

**Insights**

## **POST-BREXIT, LEGAL PRIVILEGE MAY NOT OPERATE AS WE KNOW IT**

Feb 24, 2021

### **SUMMARY**

Grappling with issues of legal privilege is more of a recurring, rather than emerging, theme for financial services firms. Now, courtesy of Brexit, there is a new issue on the horizon.

Post Brexit, firms operating both in the UK and EU member states and their legal advisors will need to consider, more carefully than ever before, the different EU and UK rules of privilege when structuring investigations and advising on potential competition law issues that could result in the involvement of the European Commission.

There are a number of potential scenarios where firms, which continue to have sales or a presence in the EU and/or EEA post-Brexit, may be required to disclose legal advice from UK qualified lawyers to the European Commission in the context of a European Commission investigation into potential anti-competitive agreements or abuse of a dominant position.

Firms should ensure a plan is implemented to manage the new risk that legal advice given by lawyers qualified in the UK may become disclosable to the European Commission, where before Brexit, it would have been privileged.

Clare Reeve Curatola and Naomi Miles wrote about this in our Emerging Themes in Financial Regulation 2021 publication.

### **RELATED PRACTICE AREAS**

- Emerging Themes in Financial Regulation 2023
- Financial Regulation Compliance & Investigations
- Litigation & Dispute Resolution
- Regulation, Compliance & Advisory

## MEET THE TEAM



### **Clare Reeve Curatola**

Co-Author, London

[clare.reevecuratola@bclplaw.com](mailto:clare.reevecuratola@bclplaw.com)

+44 (0) 20 3400 3326

---

This material is not comprehensive, is for informational purposes only, and is not legal advice. Your use or receipt of this material does not create an attorney-client relationship between us. If you require legal advice, you should consult an attorney regarding your particular circumstances. The choice of a lawyer is an important decision and should not be based solely upon advertisements. This material may be “Attorney Advertising” under the ethics and professional rules of certain jurisdictions. For advertising purposes, St. Louis, Missouri, is designated BCLP’s principal office and Kathrine Dixon ([kathrine.dixon@bclplaw.com](mailto:kathrine.dixon@bclplaw.com)) as the responsible attorney.