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Best Practices for Monitoring Your Securities Portfolio in 2025

By Adam Savett

Let's start with a controversial, but immutable fact – your investment portfolio will suffer a loss as a result of corporate fraud or mismanagement. It is a question of when, not if, your portfolio will suffer such a loss. This is true whether your portfolio is invested in public equities or fixed income instruments.

As fiduciaries, institutional investors have a responsibility to monitor their investment portfolios, protect and maximize their assets, and ensure that no money that should have been awarded to their funds are left unclaimed. If investment funds are lost due to corporate fraud or mismanagement, the institutional investor's' trustees and management are responsible for making best efforts to reclaim those assets if possible.

Institutional investors play a critical role in monitoring, investigating, and recovering funds that have been lost as a result of corporate mismanagement or fraud. What can be done to ensure that your institution is not leaving millions behind in unclaimed awards? How do you ensure that your beneficiaries' or customers' interests are represented and you are exercising the best possible portfolio monitoring practices? And most importantly, how do you do this with the limited resources, time, and knowledge at your disposal?

The answer is to implement best practices for portfolio monitoring. Best practices are the equivalent of compound interest. The same way that money multiplies through compound interest, the effects of best practices multiply as you repeat them. They seem to make little difference on any given day and yet the impact over months and years can be enormous. It is only when looking back two, five, or perhaps ten years later, that the value of good habits and the cost of bad ones becomes strikingly apparent.

The following five items form the best portfolio monitoring practices for limiting unclaimed funds and helping trustees and management carry out their fiduciary responsibilities:

1. Implement a Securities Litigation Policy

The first step is to make sure you understand the steps! Having a written securities litigation policy in place, much like an investment policy, will help ensure that internal and external stakeholders understand the process and their roles in it.

This is necessary no matter how small or large your portfolio is and what type of securities you are invested in, from public equities to fixed income, for separately managed accounts or pooled investments such as mutual funds.

Here, imitation is the sincerest form of flattery. While there is no “one size fits all” policy, you do not need to reinvent the wheel. Peer institutions often have their policy available online and trade groups such as NAPPA, GFOA, NCCMP, and NCPERS are also excellent resources for sample policies.

2. Hire Some Qualified Firms

You wouldn’t hire a podiatrist to perform heart surgery, and you shouldn’t rely on just anyone to help you monitor and protect your investments. There is a pool of qualified firms that specialize in providing portfolio monitoring and securities litigation services to institutional investors. These firms identify and inform funds of portfolio losses due to mismanagement or fraud, provide advice on the appropriate action to take, monitor securities actions impacting funds, and file claims in settled matters.

The retention of outside portfolio monitoring law firms provides an efficient and economically prudent means of monitoring investment portfolios, as their services are generally offered at no out-of-pocket expense to the institution.

Consider using the Request for Proposal (RFP) process as an effective tool for selecting outside counsel best suited to meet your institution’s needs. You will need a clear understanding of the goals of the RFP process, the needs of your institution, and the services you require. Specific information from interested firms should be requested so that you can analyze the monitoring tools and procedures offered by various firms. Outside counsel and consultants can be very helpful in the preparation and review of the RFPs.

3. Maintain Independence

A portfolio monitoring agreement should not be exclusive to any one firm. Rather, advice from multiple firms provides your institution with a range of viewpoints. With the threat of competition among firms, the risk of receiving poor or self-interested legal advice is mitigated. Further, if your institution decides to take legal action, multiple firms are forced to compete on price, resulting in the best deal for your institution.

Additionally, decision-making authority should always belong to your institution. This demonstrates that your institution is informed, actively engaged, and that the advice received from outside counsel is disinterested and not frivolous. While your institution may seek advice from counsel, it is ultimately the institution’s decision as to whether to bring legal action, or any other action, in response to fraud or mismanagement that has been detected in your portfolio’s investments. In such instances, the determination of who to retain should solely be left to your institution.

4. Knowledge is Power

Your institution should receive regular updates from monitoring firms that includes relevant information about your institution’s portfolio, including investment losses, the cause(s) of any such losses, potential claims, and legal options available. Understandability and customization options can be key differentiators between firms or platforms.

Steps should be taken to ensure that current service providers (e.g. custodial banks) or potential new service providers will be able to provide accurate and accessible documentation on your purchasing and trading histories for securities owned or previously owned by your fund. This assists in determining your institution's eligibility for new matters and in settlements. Given settlement notices may not be sent until years after the initiation of litigation, documentation must be held and maintained for long periods in order to submit valid claims. A robust monitoring platform should be able to maintain these records.

5. File Those Claim Forms, Or Else

Millions of dollars from class action settlements remain unclaimed every year. To ensure your institution is not foregoing settlement money, a designated person or entity (such as a custodial bank) should monitor all settlements, regardless of whether your institution is a party to the lawsuit. This ensures that your institution is made aware of any settlements impacting it, has time to consider all options in response (including to opt out or file a claim), and allows you to respond in a timely fashion to meet all eligibility requirements and deadlines.

The institution will be leaving money on the table if it cannot accurately determine how much it lost, filing deadlines, or if other information slips through the cracks. But, the submission of proof of claim forms must meet strict deadlines and requires documentary evidence to support your claim. Understanding the intricacies of the claims process and submitting the appropriate forms takes time and expertise. The best practice for avoiding forfeiture of eligible claims is to designate a person or entity (such as a custodial bank) to handle the submission of all proof of claim forms on behalf of your institution.

