



December 2, 2013

Ms. Elizabeth M. Murphy, Secretary
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-1090

Comment Letter on Pay Ratio Disclosure - Release No. 33-9452 (File No. S7-07-13)

Dear Ms. Murphy:

Towers Watson appreciates the opportunity to submit comments on the Commission's September 18, 2013 proposal to implement Section 953 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, requiring public companies to disclose the ratio between the total compensation for the chief executive officer and the median total compensation for all other employees.

Towers Watson is a leading global professional services company that employs approximately 14,000 associates worldwide. As the world's largest executive compensation consultancy, with about 400 executive compensation consultants globally, we have extensive experience advising major companies on the design and management of their executive compensation programs in the context of their broader talent and reward strategies.

Like many of our clients, we at Towers Watson have reservations about the Dodd-Frank requirement that companies disclose their CEO pay ratios, particularly with regard to the cost and effort likely to be involved for many large companies with global operations. In a poll of 375 corporate executives and compensation professionals that we conducted soon after the Commission's proposal was issued, only one in ten of the participants agreed that the disclosure would provide important information for investors, while three-quarters disagreed. And more than half of those polled expressed concern about complying with the requirement, with the most common concerns centering on the difficulty of gathering the necessary employee pay data and identifying the median employee.

However, we recognize that the Commission is compelled by law to promulgate this new disclosure requirement and we applaud your proposal for offering companies significant flexibility in identifying the median employee and calculating the pay ratio. Our comments are offered in the spirit of further minimizing the compliance burdens companies may face under Section 953 of Dodd-Frank. The undersigned have prepared Towers Watson's comments with input from others in the firm. In particular, our comments focus on two important issues raised by the proposed regulations, and we recommend two separate amendments to Instruction 2 to Item 402(u) in the Commission's proposal. While we are hopeful you will adopt both of our suggested amendments, we have broken our comment letter into two parts so that you can consider each recommendation separately.

I. Recommendation on Median Employee Selection

The first issue involves the permitted use of reasonable estimates in identifying the median employee. We are hopeful that our suggested approach will be embraced by the SEC as a workable and practical extension of the current proposal, which enables registrants to limit the employee and compensation-related information required from different payroll and HRIS systems in identifying the median employee. This information would not otherwise be assembled in this form by many organizations in their day-to-day operations and may be difficult to gather.

Our recommended amendment to the proposal will benefit registrants by permitting them to employ a methodology using *salary grades* or *job levels*, as appropriate, to reasonably identify the median employee. The part of this approach involving job levels goes beyond the current proposal in that it would permit the median employee to be identified using information that, while often used to determine appropriate compensation levels, is not, in and of itself, compensation-based. Nevertheless, we believe its adoption will increase flexibility and potentially reduce the costs of compliance for registrants, a goal the Commission shares. We believe the Commission can easily adopt this recommendation without much change in the proposal's overall approach.

Towers Watson would welcome an opportunity to meet with the Commission's staff to provide more detail and context on how registrants might employ our suggested approach to reduce the burden of complying with the CEO pay ratio disclosure requirement.

Our recommendation is fairly straightforward. We propose that the Commission permit registrants that have a global job grading or job leveling system to use that system as their sampling methodology to determine the median employee. We believe this approach will identify the median employee with a similar degree of precision as is contemplated under the current proposal, while saving registrants considerable time, effort and expense when compared to requiring the compilation of precise compensation data. Most importantly, the results of this approach can be objectively determined by the registrant and verified by a third-party.

We believe the Commission's proposed requirement in Instruction 2 to Item 402(u) that registrants provide a brief disclosure of "any methodology used to identify the median" will permit shareholders to understand the process employed in selecting the median employee using our recommended job level approach and would be consistent with Instruction 2(ii), which permits the use of "other reasonable methods" to determine the employees from which the median is identified.

Detailed Analysis

1. The Commission's Current Proposal

The section of the proposal we believe is relevant to this discussion is Instruction 2 to Item 402(u). Revisiting how this instruction is crafted, and how each section builds upon the next, will help illustrate that the Commission is very close to adopting our recommended alternative.

