

# Practical and Ethical Issues in Internal and Government Investigations

GOVERNMENT ENFORCEMENT INSTITUTE  
SEPTEMBER 2018

## TOPIC AREAS

- ▶ Benefits of a Properly-Conducted Investigation
- ▶ Conducting Internal Investigations – Scope, Securing Documents and Identifying Relevant Data and Employee Interviews
- ▶ Special Considerations Associated with Cross-Border Investigations
- ▶ Steps Forward when the Internal Investigation is Complete
- ▶ Ethical Behavior During an SEC or DOJ Investigation
  - Multiple Representations
  - Joint Defense Agreements

## BENEFITS OF A PROPERLY-CONDUCTED INVESTIGATION

- ▶ Perform root cause analysis of underlying issues
- ▶ Address potential process and internal controls issues
- ▶ Opportunity to remove or sanction wrongdoers
- ▶ Demonstrate commitment to compliance and code of conduct
- ▶ Management review of existing corporate policies for effectiveness
- ▶ Credit from the government for cooperation for corporations with good compliance programs and the disclosure of issues
- ▶ Future credibility from active program of internal investigations
- ▶ Early and accurate assessment of exposure and potential avoidance of formal legal proceedings and expenses
- ▶ Protection for the Board and/or senior management
- ▶ Fulfills duty to investigate report of possible material securities law violation (SOX)

## INTERNAL INVESTIGATIONS SCOPING THE REVIEW

- ▶ Once a company determines an investigation is warranted, steps should be taken to scope the work to be performed.
- ▶ Who Should Conduct the Investigation
- ▶ Who Should Direct the Investigation
- ▶ What is the Role of Outside Auditors

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Effective Management of Internal Investigations

Also available as part of the eCourse

[2018 Government Enforcement eConference](#)

First appeared as part of the conference materials for the

5<sup>th</sup> Annual Government Enforcement Institute session

"Effective Management of Internal Investigations"