# RISK INTELLIGENCE ALERT

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## PUBLIC COMPANIES IN THE U.S. MUST DISCLOSE THEIR CEO PAY RATIOS IN 2018 PROXY STATEMENTS

A new rule mandated by the Dodd-Frank Act requires all public companies to disclose the ratio of the compensation of its chief executive officer to the median compensation of its employees, beginning with companies' 2018 proxy statements. This rule, strongly advocated by labor unions and allies, was intended to invite a debate among shareholders, workers and the public on corporate compensation – and it will.

Media and employee interest in company disclosures will be particularly high. Here is a communications check-list for companies to consider as they meet this new requirement:

> "Companies must anticipate a robust conversation around their CEO pay ratio among the public and key stakeholders. None will be more important than employees who will compare their pay against the CEO and company workforce. Communications planning must be led with an employees-first mindset."
>
> **MICHO SPRING, CHAIR, GLOBAL CORPORATE PRACTICE**

**Get ready now.** On September 21, the Securities & Exchange Commission (SEC) provided interpretive guidance to assist companies in preparing their disclosure. Companies should work to complete their analysis before the end of 2017. This will give sufficient time to run models and analyze the potential impact of the methodology they use for determining the CEO pay ratio. It will also provide time to draft internal human resources and public relations materials that will help communicate with employees who will have an interest in understanding where they stand relative to the company's total workforce. Legal, HR and communications teams should all be working closely together.

**Be clear and concise.** The SEC guidance on the rule requires companies to "briefly describe" their CEO pay ratio. A proxy statement is not the vehicle for a detailed discussion of CEO and employee compensation. It is expected that many companies will end up with a statement that fits into a single paragraph.

**Details – and transparency – are required.** Even within a brief submission, the SEC is requiring companies to disclose the methodology used to identify the median, as well as to disclose any exemptions, assumptions, adjustments or estimates used in identifying the median and determining total compensation. Transparency is not only a requirement but a good communications strategy. Employees and stakeholders should be confident that the company is being forthright in its disclosure.

**Anticipate political and media interest.** Since the rule is new for 2018, some public disclosures will be highly publicized and scrutinized by a variety of constituencies, including the SEC, employees, labor unions, customers, industry analysts, elected officials and media. In advance of its disclosure, a company should have a communications plan and messages ready to engage all key audiences. CEOs will need to be prepared for questions that might arise on quarterly earnings calls, at an annual shareholder meeting, or in public forums.

**Consider employees first.** Employees may not understand the CEO ratio when it is published. It may be helpful to prepare communications that frame the company's narrative and provide a context for workers. This may be especially important for employees who will learn they are paid below the company's median, and as a result, may feel their importance to the company is underappreciated. There may be value in training managers who will be on the front line of conversations with workers, focusing on how to answer employee questions without being defensive or dismissive. In addition, senior leaders and the Board of Directors should understand what the CEO pay ratio means, how it compares with other companies, and how to respond to public or private questions about the company's disclosure.

**Stay true to company values.** This new rule was intended to spark a dialogue. Once the company pay ratio is determined, analyze how it measures up against the company's values and whether steps are needed to make a change. By opening up listening channels, HR and communications teams can be tuned into employee reactions and feedback, and respond appropriately.

**Avoid commenting on other companies.** CEO pay ratios are expected to vary greatly by business sector, global reach and number of employees. While it may be helpful for a company to understand how it compares with its peers as its seeks to attract and retain a skilled workforce, companies will want to avoid public comments about other companies.

**KEEP IN MIND: MEMBERS OF CONGRESS WILL BE PAYING CLOSE ATTENTION AS THEY CAMPAIGN AHEAD OF THE 2018 MID-TERM ELECTIONS.**