



**Katten**

Katten Muchin Rosenman LLP

**COMPLIANCE**

## MONITORSHIPS

### Our Clients

Katten offers industry-specific knowledge, with keen insight—both from a business perspective, and the experience of its deep bench of former senior government officials, prosecutors and regulators—into the execution of corporate compliance programs and the implementation of corporate monitorships. A corporate monitor is a court-appointed or government-approved independent third party that is required pursuant to the terms of a federal or state criminal or civil judgment, or as part of deferred-prosecution or a non-prosecution agreement. A monitor's role is generally to "monitor," assess and evaluate a company's adherence to, and implementation of, the requirements of a governing compliance agreement.

Katten's recent monitorship matters include:

- Selection as the monitor of a multinational pharmaceutical company's implementation of a compliance program subject to a deferred prosecution agreement and parallel civil settlement, which included one of the largest penalties imposed on a company of its kind in a Foreign Corrupt Practices Act (FCPA) enforcement.
- Appointment by the court as the monitor for a highly recognized, global cruise line subject to a negotiated plea agreement and criminal judgment, in which the company paid one of the largest criminal penalties related to vessel pollution.

### Our Services

Katten attorneys are selected to implement high-profile corporate monitorships, and also routinely advise clients

on navigating the monitorship process, including monitor selection and oversight of the monitor's work. Our work routinely involves monitorships stemming from government investigations and enforcements by the US Securities and Exchange Commission (including FCPA matters), the Federal Trade Commission, the US Department of Justice, and the US Environmental Protection Agency, among others.

Katten attorneys are involved in all stages of the development and implementation of the monitorship process:

- **Monitor Selection.** Katten attorneys assist clients in the vetting, selection and "onboarding" of court-appointed or government-approved monitors.
- **Monitorship Implementation.** We advise on how to manage and implement processes for working with a monitor. We help each client develop a monitorship approach that meets the unique needs of their business and respective industry, and implement similar approaches and strategies in our work as corporate monitors.
- **Mitigation of Future Risk.** We work not only to help clients meet the terms of a governing agreement, but also advise clients regarding the development of internal controls necessary to mitigate the risk of future violations. As both monitor advisors, and as monitors, Katten attorneys provide practical strategies for compliance implementation that take into account the company's existing resources and that are designed to mitigate the risk of future violations.

Examples of our monitorship-related experience include:

- Acting as court-appointed or government-approved monitors;
- Assessing compliance programs, and overseeing compliance with the terms and conditions of probation;
- Troubleshooting issues with regard to both company operations and compliance implementation;
- Addressing business issues that arise as part of an administrative agreement, while ensuring that the requirements of the respective government entity are met;
- Assessing areas of operations against the highest potential risk of corruption and touch points with government officials;
- Partnering with an independent forensic accounting firm to probe internal financial controls;
- Partnering with an independent engineering firm to identify and address risk;
- Monitoring the work of a third-party auditor to review for independence and efficacy;
- Providing updates to the governing agency and the court regarding the company's compliance; and
- Identifying areas for improvement in the company's compliance systems, and recommending a conclusion, once satisfied that all settlement obligations have been fulfilled.

