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March 23, 2017

Acting Chairman Michael S. Piwowar
U.S. Securities and Exchange Commission
SEC Complaint Center
100 F Street NE, Washington, D.C. 20549-0213

Re: Statement on Reconsideration of Pay Ratio Rule Implementation

Dear Chairman Piwowar:

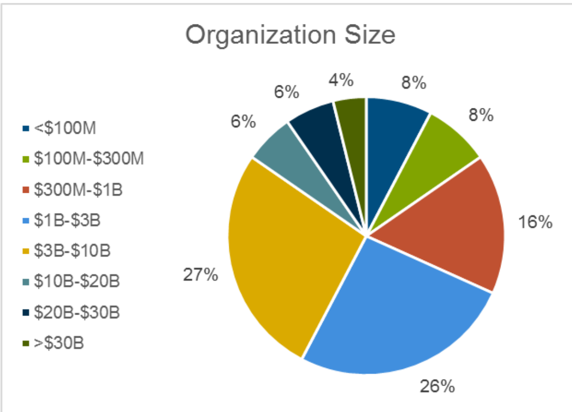
Pearl Meyer & Partners, LLC ("Pearl Meyer") is pleased to submit additional comments to the Securities and Exchange Commission with respect to implementation of the Section 953(b) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Act") regarding the CEO Pay Ratio disclosure requirement.

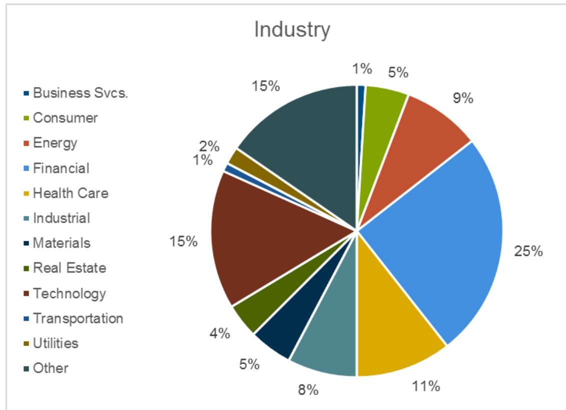
By way of background, Pearl Meyer is one of the nation's leading independent compensation consulting firms, serving board compensation committees as advisors and assisting companies in the creation and implementation of innovative, performance-oriented compensation programs to attract, retain, motivate, and appropriately reward executives, employees, and board directors. We help boards and committees establish and maintain sound governance practices, particularly as this relates to executive and director pay decision-making. Since its founding in 1989, Pearl Meyer compensation professionals have advised hundreds of organizations in virtually every industry, ranging from Fortune 500 companies to smaller private firms and not-for-profit organizations.

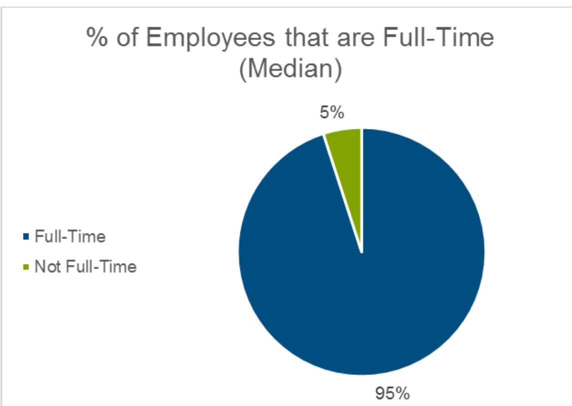
<u>Client Survey – Overview</u>

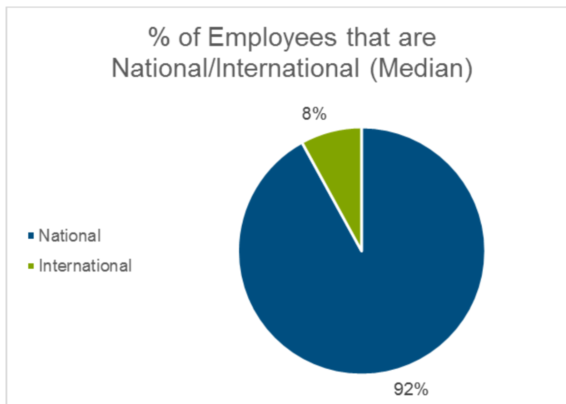
On February 6, 2017, the Commission solicited additional public input on any unexpected challenges that companies may have experienced in preparing for compliance with the rule, which for most companies would be in early 2018. In addition to providing the Commission with our own observations, we submitted a survey to our client base to collect specific data points pivotal to this question. Each client that chose to participate was asked to provide detailed information about the level of effort in terms of individual hours required to comply, costs associated with compliance, and other intricacies they have experienced to date.

We received survey responses from approximately 150 companies that each employ between 300 and 10,000 employees. These employee populations reside in between one and 18 countries. Roughly 80 percent of the surveys were completed by members of management and 20 percent by compensation committee members. Specific demographics of survey participants are as follows:









The remainder of this letter summarizes our view of the impact of this rule as compensation professionals, as well as offers key findings from both our interactions with our clients and their specific survey responses. (Direct quotes from participants are noted in *red*.)

