

Monitorships

Overview

When a corporation settles a criminal proceeding, federal or state courts and agencies often mandate the adoption of a strict compliance program overseen by an independent corporate monitor. The monitor's role is to assess and evaluate the company's adherence to its compliance agreement. Katten has a track record of success both acting as a monitor in settlements and counseling on all aspects of monitor selection and implementation.

Navigating the process

Katten has had the rare distinction of being selected for two high-profile corporate monitorships at the same time. We bring that experience to every stage of the monitorship process — not only serving as monitors, but also advising companies that are subject to them. We help clients vet and select court-appointed or government-approved monitors. We advise them on the implementation and management processes for working with a monitor. And we assist them in developing internal controls to mitigate the risk of future violations.

We advise clients regarding monitorships stemming from investigations and enforcement actions by the US Department of Justice and the US Securities and Exchange Commission (including FCPA matters), the Federal Trade Commission, and the US Environmental Protection Agency, among others. Our work includes:

- Assessing compliance programs and overseeing compliance with the terms and conditions of probation or deferred prosecution
- Troubleshooting issues involving company operations and compliance implementation
- Addressing business issues that arise as part of a monitorship agreement, while ensuring that the requirements of the particular government entity are met
- Assessing areas of operations with the highest potential risk of corruption and touchpoints with foreign government officials
- Partnering with independent forensic accounting firms to review internal financial controls
- Partnering with independent engineering firms to identify and address risk
- Partnering with survey firms to undertake compliance culture assessments
- Monitoring the work of third-party auditors for independence and efficacy
- Updating agencies and courts regarding the company's compliance
- Identifying areas for improvement in the company's compliance systems and corporate governance

- Recommending a conclusion once settlement obligations are fulfilled

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