Instruction 2(i) provides that:

- (i) Registrants may use (A) a methodology that uses reasonable estimates to identify the median and (B) reasonable estimates to calculate the annual total compensation or any elements of total compensation for employees other than the PEO.

This section provides a flexible rule that, if no further instruction was to follow, would permit companies to use the job level approach we are suggesting since it would meet the reasonableness standard articulated in (i)(A).

However, the Commission apparently did not feel comfortable leaving the determination of reasonableness entirely to the registrant and provided some clarification in Instruction 2(ii):

- (ii) In determining the employees from which the median is identified, a registrant may use (A) its employee population or (B) statistical sampling or other reasonable methods.

From our perspective, this instruction moved the ball forward a bit by clarifying that the “reasonable estimate” standard can be met by using statistical sampling, while leaving open the possibility that other reasonable methods might also be appropriate, although it is unclear from instruction 2(ii) or from the Adopting Release what these other reasonable methods might be. If the instruction were to end here, we believe registrants could use the results of our recommended job leveling approach to discover the median employee.

In contrast to the expansive rules of Instructions 2(i) and (ii), the Commission added a third instruction that limits how “reasonable estimates” can be used to determine the median employee based only on a “consistently applied” definition of compensation.

- (iii) A registrant may identify the median employee using (A) annual total compensation or (B) any other compensation measure that is consistently applied to all employees included in the calculation, such as amounts derived from the registrant’s payroll or tax records. . . . Where a compensation measure other than annual total compensation is used to identify the median employee, the registrant must (A) disclose the compensation measure used and (B) calculate and disclose the annual total compensation for that median employee.

While we appreciate that the Commission was focused on using compensation data to help determine the median employee as that approach would appear to be closest to the spirit of the statute, we would submit that companies may have other equally effective alternatives more readily available to them for identifying a median employee.

Stated differently, if the Commission is comfortable permitting registrants to select from a range of compensation definitions that might yield divergent determinations of the median employee by pay level, we believe the Commission should be comfortable allowing companies to use the results of their job leveling analysis to readily determine where in the organization’s compensation structure the median employee is likely to be found, taking into account job skills, experience, responsibility and other criteria. These job levels are also commonly used to establish compensation levels in different parts of the organization.

To understand how this would be work requires some background in how companies classify employees using *salary grades* (which can be used under the current regulatory proposal, as described in Section 2 below) or by using *job levels* (and how this approach could be used by companies to determine the job level where the median employee will be found).

2. Using Salary Grades to Determine the Median Employee

a. How Companies Employ Salary Grades

Most U.S.-based companies use salary grades or ranges within a salary structure to manage overall compensation costs by organizing jobs and the employees within those jobs into a single pay framework. Approaches to developing salary grades and structures vary from company to company, with some being fairly simple in their approach while others are more exhaustive, typically depending on the overall complexity of the organization.

Registrants that use a more basic approach will first look to the competitive labor marketplace, typically collecting and analyzing compensation data from published, valid compensation surveys to determine pay levels (or “estimated market value”) for a particular job or set of jobs. This process is called market pricing. Using these estimated market values, organizations take all jobs with similar market values to define a series of salary grades or ranges to construct an overall salary structure.

The thing to keep in mind is that companies that use a more basic approach use *market pay data* to determine the assigned grades into which jobs are classified, rather than a defined set of criteria such as job skills, knowledge, impact, etc., as is the case with a more sophisticated global grading approach. Companies using a global grading approach would first consider many different characteristics and requirements of the jobs within the company, and would then group those jobs that compare similarly against a defined set of these aspects or criteria. Those jobs with similar attributes would be grouped into job grades and market pay data would be collected and analyzed to determine one or more salary grades for those jobs.

