

Corporate Monitorships

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Government regulators and prosecutors have a multitude of powerful tools when investigating unlawful or noncompliant corporate conduct. The Government can employ tools such as seeking a Temporary Restraining Order (TRO), which would allow for the freezing of bank accounts, enjoining the alleged unlawful conduct, and/or requesting the appointment of a Receiver who would be directed to either operate a business or wind it down. In some instances, the government might instead seek the appointment of a monitor, who, like a Receiver, would be appointed by a judge and who would report to the judge. The significant difference between a Receiver and a monitor is that the monitor is appointed to oversee the business but not operate it. Oftentimes, criminal prosecutions and civil enforcement cases can be resolved with the appointment of an independent monitor. Companies would be wise to contemplate the appointment of an independent monitor as an alternative to a lengthy and costly prosecution of a criminal or civil enforcement matter.

Lippes Mathias' Government & Corporate Investigations attorneys are uniquely qualified to serve as independent monitors. Our attorneys bring a wealth of experience from serving in roles such as New York State Attorney General, Executive Director of the New York State Ethics Commission, Counsel to the New York State Commission on Public Integrity, U.S. Attorney and Assistant U.S. Attorney, equipping them with a deep understanding of regulatory compliance, enforcement, and investigative procedures. This background is especially valuable in the context of monitorships, where objective oversight, credibility with government agencies, and familiarity with complex legal and operational frameworks are essential. Their experience with investigations, prosecuting bad actors, and defending clients in fraud, corruption, and corporate misconduct matters enables them to navigate high-stakes environments with integrity and precision, making them well-suited to serve as effective and trusted monitors.

Our post-government investigations compliance experience spans decades and includes:

- The representation of a Fortune 50 company under a four-year monitorship, which implemented safety measures in retail stores nationwide
- The monitorship of a professional service firm required to adopt a Code of Ethics, an ethics training program, and the submission of periodic certifications concerning business integrity stemming from a breach of confidential information

As monitors, we collaborate with management teams to identify compliance gaps, develop workable solutions, and create effective and practical compliance programs. Our methodology typically includes:

- 1. Gaining a deep understanding of the company's unique challenges and risks.
- 2. Evaluating policies, procedures, controls, and monitoring mechanisms.
- 3. Preparing detailed reports with actionable recommendations.
- 4. Implementing oversight, reporting, and testing protocols.

The ultimate goal of any monitorship extends beyond completion of terms—it should empower organizations with sustainable tools to identify compliance risks proactively and instill a lasting culture of compliance. A successful monitorship leads to an organization with enhanced compliance capabilities fully integrated into business operations and corporate values, that is equipped to prevent misconduct and brand damage well into the future.