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# Gender Pay Equity – What do Directors and Executives Need to Know?

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In January 2018, gender pay equity took a national stage as news outlets reported on the dramatic disparity in pay between actress, Michelle Williams, and her male co-star, Mark Wahlberg. Ms. Williams received only \$1,000 for re-shooting scenes for the film *All the Money in the World*, while Mr. Wahlberg received \$1.5M, meaning that a male employee made 1500x his female counterpart. While the pay disparity in corporate America may not be as stark, and the employees not as famous, this example is illustrative of the type of pay inequity that has become a topic of discussion across industries. This CAPintel summarizes the current state of the conversation around gender pay equity to provide context to executives and directors as they begin to have these discussions at their organizations.

## Key Takeaways

- Several institutional investors have specifically pushed gender pay equity into the limelight by engaging companies and requesting that they disclose their gender pay statistics
- CAP's research finds that female representation among top 5 Named Executive Officers (NEOs) is limited; less than 50% of the companies in our sample had a female among the NEO group
- Among companies with female NEOs, non-CEO female pay was 87% of their non-CEO male counterparts at median
- 7% of companies had a female CEO. Among this small sample, median total compensation was 23% higher than median total compensation for male CEOs
- Mandatory gender pay gap disclosure went live in the U.K. in 2018 and the data supports unequal representation of women in higher paying roles
- While disclosure is not required in the U.S., momentum is building among both institutional investors and state legislatures to act to prevent pay inequity
- In CAP's view, the focus on gender pay equity is not an isolated event, but part of a larger movement toward establishing greater equality and diversity in work environments

## Background

Gender pay equity is a topic being discussed in the news and across corporate America. In the U.S., the pay of working women is 80% of the pay earned by males, according to the Institute for Women's Policy Research. Boards of directors and chief executive officers have become increasingly focused on promoting equality and diversity initiatives as institutional investors have incorporated board diversity and other Environment, Social and Governance (ESG) issues into their proxy voting guidelines. Several institutional investors have specifically pushed gender pay equity into the limelight by engaging companies and requesting that they disclose their gender pay statistics. Individual states and cities in the U.S. are taking steps to prevent future pay inequity.

Outside the U.S., several countries, including the U.K., Nordic countries, Germany and Australia, have adopted laws requiring organizations to disclose, or in some of the more aggressive cases eliminate, their gender pay gaps. These laws highlight that companies around the world need to be thinking about the pay disparities that exist within their organizations and try to understand the underlying issues that cause these disparities.

## Gender Pay Equity in the U.S.

In recent years several institutional shareholders have helped bring gender pay equity to the forefront by pressuring large public companies to voluntarily disclose statistics regarding the gap between wages for men and women. One institutional investor, Arjuna Capital, has effectively targeted companies through gender pay equity-related shareholder proposals since 2016. While none of these shareholder proposals received majority support, 21 companies have disclosed or committed to disclose gender pay gap information. Among the companies that have disclosed to date, many of which are from the financial services and technology industries, the disclosures generally reveal a wage gap of 0-1% for men and women in comparable roles and locations.

These reports seem to indicate that these companies have done a lot of work to close the gap in wages for men and women in the same job function; however, these voluntary disclosures do not include information about the number of men and women in each comparable pay band. As a result, it is unclear how successful companies have been in addressing the structural issue of inequitable representation of men and women in leadership roles and other high paying jobs, a factor viewed as contributing to overall gender pay inequity.

To date, it is not clear how major institutional investors and proxy advisory firms will use this information. In their 2018 policy updates, Institutional Shareholder Services (ISS) introduced guidelines on how they will assess shareholder proposals related to gender pay equity. Considerations include:

1. The company's current policies and disclosure related to both its diversity and inclusion policies and practices, its compensation philosophy and fair and equitable compensation practices,
2. Whether the company has been the subject of recent controversy or litigation related to gender pay gap issues; and
3. Whether the company's reporting regarding gender pay gap policies or initiatives is lagging its peers.