Regardless of the approach to salary grading, the result will appear the same — with jobs, and thus employees, slotted into appropriate grades. One illustration of how a grading system works can be found in the federal government’s own use of the General Schedule (GS) system of pay grades and steps,¹ which has a particular pay range to which jobs and employees are graded based on their job function and technical skill. Progressive steps also exist within this model, largely based on years spent in a job, but every employee is assigned to one of these salary grades based on the job to which they are assigned.

b. Confirming That Salary Grades May Be Used to Determine the Median Employee

Regardless of the approach taken, a company that uses consistent salary grades across the organization would appear under the proposed regulations to be at an advantage when it comes to assembling compensation data for identifying its median employee. Based on the proposed regulations, a registrant that employs a similar system to the GS system (and we are simplifying at bit here) can use a statistical

¹ <http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2013/general-schedule/>

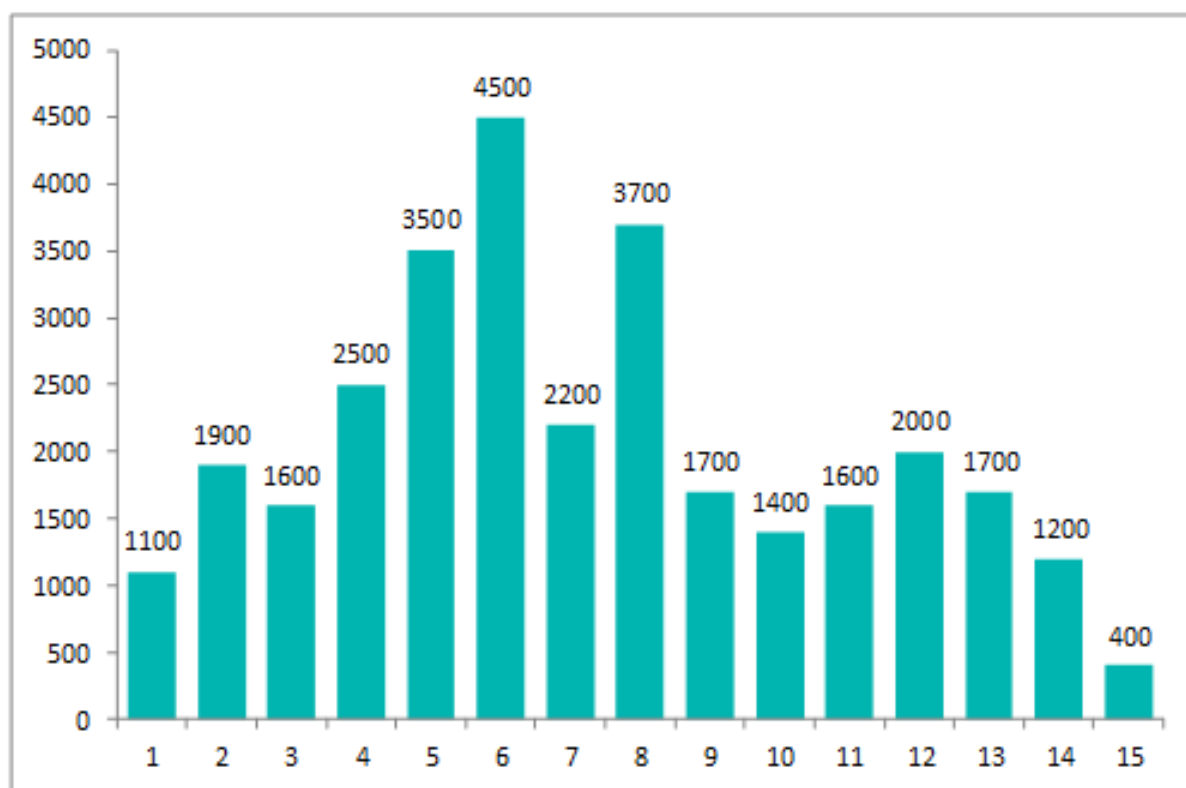
sampling approach, assuming the registrant knew how many employees were at each grade, to determine those pay grades at the extremes where data would not need to be obtained.

