



CORPORATE COMPLIANCE MONITORSHIPS:

THE NEED FOR DATA ANALYTICS

Corporate compliance monitorships are on the rise. The U.S. Department of Justice (DOJ) is pursuing compliance with renewed vigor. Updated DOJ guidance on regulations such as the Foreign Corrupt Practices Act (FCPA) is creating more emphasis on companies' need to incorporate data analytics as part of their internal controls for compliance programs.

While many companies harness the power of data analytics to inform their business and market strategy, the insights yielded by data analytics increasingly serve a critical role in corporate risk management functions, including legal, compliance, and internal audit. More recently, data analytics is becoming an integral part for those companies subject to a corporate monitorship. Likewise, compliance monitors can leverage data analytics to conduct their oversight work faster and more efficiently, while analyzing greater volumes of data than ever before.



Using Technology to Create Efficiencies

Companies under a compliance monitorship have a clear incentive to achieve the compliance remediation requirements and comply with the terms of their settlement agreement as quickly as possible, as monitorships can be a time, cost, and resource intensive process. Using data analytics to assess risks, a monitor can work much faster than employing traditional, manually driven processes—reducing resource constraints and potentially avoiding hundreds of hours of work. Data analytics enable monitors to analyze entire data sets, rather than investigating random or judgmental samples, thereby creating a more thorough and defensible process. And because it is done programmatically, it reduces manual errors and is repeatable and auditable. These features all create efficiencies in time and help reduce costs for the company and can help reduce budget anxiety.

The state of a company's data is key to the use of analytics in monitorships. For organizations without an enterprise resource planning (ERP) system—or those that use multiple systems to log information—understanding the relevant data sources and flow of data, accessing the right data, and ensuring the accuracy and completeness of the data may present a challenge, resulting in a lengthier and costlier monitorship. For a monitor, navigating multiple data repositories is much more cumbersome than working with one system. If a company still relies partly or entirely on physical records, it needs to digitize these documents to realize the benefits of data analytics. A monitor overseeing a company without a centralized or connected ERP system(s) will likely recommend technology enhancements to handle disparate sources of data. Without a properly managed data ecosystem, it will be challenging for the company to assess and monitor compliance risks in the future.

Reviewing a complete set of records also enables a monitor to have greater confidence that they properly reviewed and identified any potential risks relevant to the settlement agreement. If the monitor can only assess a sample of those records, the monitor will not have the same level of confidence that there are no compliance blind spots within the company. The ability to confirm that the terms of the settlement agreement have been met is crucial to concluding a monitorship and allowing the company to focus on its future.

Post-Monitorship Compliance Analytics

Monitorships offer much more to a company than satisfying DOJ requirements, including lasting benefits such as improved policies and procedures, internal controls, and an enhanced compliance culture. The value of compliance analytics and technology will continue to improve corporate compliance programs far beyond the term of the monitorship. Data analytics including visualization tools can provide real-time metrics, prioritize risks for review, and present actionable insights to support an effective compliance program. Benefits of employing compliance analytics include:



Proactively assessing, identifying, and combatting risks



Deploying effective guardrails and understanding emerging risks




Assessing compliance gaps and complying with new regulatory requirements



Using historical behaviors, trends, and patterns to aid decision-making

In some cases, the new and improved compliance programs that are born from monitorships can even serve as models for other companies to adopt.

With corporate monitorships becoming a more frequent compliance mechanism to regulators, companies with good data hygiene, proactive transaction monitoring programs, documented systems and processes, and digitally accessible data will find themselves best positioned should the need for a monitor arise. Even if a company avoids a corporate compliance monitorship, data analytics enables an organization to respond swiftly and confidently to any potential investigation, crisis, or compliance need.



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