Conclusions and Findings

High Costs of Compliance

While the SEC has attempted to provide flexibility in determining the median employee, we believe that the compliance costs will be even greater than the SEC's estimated cost. The data gathering process to determine the median employee is burdensome and costly because pay information must generally be captured for full-time, part-time, temporary, seasonal, and overseas workers, and even in some cases those traditionally thought of as independent contractors. After having run through the pay ratio exercise twice, one respondent claimed that "*the only thing this rule has done is cost an insane amount of money....we already disclose what every CEO makes and allow shareholders to voice their displeasure in executive pay via a vote. [This process] will do nothing to add to that, except cost companies hundreds of thousands of dollars and hundreds of man hours."*

On average, survey participants indicate that at least four individuals internally and at least one to two outside service providers were needed to work on the pay ratio computation in the first year, with costs averaging roughly from $45,000 per company up to $300,000. In some cases, this number did not include time needed to draft and communicate the actual disclosure narrative.

Anticipated Costs do not Diminish Significantly over Time

While the CEO Pay Ratio rule does allow companies to use the same median employee for three years absent extenuating circumstances, survey respondents do not believe that costs of computing and disclosing the pay ratio will significantly diminish over time. Roughly 40 percent of respondents believe that costs will stay the same in subsequent years, 30 percent believe there may be a small decrease in cost, and the remaining respondents believe cost savings could be somewhat higher in subsequent years. However, costs savings are only anticipated to the extent that the median employee remains the same from year-to-year, which will only be possible in the two interim years (or fewer if employee demographics are altered).

Inequitable Cost Burdens on Some Companies and Industries

In general, it appears that compliance costs will vary according to company size and industry.

Medium-sized companies may bear the proportional highest costs. The median cost for smaller participants (i.e., those under $1B) is around $10,000, but seems to increase with company size. The median cost for companies between $1B and $10B is around $20,000, and from $10B to $30B approximately $125,000. However, the largest companies anticipate a smaller cost than the midrange companies, with a median anticipated annual cost of roughly $60,000. One conclusion that may be drawn from this data is that costs increase as company complexity (size, location, employee demographics, etc.) increases, but may decrease once the company is over a certain size due to more centralized reporting systems and stronger in-house resources available. In any event, it appears that there is some disparity of cost that is not directly related to size and could unfairly penalize certain companies.

Total cost (internal + external) according to organization size

	<$1B	$1B $10B	$10B $30B	>$30B
50th	$9,500	$20,000	$125,000	$57,550
Average	$18,856	$44,625	$148,000	$58,775

<u>Costs may be higher in companies that inherently require more labor</u>. Anticipated company costs also seem to vary by industry. At median, higher anticipated costs are noted in the materials and utilities industries, while those in the business services and financial sectors are generally lower.

Total cost (internal + external) according to industry

	Business Svcs.	Consumer	Energy	Financial	Health Care	Industrial	Materials	Real Estate	Tech.	Transportation	Utilities	Other
50th	$10,000	$60,000	$10,125	$10,000	$50,100	$17,500	$90,000	$22,500	$17,000	$50,000	$129,500	$15,500
Average	$10,000	$71,667	$44,208	$32,422	$73,160	$30,000	$69,333	$26,250	$53,004	$50,000	$129,500	$31,358

<u>Costs may be higher with companies that employ larger part-time workforces</u>. Finally, costs are anticipated to be noticeably higher in companies that employ more part-time employees.

Total cost (internal + external) according to % of workforce that is full-time

	≤90% FT	>90% FT
25th	$6,875	$8,500
50th	$32,500	$14,500
75th	$86,250	$23,125

One survey respondent with a high proportion of part-time employees stated, *"Given our company with a high percentage of part-time and/or hourly workforce - comparing the CEO to the median employee (which would likely end up being an hourly employee) will in no way provide a meaningful data point. We ensure our employees are paid according to market and irrespective of any perceived gap between the CEO and hourly/part-time workers, would struggle to justify changing the pay practices based on this information. It likely would not even be taken into consideration when trying to understand our pay practices with respect to a given market."*

In sum, the pay ratio disclosure will unjustly penalize some companies more than others in terms of anticipated cost.

Rule Flexibility Creates Additional Costs

The SEC intended to build some flexibility into the rule by providing certain exclusions in the final rules. At least 40 percent of respondents indicate that they may take advantage of such exclusions (i.e., de minimis and data privacy exceptions). However, such flexibility will come with a price, with respondents estimating that analysis of additional exclusions could cost up to $50,000 a year.

No Benefit to Investors

The vast majority of survey participants seem to believe that the CEO Pay Ratio rule provides no benefits to shareholders or potential investors. When asked on a scale of 1 to 5 how helpful the new disclosure would be to investors (1=not helpful and 5=very helpful), **the average rank was 1.3**.