Using the GS example, a company could quickly (and reasonably) conclude that the median employee is unlikely to be found at Grades 8 through 15 (the Senior Executive Service level) or in Grades 1 through 4 (the bottom end of the pay spectrum). But even if these grades can be eliminated from consideration, the organization would still be required to examine compensation or payroll data on employees at Grades 5 through 7, which may still be a significant burden for many large companies, especially those with multiple payroll systems and/or a global workforce.

Stated differently, as we read the proposed regulations, companies that use a consistent salary structure will have an easier road to identifying the median employee by being able to eliminate high-paid and low-paid grades from the compensation-data-gathering universe. This does not mean that the effort to obtain the compensation data for Grades 5 through 7 in our example is trivial, particularly when employee headcounts are concentrated at those levels.

The following table illustrates how employee headcounts by salary grades might look for a company with 31,000 employees:

Illustrative Employee Distribution by Salary Grades



In this example, let's assume the median employee is determined to be in Grade 7. The company would then be required to identify that median employee based on a uniform definition of compensation, as required by the proposed regulations. However, for companies that have pay grades in which

compensation levels overlap, it may be necessary to examine compensation data for Grades 5 through 7 to identify the median employee.

Once the universe of employees that may be at or around the median is determined, we read the proposed regulations as permitting the company to use a statistical sampling approach to identify the median employee within this universe (which in our example might be the 4,500 employees in Grade 6 or the 10,200 employees in Grades 5-7), based on a uniformly applied definition of compensation.

We hope the Commission will clarify that this would be an acceptable approach to determining the median employee in accordance with Instruction 2, ideally in the preamble to the final regulations.

For most global companies, however, undertaking such an exercise is far more complex given that salary grades and structures reflect local market conditions. This generally means that the local salary structure is sensitive to the supply and demand of labor within a specific geographic market and, thus, is not applied consistently on a global basis. In other words, if a company operates in 29 different countries, it probably also has 29 (or more) different salary grade structures, making the identification of the median employee globally using the salary grade/salary structure methodology problematic, thereby eliminating many of the benefits provided by permitting the use of statistical sampling.

3. Job Leveling

a. How Companies Employ Job Leveling Systems

Our recommendation to permit companies to use job levels to determine the median employee would support companies that have multiple salary structures with job grades that differ in each country, but that use a consistent global job leveling approach to classify jobs across the entire organization. Many companies have adopted such approaches. Towers Watson and other human resources consulting firms offer a range of job leveling and job architecture approaches, from established methodologies to customized designs. Any of these would provide a valid basis for helping reduce the data gathering involved in identify where the median employee resides. For this discussion, we will focus on the Towers Watson Global Grading System (GGS) and Career Map,² the methodologies with which we are most familiar.