Starting 2025 by following the five practices above will provide institutional investors with the best practices for monitoring investment portfolios, upholding fiduciary duties, and ensuring that members' interests are adequately protected.

About the Author

Adam Savett, Of Counsel

Adam Savett joins Wolf Popper LLP with more than two decades of experience representing and advising some of the largest and most sophisticated institutional investors, government entities, individuals, and businesses in securities, antitrust, consumer protection, and other complex litigation.

Adam is a nationally recognized leader on complex litigation, class actions, and settlement claims filing. He is a frequent speaker, author, and commentator on class actions and securities litigation, and his comments have appeared in a wide variety of publications, such as The New York Times, Wall Street Journal, CFO Magazine, and Pensions & Investments.

Adam was previously named one of the 100 Lawyers You Need to Know in Securities Litigation by Lawdragon Magazine and has been an invited speaker before numerous industry groups, including the Federal Judicial Center (FJC), National Conference on Public Employee Retirement Systems (NCPERS), Bank Depository Users Group (BDUG), National Council on Teacher Retirement (NCTR), Association of Global Custodians (AGC), and SIFMA's Global Corporate Actions Forum.

About Wolf Popper LLP

Wolf Popper is a leading complex litigation law firm that represents clients in high stakes individual and class action litigations in state and federal courts throughout the United States. The firm specializes in securities fraud, mergers and acquisitions, consumer fraud litigation, healthcare litigation, ERISA, and commercial litigation and arbitration. Wolf Popper was founded in 1945, and is headquartered in New York City. Wolf Popper also has offices in Houston, Texas; Chicago and Springfield, Illinois; Boston, Massachusetts; and San Juan, Puerto Rico.

Wolf Popper's attorneys are experienced litigators, many of whom have prior experience at AmLaw 100 firms or in government agencies. Wolf Popper's reputation and expertise has been repeatedly recognized by courts, which have appointed Wolf Popper and its attorneys as lead counsel in complex litigations throughout the country. Over the past seventy-five years, Wolf Popper has recovered billions of dollars for its clients.

Wolf Popper was one of the first laws firms in the United States to develop a class action securities litigation practice. The practice was founded in 1958, and grew out of the Firm's historical commitment to protecting the rights of individuals. Wolf Popper's long-established role in the securities bar provides its clients with an understanding and insight into federal securities and state fiduciary duty laws that could only be obtained through years of practice in the fields.

Wolf Popper provides a range of services which are designed to aid shareholders seeking to recover damages related to fraud and other corporate misconduct, as well as shareholders who seek to advocate for improved corporate governance.

Wolf Popper routinely represents damaged and defrauded institutional and other large investors in class action and individual securities litigations. Wolf Popper is regularly appointed lead or co-lead counsel in complex securities litigations. Wolf Popper is very selective in the cases it litigates. The Firm's careful factual and legal research and selective prosecution has resulted in a significant percentage of the securities litigations in which the Firm is involved being sustained over, or being settled prior to a decision on, a motion to dismiss. Wolf Popper regularly litigates cases alleging materially false and misleading statements in violation of the federal securities laws, as well situations involving as other corporate misconduct, such as (i) excessive compensation being paid to a company's management; (ii) self-dealing transactions between a company and its management or directors; or (iii) where a majority/controlling shareholder seeks to cash out the public, minority shareholders at a grossly unfair price or in a manner that compromises the process necessary to ensure that the public shareholders are treated fairly.

Wolf Popper's portfolio monitoring service aims to educate the Firm institutional investor clients about securities litigation and corporate misconduct issues that impact their investment portfolios. The Firm provides monthly and case specific reports related to current litigations and disclosures of potential fraud or other corporate misconduct. Wolf Popper also provides clients with monthly reports of recently reached class action settlements to help clients identify settlements in which they might be entitled to participate.

Wolf Popper serves as a trusted advisor to institutional shareholders, and strives to help board members, directors, administrators, and other fiduciaries meet their duties and responsibilities to protect fund assets and mitigate the risks and liabilities. Wolf Popper represents a number of state, county, and municipal pension funds as well as Taft-Hartley plans and other sophisticated institutional investors. Wolf Popper's portfolio monitoring services are provided to institutional investors at absolutely No Out-of-Pocket Cost and Risk Free. Wolf Popper provides litigation services to institutional investors on a contingent fee and non-recourse basis.

Wolf Popper has a long history of representing international clientele. Wolf Popper's office in San Juan, Puerto Rico provides the firm with a gateway to the civil law system in Latin America and Europe; Wolf Popper has working relationships with firms throughout those jurisdictions. Latin American institutional investors worldwide can expect fully bilingual services in portfolio monitoring and securities litigation from diverse and experienced attorneys.

Wolf Popper's founders always recognized the value of a workforce comprised of talent across the demographic spectrum. The Firm has been committed to diversity and inclusion and gender equality since its inception and is proud to continue to embrace that tradition of inclusion to the benefit of the Firm and the clients we serve.

To learn more, please visit us at *www.wolfpopper.com*, or email us at *outreach@wolfpopper.com*.

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