Many survey respondents indicate that they *"did not see any value in this process for shareholders,"* compliance is *"a lot of work for no value,"* and that *"value to shareholders will be bordering on useless."* Another responded said *"there is very little value-add for providing meaningless data to the federal government."* In fact, many clients believe the information will negatively impact current or potential investors' ability to make informed decisions. We believe that there is simply no meaningful way to compare one company's pay ratio to another due to significant differences in employment, organizational structure, and the overall approach to compensation. The ratio will inevitably vary widely among industries or businesses without any relevance to the financial or long-term performance of any particular company.

Inappropriate Comparisons and Headlines

Given the flexibility to determine the median employee, comparisons across companies and industries will not be possible. As a company that specializes in collection and analysis of large quantities of data, Pearl Meyer does not believe that the information produced as a result of the rule will provide any valuable insight into management pay practices. In fact, we believe this information will be a disservice to shareholders and investors who may not fully understand the complexities of the rule, but make investment decisions on its basis. One survey respondent stated *"this is a worthless measure even if simply comparing vs. peers or on a year-over-year basis. Companies are constantly evolving and reorganizing and a high or low ratio doesn't tell you anything and isn't 'good' or 'bad'".* Another stated "*This rule is foolish. There are no two companies that are exactly alike, and comparisons will be drawn without any objective review."* A respondent with a large overseas population reported that *"Global differences in pay types and amounts, as well as differences between the blend of roles at different companies, make this number meaningless."*

Simply stated, our clients do not believe there will ever be a legitimate use of the rule. The rule will result in a single headline number that will grossly oversimplify compensation practices and not add to the understanding of institutional or retail investors. One respondent wrote that this rule will simply *"allow journalists an easy number to help write sensationalist articles."* We agree that the only benefit will be to media and special interest groups who will likely exploit the number to further their own agendas.

Negative Impact on Internal Employee Population

The vast majority of survey participants believe that the CEO Pay Ratio disclosure will have a negative impact on the company's own workforce. When asked on a scale of 1 to 5 about the impact on the rule on the workforce (1=negative and 5=positive), **the average rank was 2.**

The perception and negative impact on employee population is one factor the SEC never analyzed in detail. With this disclosure, we believe that company employees will now have the ability to compare their own compensation to that of the "median employee" as confidential pay information never before available to employees is made public. One survey participant responded *"I am most concerned about the potential disruption at the company once people realize if their pay is above or below median."* Another responded *"[the rule] promotes class warfare and will ultimately hurt companies and the very employees we work with."* The costs associated with internally communicating the message and explaining the calculation to employees are in addition to those already discussed above.

Disconnect with Pay-for-Performance

Compared to the median employee, the CEO of a company typically has a substantially larger portion of their pay at risk, that is linked to company performance metrics, such as Total Shareholder Return (TSR), Earnings per Share (EPS), and Return on Average Equity (ROE). Performance metrics such as TSR, EPS and ROE are intended to measure shareholder value or lead to the creation of such value. The result of this rule will be counterintuitive. In strong performance years, a company's ratio would go up and be subject to criticism, while in poor performance years, the ratio would go down and be subject to praise. Reactions to the higher or lower ratio numbers are contradictory to long-term value creation for shareholders.

Congressional Intent is Unclear

While we recognize the SEC is responding to a Congressional directive, we urge the SEC to consider more fully whether investors would have ***any*** benefit from this disclosure. The SEC has already observed that neither the statue nor the legislative history of the rule directly stated the objectives or intended benefits of the provision or a specific market failure, if any, that was intended to be remedied. We believe that the intended benefits are unsubstantiated and that current proxy disclosure rules already require companies to provide clear and concise information about how and why compensation decisions are made with respect to their CEOs and other top executives. The CEO Pay Ratio does nothing to further this purpose.

Pearl Meyer

The Rule Does Not Enhance Corporate Governance

The compensation committee members who are our clients have a fiduciary responsibility to represent their shareholder interests. Committees ensure that good governance practices are in place, including those related to the management and communication of compensation programs for their CEOs and all other employees. Our committee clients are diligent in overseeing the design and application of pay programs that support the attraction, retention, and motivation of their company's employees. Programs that we help our committee clients design are intended to be competitive and align compensation with the company's performance. We also work with our clients to provide public disclosures on compensation that describe how pay programs function and the rationale for decisions and outcomes regarding the compensation of executives. We can see no possible way in which the additional CEO Pay Ratio disclosure will facilitate a better understanding of the program design or level of CEO compensation. Such disclosure provides no insight into the "how" or "why" with respect to the process by which committees thoughtfully determine CEO compensation. The ratio is simply not—and should never be—a factor in compensation decision-making. Again, the rule will not enable investors to make better-informed proxy voting or investment decisions.

Pearl Meyer appreciates this additional opportunity to provide its own feedback on this rule, as well as make available to the Commission a compilation of our clients' reactions to the rule. We note that Pearl Meyer is submitting this commentary on its own behalf, and not on behalf of any specific client.

Please contact us at [redacted] if you have any questions.

Sincerely,

Dave Swinford

David N. Swinford
President and CEO
Pearl Meyer
[redacted]