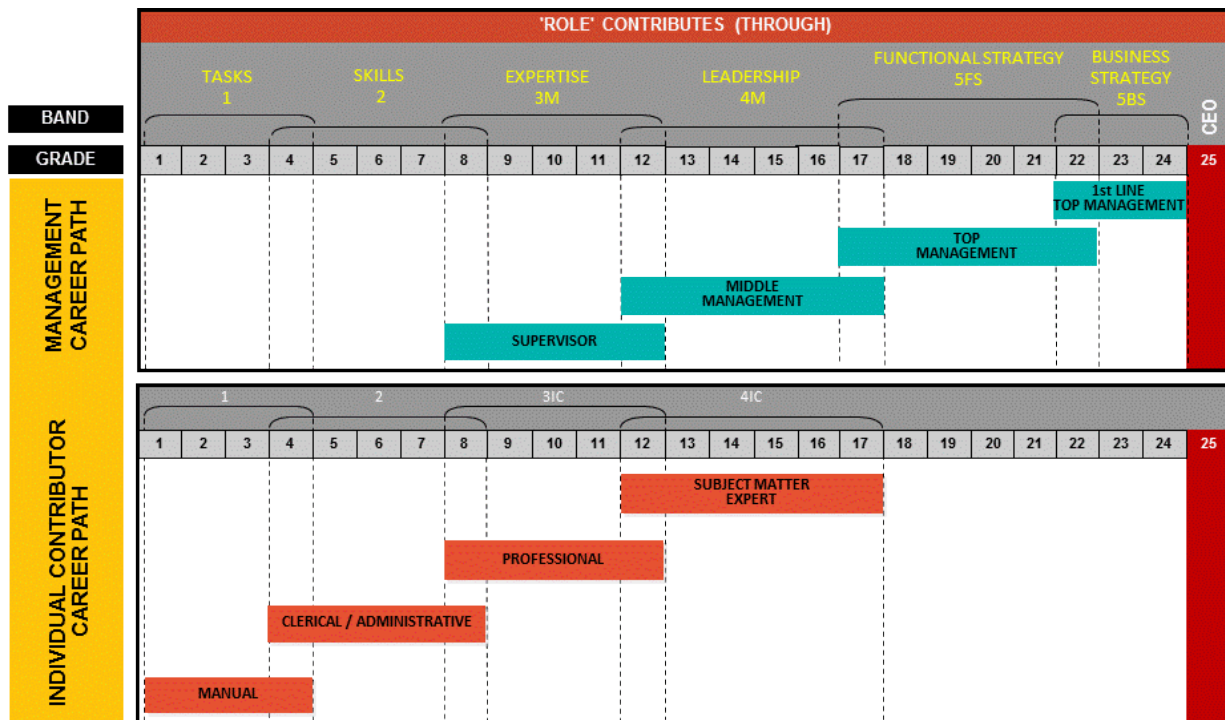
Job leveling is an analytical process for determining the relative value of jobs within an organization. Companies use these analytics not only to help them set base pay and incentive compensation, but also to provide the foundation for a range of talent management programs, including performance management, career management, workforce planning, succession planning, and learning and development. The following illustration shows how jobs are classified using this approach:

² More details of the Towers Watson approach can be found here:
<http://www.towerswatson.com/en/Services/Tools/job-leveling-global-grading-and-career-map> .

Other human resource consultancies have similar yet distinct approaches.

- Aon-Hewitt: <http://www.globalcompensation.net/participation-center/job-leveling-methodology>
- Mercer: <http://www.imercer.com/default.aspx?page=home&contentId=1552>
- The Hay Group: http://www.haygroup.com/downloads/ww/wp-Job_Evaluation.pdf.

Illustrative Job Leveling Framework



This illustration shows how a global company would assign all jobs in the organization to one of 25 job levels, determined by how the particular job role contributes to the organization based on tasks, skills, expertise, leadership, functional strategy and business strategy.

Companies that undertake this analysis would readily be able to determine the job or job family that would fall at the median of skill levels within the company. Stated differently, companies that use a job leveling approach can identify the job level where the median-level employee resides based on a ratio that compares the total number of employees at each job level to the total employee population. Once it's determined that the median employee resides at a particular level, the company would then be able to apply a statistical sampling approach to that job level, taking into account compensation earned in different locations or countries, to further reduce the number of payroll files that will need to be examined.

As we read the Commission's current proposal, a registrant that has undertaken this process of assigning all jobs in the organization to a job level would be prohibited from using this methodology to identify the median employee because it does not make explicit reference to compensation. We hope that the Commission, in the spirit of offering companies added flexibility in identifying the median employee, will be comfortable permitting them to use job levels.

To this end, following is a procedure the Commission could endorse in the final regulations *for registrants that employ consistent job levels for all employees within the organization:*

- Step 1.** Determine the job level for each employee within the organization to the extent that job levels consider “all employees.”³ As noted earlier, a significant number of U.S. registrants with a global footprint have in place these job levels, so that these companies would already have complied with the step.
- Step 2.** Based on the number of employees in the organization assigned to each job level compared to the total employee population, determine the job level where the median employee will be found.
- Step 3.** Based on a uniform definition of compensation within that job level, determine the median employee for that job level, using statistical sampling if required.

This approach is very similar to that currently permitted under the proposed regulation, with the key difference being that job levels can be used to determine where the median employee is found.

