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"Recent S.D.N.Y. Opinion Further Restricts the Use of Selective Waivers" by James Walker, Daniel Zinman and Shari Brandt

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On February 14, 2008, a federal district court in the Southern District of New York issued an opinion, [In re Initial Public Offering Securities Litigation](#), 21 MC 92 (SAS) (S.D.N.Y. Feb. 14, 2008), that further restricts the applicability of selective waivers of the work product privilege when documents are voluntarily produced to the government and to regulatory agencies. The decision has significant implications for attorneys representing companies in government investigations as it concludes that there is a strong presumption against a finding of selective waiver, and rejects the argument that selective waiver was supported by a common interest between the government and the company or the existence of a confidentiality agreement. The memorandum below analyzing the decision was prepared by our partners Shari A. Brandt, James Q. Walker and Daniel C. Zinman.

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