

Gender Pay Gap Becomes a Proxy Season Issue

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The White House recently announced an initiative by 28 companies that have pledged to conduct annual gender pay analysis, similar to a shareholder proposal this proxy season that received a fair amount of press attention.

Arjuna Capital sent proposals to nine major technology companies, including Apple, Alphabet, Facebook, Intel and Microsoft, asking them to prepare reports on their policies and goals to reduce the gender pay gap. This was defined as the difference between male and female earnings expressed as a percentage of male earnings. According to the proposal, the median income for working women is 78% that of their male counterparts.

The SEC staff denied several companies' initial efforts to exclude the proposal on the basis of vagueness. At one company where the proposal went to a vote, it received 51% support in favor, highly unusual for a social proposal.

Nearly all of the other companies got the proposal withdrawn by the proponent after they agreed to provide information on their gender pay differences. Those that already reported stated that there is no pay gap, or a very negligible gap, between men and women who work at the same job-grade level. Some companies included salary and stock while others excluded stock. Exact methodologies were generally not provided. Two companies released their information to coincide with National Equal Pay Day (April 12).

Although almost all of the press has been favorable in light of the results, some in the media criticized the companies for obscuring the types of jobs women tend to work, finding that men are more likely to hold higher-paying tech positions. In addition, women make up around a quarter or less of the senior leadership at these companies.

GoDaddy, a company that did not receive a gender pay shareholder proposal, makes public an [interesting report](#) that gives a bit of detail and some self-reflection. It found that while women and men are generally paid close to parity when analyzed by pay grade, women make less in management positions. The company indicates that it is committed to understanding the cause of the gap so that it can make changes, and speculates that "theories on the gap include potential differences with time-in-role, promotion pacing and attrition." Another potential cause may be what the company calls "paying it backward," when a new candidate's salary is based in part on previous compensation and that gap follows women as they change jobs.

More companies may be providing this type of pay data, at least privately, by September 2017. The President has proposed a rule that would require any business with over 100 employees to share compensation information based on race, gender and ethnicity by job category with the Equal Employment Opportunity Commission.

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.

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