The key take-away from this discussion is that many global companies already perform this type or a similar type of job leveling. A recent Towers Watson survey of 154 global companies reveals that 77% have either job architecture or leveling.⁴ For these companies, a regulation that permits them to focus on work already completed would greatly reduce the time, dollars and effort spent to identify the median employee.

b. Our Recommended Amendment to the Proposal

As we read the proposal, the Commission would explicitly need to amend the language of its Instruction 2 to permit registrants to use their job leveling system to identify the median employee. However, this is not far from the position the Commission took in the preamble to the proposed regulations, which specifically authorizes the use of a reasonable estimation approach:

As such, the proposed requirements permit registrants to identify the median by using a number of different methods, such as calculating total compensation for each employee using Item 402(c)(2)(x), using reasonable estimates, and/or statistical sampling. We are not prescribing what a reasonable estimate would entail because we believe that would necessarily depend on the registrant’s particular facts and circumstances. In addition, the proposed rules do not prescribe specific estimation techniques or confidence levels for an estimated median because we believe that companies would be in the best position to determine what is reasonable in light of their own employee population and access to compensation data.⁵

Despite this very flexible language in the preamble, the proposed regulation itself is more limiting in that it requires companies to use a “compensation measure” to identify the median employee in Instruction 2(iii).

In our view, permitting companies to use job leveling systems that use *consistent job levels for “all employees” within the organization* would provide as objective a measure for identifying the median employee as a system that uses a uniform definition of compensation. The Commission has

³ Companies that have different job levels for unionized, part-time, hourly or administrative staff would be able to eliminate members of these populations using statistical sampling in order to meet the requirement that registrants employ consistent job levels for all employees within the organization.

⁴ Towers Watson’s 2012 – 2013 Global Talent Management and Rewards Study:
<http://www.towerswatson.com/en/Insights/IC-Types/Survey-Research-Results/2012/09/2012-Global-Talent-Management-and-Rewards-Study>

⁵ 78 F.R. 190 (Page 60570)

acknowledged that its current proposal, if adopted, will result in companies taking different approaches but that promoting flexibility for registrants to determine the median employee is important:

In weighing alternatives, we considered the potential costs and benefits of comparability of disclosure across registrants. Although a flexible approach could reduce the comparability of disclosure across registrants, we do not believe that precise conformity or comparability of the ratio across companies is necessarily achievable, due to the variety of factors that could influence the ratio,¹⁹¹ or justifiable, in light of the substantial additional costs that such an approach would impose on registrants. In addition, we believe that a flexible approach would not significantly diminish the potential benefits of the mandated disclosure.⁶

For the reasons noted, we would recommend that the Commission amend Instruction 2(iii) of Item 402(u) to read as follows:

- (iii) A registrant may identify the median employee using (A) annual total compensation or (B) any other compensation measure or job leveling structure that is consistently applied to all employees included in the calculation, such as amounts or job levels derived from the registrant's payroll, ~~or~~ tax records or other systems. . . . Where job levels or a compensation measure other than annual total compensation is used to identify the median employee, the registrant must (A) disclose the compensation measure or job leveling system used and (B) calculate and disclose the annual total compensation for that median employee.

As noted above, this amendment would permit registrants to use job levels only to determine where the median employee is likely to be found. Once determined, the company would then be required to analyze or sample compensation information for that job level to identify the median from all employees at that level.

c. **Other Considerations**

We are mindful that in crafting disclosure rules, the Commission must balance the need to provide companies with flexibility with the need to ensure that accurate determination is disclosed. We believe the appropriate balance between these goals will be met if registrants can use their job leveling systems to help identify the median employee. We also recognize that the Commission may have concerns about whether some companies' job leveling systems are robust enough to be relied upon to provide an accurate identification of the median employee.

First, our experience reflects that although companies use different approaches to establish their job leveling systems, those that have done so would have in place a mechanism to determine those employees whose job skill, impact, experience etc. would fall at the median job level when compared to all employees. Second, we believe the requirement that companies describe the approach they have taken to determine the median employee would help ensure that only those with sufficiently robust job leveling systems would choose to disclose its use and function. If the Commission's instructions were amended to make it clear that the job leveling approach must be one used to classify "all employees," this would provide further assurance regarding the appropriateness of the job leveling. Finally, as noted above, many companies already have in place job level information that is easily accessible and, more importantly, is already used to reflect how the company conducts its business.

