with differing substantive laws, differing cultures and rules of the road for internal investigations, differing approaches to legal privilege, and differing expectations as to what

constitutes appropriate “cooperation” with the authorities can pose a dizzying array of challenges. We set forth below some of the principal challenges and significant issues a global investigation can face.

I. THE PRELIMINARIES: SCOPE, STAFFING, AND LOCAL ATTITUDES TOWARDS INTERNAL INVESTIGATIONS

One of the first steps in any internal investigation is a preliminary assessment of proper scope. Once counsel has some sense of what markets and locations are at issue, it is imperative to spend time up front to give careful consideration to building a cross-border investigation team that can foresee the issues discussed below. The ideal team will differ depending on the nature of the issues and the markets involved, and will

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