



## Gender pay gap – a new frontier?

### Quarterly Governance Review

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By:

Stockholder proposals regarding gender pay equality have been proposed at several large companies during this year's proxy season, particularly among technology companies.

These proposals generally ask that the subject company prepare a report that includes the percentage pay gap between male and female employees, discusses policies that address that gap, and provides quantitative reduction targets for the gap. One particular organization has submitted the majority of these proposals.

Except where the company has procedural grounds on which the proposal can be excluded (e.g., untimely notice to the company), the SEC has denied all requests for no action made by companies looking to exclude these proposals from their proxy materials.

Nevertheless, stockholder proposals at five large companies have all been withdrawn after dialogue with the proposing stockholder led the company to adopt new gender pay equality policies. Only a few companies have had stockholders vote on such a proposal. In 2015, a gender pay equality proposal at a large oil and gas company received only 6 percent of the votes cast. In 2016, however, a similar proposal at a large e-commerce company received a majority of the votes cast, although it ultimately failed due to abstentions being counted against it.

#### **Action items**

Companies should be aware that these types of proposals are gaining more traction, and interest from the media, and plan accordingly.

- Review current pay practices and compliance with existing labor laws.
- Figure out if any of the investors who have been making these demands is a significant shareholder in your company.
- Consider proactively conducting a pay equity study under legal privilege to preempt or address any requests that your shareholders may make at a later date.

Find out more by contacting your regular DLA Piper lawyer.