⁶ 78 F.R. 190 (Page 60589)

The alternative of selecting the median employee based on job level will help ensure consistency and comparability across different reporting years, as this calculation likely will not change significantly from year to year unless the organization has undergone significant changes (such as a merger or acquisition) requiring a change in job leveling approach. These events are relatively rare in comparison to the frequency of changes to incentive plan payouts or compensation levels.

Stated differently, we believe registrants should be given the ability to choose a methodology for identifying the median employee that will provide them as much consistency from year to year in identifying the median employee as the Commission will permit. We believe the use of job levels will help attain that goal. We discuss an alternative approach to dealing with the consistency issue in Section II, below.

2. How This Differs from the Approach the Bureau of Labor Statistics Takes:

Since the Commission has rejected an approach to using Bureau of Labor Statistics (BLS) methodology to determine the median employee,⁷ we wanted to take a moment to explain why using a job leveling system to identify the median employee is a markedly different approach. We would acknowledge that using the approach delineated in the BLS manual⁸ for performing company-wide job evaluations for each job within the company would yield a worthwhile job evaluation for determining the median employee skillset. However, BLS does not employ this methodology to determine a median employee skillset for a company in the same manner that a company would use in doing a job leveling project.

Rather, BLS has its field economists visit companies and randomly select up to eight workers representing a selected job using sampling so that those jobs with the greatest number of workers have the greatest chance of selection. Those jobs are classified into occupations based on job duties and responsibilities, which are then used to classify each job into one of approximately 800 detailed classifications based on the highest skill level and primary duties of the occupation. Then, each sampled job is evaluated to determine the work level of its duties and responsibilities, and assigned points based on the work performed and the skills, education and training required.

Once this evaluation is completed, the wages and hours worked are collected to assist BLS in determining pay levels for that company's particular industry. Keep in mind that while the BLS process for job grading may be similar to that used by Towers Watson in its job leveling client engagements, the goal is different and is not as comprehensive. As a result, we believe that the Commission's rejection of using BLS statistics for estimating median employee compensation should not influence its consideration of permitting companies to use job leveling systems to help identify the median employee.

In addition to being more comprehensive in its methodology, the job leveling approaches used by Towers Watson in client engagements are applied globally, an important element for companies that must deal with the complexity of global and/or highly diverse workforces. This is not something we

⁷ 78 F.R. 190 (Page 60572)

⁸ *National Compensation Survey: Guide for Evaluating Your Firm's Jobs and Pay, U.S. Bureau of Labor Statistics, May 2013 (Revised)*

believe the BLS method can match, which is likely another reason the commission dismissed the BLS methodology as an allowable alternative for this purpose.

II. Our Recommendation on the Benefit Implications of the Proposed Rules

1. The Commission's Current Proposal

Whether a registrant uses a job leveling approach (as recommended above) or using compensation to identify the median employee as outlined in the proposed regulations, many companies may experience significant volatility in the CEO pay ratio from year to year as the median employee's identity changes — primarily because the Summary Compensation Table definition of compensation can vary widely when the value of retirement benefits is included in the calculation. This benefit value add-in for the median employee could be materially different for employees that could be classified as the median employee, or for those being paid slightly more or less than the median employee.

For example, consider a company that uses statistical sampling to determine that its median employee is in a job grade that includes 50 employees. Further assume that the company's compensation and benefit structure includes employees whose benefits fall into one of the following categories:

1. Those in final average pay pension plans that have been closed to future hires for several years;
2. Those in a replacement defined contribution plan for future hires with a 4% employer fixed contribution; or
3. Employees working in France where there is no company-sponsored retirement program

Further assume that within that group of 50, the median employee would be one of three employees with differing benefit values. The following table illustrates how the differing retirement programs can affect the median employee's total compensation:

