

CEO Pay Ratio Rule in the Crosshairs of Congress, SEC; Relief Could be Slow

The CEO Pay Ratio rule is the most likely compensation-related Dodd-Frank provision to be repealed. We analyze pending actions addressing the rule and how companies can respond.

The much-maligned CEO pay ratio rule—a requirement to disclose the ratio between the CEO’s annual compensation and that of the median employee—is at risk of a dying a slow death, leaving companies to figure out what to do.

The SEC issued a [statement](#) on February 6 saying it was opening a 45-day comment period for issuers to submit detailed comments on difficulties they are encountering in their efforts to comply with this upcoming disclosure requirement.

“It is my understanding that some issuers have begun to encounter unanticipated compliance difficulties that may hinder them in meeting the reporting deadline,” SEC Acting Chair Michael Piwowar said in the statement. “I have also directed the staff to reconsider the implementation of the rule based on any comments submitted and to determine as promptly as possible whether additional guidance or relief may be appropriate.”

Since the new administration in Washington took office with a pledge to reverse the Dodd-Frank Act, pundits speculated that the pay ratio disclosure would be the first of the compensation rules on the chopping block. Government action is notoriously slow, and the clock is ticking down to the date that the rule is scheduled to go into effect, January 1, 2018.

The SEC’s statement follows a Presidential [executive order](#) that requested the Treasury Secretary to consult with the heads of the agencies of the Financial Stability Oversight Council, including the SEC, and report to the President within 120 days on any laws and regulations that “inhibit Federal regulation of the United States financial system in a manner consistent with the Core Principles.” Those principles include individual financial empowerment, corporate competitiveness, and fostering economic growth through rigorous regulatory impact analysis.

Another path of repeal could come from Congress. The [Financial Choice Act](#), which would repeal the CEO Pay Ratio Rule, among others, passed the House Financial Services Committee last year, and will be the template for the House to take action to roll back Dodd-Frank items. However, the bill will need 60 votes to pass in the Senate, which is seen as unlikely.

Next Steps

HR leaders, accounting and finance management, the General Counsel's office and Compensation Committee members tasked with preparing for the Pay Ratio Rule are left in limbo right now. We encourage our clients that anticipate having undue costs and resources diverted toward complying with this rule to take advantage of the 45-day SEC comment period. While it's a likely outcome that the rule will be amended, delayed or repealed, if your organization hasn't yet begun to prepare to comply, if it remains intact, you could be left scrambling at the last minute. Alternatively, it is possible that activist investors that support the rule, such as labor funds, could file shareholder proposals requesting CEO pay ratio disclosure, or they could pressure companies in other ways for such information.

For more information about how to take steps to prepare for the rule, please see our articles [*Four Steps to Tackling the CEO Pay Ratio Rule*](#) and [*In Calculating Your CEO Pay Ratio, Relativity to Peers is the New Math*](#).

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