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Acting SEC Chair Signals Possible Delay in Implementation of Pay Ratio Rule

Yesterday, Acting Securities and Exchange Commission (SEC) Chair Michael Piwowar issued a public statement in which he has asked for comments about delaying the implementation of the CEO pay ratio rule.

Under current rules, the CEO pay ratio rule became effective this year, with the first disclosure of the pay ratio reported in 2018 proxies. No further action was required or anticipated by the SEC on the pay ratio rule.

To the surprise of some, Acting SEC Chair Piwowar has suggested the SEC is prepared to reconsider the CEO pay ratio rule. Citing “unanticipated compliance difficulties that may hinder [companies] in meeting the reporting deadline,” Mr. Piwowar has requested public comment within the next 45 days on whether regulatory relief is needed to assist companies in complying with the rule. In that regard, Mr. Piwowar has 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.

Meridian Comment. Based on Mr. Piwowar’s comments, should public companies assume that the CEO pay ratio will be delayed or rescinded? In the near term, the conservative answer is no. Currently, the SEC is gridlocked with one Republican and one Democratic Commissioner. Until the U.S. Senate confirms SEC Chairman nominee Jay Clayton, this gridlock will prevent the SEC from moving forward to address public comments for regulatory relief.

Despite the likely lack of near-term relief, Mr. Piwowar’s statement remains significant and provides hope for delay or ultimate repeal of the CEO pay ratio. For the first time since the election, an SEC official has commented directly on the CEO pay ratio. While it is unclear whether Mr. Piwowar issued his statement with input from Trump administration officials, it may suggest that the Trump administration is amenable to altering the status quo with regard to the CEO pay ratio. Whether that means outright repeal, delay or modification of the rule remains to be seen. However, given the Trump administration’s strong focus on deregulation, outright repeal remains a clear possibility.

We do suggest that public companies that are having significant issues with complying with the CEO pay ratio rule, or where the costs are burdensome, provide that feedback to the SEC within the 45-day deadline.

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The ***Client Update*** is prepared by Meridian Compensation Partners' Technical Team led by Donald Kalfen. Questions regarding this Client Update or executive compensation technical issues may be directed to Donald Kalfen at 847-235-3605 or dkalfen@meridiancp.com.

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