Employee	Cash Compensation	Benefit Value	Total Compensation
1. Pension participant	\$60,000	\$48,625	\$108,625
2. Defined contribution plan participant	\$60,000	\$2,400	\$62,400
3. French employee with no company retirement program	\$60,000	\$0	\$60,000

In this example, there's an 81% difference in the total compensation of the median employee, depending on the value of retirement benefits. Because an alternative definition of compensation was used, the registrant in year one identified the median employee as Employee 1, an older individual with a pension that would be added to Summary Compensation Table total compensation. In year two, using the same alternative definition of compensation, the company may instead identify Employee 3 as the median employee, an employee without a company-provided pension who would, thus, have a much lower Summary Compensation Table total compensation value. This would mean that, assuming CEO pay remained constant, the reported pay ratio would spike higher for no reason other than because a different employee was identified as the median employee.

This potential volatility in the denominator of the ratio is of concern to many companies. While statistical sampling techniques may help certain companies manage this issue by determining that the median employee is found in a job grade or location among other employees with similar compensation and benefits structures, others companies will be subject to unwelcome volatility in median employee pay, as in the example above.

2. Alleviating the Volatility Issue

Companies could better manage year-to-year volatility if the regulations permitted a second stratification of the population around the median after the company has determined the job grade/country/location where the median employee is found. This concept may appear esoteric at first, so we'll explain how it could work using the same example we discussed above:

- Step 1.** Assume in the above example that the median employee is identified to be in same group of 50 employees in a single job grade. For simplicity, let's assume that 25 of these employees have compensation above the median and 24 fell below the median. Thus, for the first step the job grade where the median employee is found was determined using cash compensation as the definition.
- Step 2.** Once the company determines the job grade where the median employee is found, it would then perform a second calculation using Summary Compensation Table total compensation for the entire group of 50 employees surrounding the median.
- Step 3.** Once Summary Compensation Table total compensation is determined for each of the 50 employees, the company would then identify the median employee within this second stratification of compensation.

If we assume that the median employee from this Job Group was determined to be Employee 2 from the example above (the defined contribution plan participant whose Summary Compensation Table total compensation is \$62,400), and assume the demographics of this group were consistent among the three benefit structures described above, this approach would reduce the impact of outlier demographics while still representing the true median total compensation for the registrant. Said differently, from one year to the next, it would be likely the median employee would be a defined contribution plan participant whose total compensation would tend not to vary in successive years. Such an approach would reduce the volatility of the calculation due to the randomness of the simplified median employee approach and improve comparability.

This volatility reduction is valuable because even if it is true that shareholders will not use the Pay Ratio for comparability amongst different registrants, we believe shareholders will focus on the extent to which a registrant's Pay Ratio increases over time. While registrants will have the ability to control the numerator in this ratio based on CEO pay reported for the year, they will be concerned about the variations in the denominator calculation and the potential implications to their disclosures. We also believe our proposal to minimize the benefit implications will provide more stable and accurate information for investors.

3. Our Recommended Amendment to the Proposal

For the reasons noted above, we would recommend that the Commission amend Instruction 2(iii) of Item 402(u) to read as follows to permit companies to use a Summary Compensation Table definition of total compensation to help determine the median employee.

- (iii) A registrant may identify the median employee using (A) annual total compensation ~~or~~ and (B) any other compensation measure that is consistently applied to all employees included in the calculation, such as amounts derived from the registrant's payroll, or tax records Where a compensation measure other than annual total compensation is used to identify the median employee, or is used to identify a group of employees where the median employee resides, the registrant must (A) disclose the compensation measure or measures used and (B) calculate and disclose the annual total compensation for that median employee.

This amendment would be a minor change in the existing regulatory proposal and remains consistent with the notion that the median employee can only be determined by using compensation. The recommendation would permit the first stratification using any alternative definition of compensation, while the second stratification used to find the median employee can only be using "annual total compensation." We believe this recommendation is well worth considering as it will ease one of the major concerns we believe registrants have expressed as to the volatility of the denominator.

Again, we appreciate the opportunity to offer these comments and would be pleased to provide any additional information that might be helpful to the Commission in finalizing the proposed rules.



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