## U.S. Public Company Gender Pay Equity among Named Executive Officers (NEOs)

To get a sense of the current state of gender equality with respect to both pay and representation in leadership among U.S. public companies, CAP analyzed the compensation of top executives at 150 companies with revenues greater than \$19B, as disclosed in the Summary Compensation Table in 2017/18 proxy statements. Among our sample, we found that:

- 7% of companies had a female CEO. Among this small sample, median total compensation was 23% higher than median total compensation for male CEOs
- 53% of our sample had a male-only NEO group
- Among the remaining 47% of companies, non-CEO female NEOs made 87% of their non-CEO male NEO counterparts at median. CAP arrived at this finding by calculating the ratio between average female non-CEO NEO pay and average male non-CEO NEO pay for each company with at least one female NEO, excluding those where the only female NEO was the CEO.

The NEO pay gap directionally aligns with the average median pay gap reported in the news. CAP's analysis did not control for other circumstances that inform pay levels (e.g., job function, tenure, individual performance, etc.); however, these findings provide further support that the disparity in pay between men and women is, in many cases, attributable (at least in part) to the lack of female representation in top leadership positions at many organizations.

## Gender Pay Equity in the U.K.

In February 2017, the U.K. government adopted rules requiring "relevant employers" with more than 250 U.K. employees to publish gender pay gap data for those employees located in the U.K. by April 4, 2018. The rule requires approximately 9,000 employers in both the private and public sectors to disclose the following:

- Mean and median gender pay equity gap in hourly pay
- Mean and median bonus gender pay gap
- Proportion of males and females receiving a bonus payment
- Proportion of males and females in each pay quartile

On April 5, the day after the filing deadline, the Financial Times reported that the average reported median pay gap between men and women was approximately 10%. We have seen that this gap varies by company and industry. For example, several large financial services companies have reported median pay gaps that are notably larger than average.

Unlike the voluntary disclosures in the U.S., U.K. companies do not have any flexibility in calculating these statistics because the rules are very prescriptive. Where U.S. disclosures have shown the pay gap between male and female employees in substantially similar roles, U.K. disclosures are required to disclose statistics for all U.K. employees regardless of role. While the reporting coming out of the U.K. does not tell us if men and women are receiving the same pay for the same work, it does tell us that men are, overall, earning more than women, indicating that there are more men in higher paying roles than women.

To address this point, many companies try to explain the “why” behind their reported figures. These explanations tend to support the notion that a greater proportion of male employees are in higher paying roles than their female counterparts. Specific rationales include:

- More men are in senior roles
- Fewer men are in part-time roles that tend to pay less
- More men are bonus eligible

Some organizations went further and disclosed how they plan to address the disparity including diversity targets that they plan to achieve in the next 5 to 10 years.

## Anti-discrimination Laws in the U.S.

While U.S. regulators have not adopted gender pay equity disclosure requirements, several states and cities have passed, or have proposed, legislation aimed at preventing future pay inequity. These laws generally aim to accomplish this goal by prohibiting employers from inquiring about a prospective employee’s salary history among other provisions.

For example, in Massachusetts, the Act to Establish Equal Pay includes the following requirements:

1. Employers may not inquire about salary/benefits history before extending an offer;
2. Employers may not prohibit employees from talking to co-workers about wages/benefits;
3. Employers must pay women based on competitive market rates and not salary history.

Laws in most other states and cities contain similar provisions to the Massachusetts law. One recent outlier is New Jersey’s Equal Pay Act, which passed the legislature on April 10, 2018 and is considered among the most rigorous. The law requires equal pay for “substantially similar work” and allows employees to seek up to six years of backpay for discriminatory pay practices.

## Conclusion

In CAP’s view, the focus on gender pay equity is not an isolated incident, but part of a larger movement toward establishing greater equality and diversity in work environments. Research supports that organizations with greater gender diversity are stronger financial performers. While many organizations have initiatives to promote and achieve a better gender balance, accountability and tone from the top is important to achieving those goals.

While the U.S. may not have prescriptive national legislation in the near term, we expect that institutional shareholders will continue to push for companies to voluntarily disclose diversity statistics, including gender pay gaps. It will be important for companies to be able to assess the state of their gender pay gap, and to diagnose the underlying issues that cause any identified disparity in pay between male and female employees. We view the current spotlight on gender pay gaps as the first step towards addressing equality in pay as well as the more structural issue of representation across all levels in the organization.



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