

Senators Object to Any Delays in Pay Ratio Disclosure Requirements

March 22, 2017 | Client Update | 2-minute read

A group of senators [have written](#) to SEC Acting Chair Piwowar opposing any delay in the implementation of the pay ratio rules. The senators are “extremely troubled” by Commissioner Piwowar’s decision to seek additional comments on the rule, and his directive to the staff to reconsider the rule’s implementation, which we previously discussed [here](#).

The senators note that the statute requiring the rule was passed nearly seven years ago, and during the proposal stage the SEC received more than 270,000 letters, including many from investors in support of having the information as a way to assess companies’ approaches to executive compensation and human capital. The senators argue that the disclosure helps investors evaluate a CEO’s value creation, and facilitates “better checks and balances” against insiders “paying themselves runaway compensation.” The letter goes on to cite the oft-quoted statistic that CEO pay at large companies has risen 997% from 1978 to 2014 while the compensation of non-supervisory employees rose about 11%.

Unfortunately, the senators seem to believe that the pay ratio disclosure will give investors insight into situations where a company’s performance improves but “only the CEO is rewarded,” or when a CEO “asks for a raise while giving other employees a pay cut.” It is unclear how the disclosure of one employee’s compensation, measured as required under SEC rules that were designed for executive pay components, could possibly accomplish those objectives.

The senators express concern that Commissioner Piwowar’s decision to open the rule up for comment is “solely intended to discredit the rule and generate momentum to repeal the statutory requirement,” since they believe that the final rule already addresses cost concerns and is appropriately flexible. They are also “alarmed” that the commissioner’s remarks appear to solicit comments from issuers only. While Commissioner’s Piwowar’s public statement does focus on compliance challenges and issues that companies are facing, and whether companies need regulatory relief, that is the only new development and data point about the rule since it was adopted.

The letter asks the commissioner to retract his statement opening a new public comment window and includes an expectation that the SEC will permit implementation without further delay. The letter was signed by Senators Menendez (N.J.), Reed (R.I.), Warren (Mass.), Hollen (M.D.), Durbin (Ill.), Merkley (Ore.), Franken (Minn.), Sanders (Vt.) and Booker (N.J.).

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

Ning Chiu

+1 212 450 4908

ning.chiu@davispolk.com

This communication, which we believe may be of interest to our clients and friends of the firm, is for general information only. It is not a full analysis of the matters presented and should not be relied upon as legal advice. This may be considered attorney advertising in some jurisdictions. Please refer to the firm's privacy notice for further details.