Compensation and Talent Governance Network

July 2022

CTGN

SUMMARY OF THEMES

Pay equity strategy

Demands from a variety of stakeholders have placed social issues, the "S" in ESG, in the spotlight for compensation committees. Simultaneously, rising expectations of transparency on how companies consider, measure, and invest in their talent have resulted in a broader dialogue around workforce equity, with the issue of pay equity gaining traction. Pay equity is the concept of compensating employees who have similar job functions with comparably equal pay, regardless of their gender, race, ethnicity, or other status.[1]

On June 28, the Compensation and Talent Governance Network (CTGN) met virtually to discuss how companies are addressing pay equity issues. Four guests joined compensation chairs to help frame the discussion and share a case study:

- Chris Brunson, Vice President of Total Rewards at General Mills
- Maria Colacurcio, CEO of Syndio
- Rob Porcarelli, Chief Operating Officer at Syndio
- AJ Tufte, Head of Workforce Planning & Total Rewards Administration at General Mills

For a full list of meeting participants, please see the appendix on page 5.

The discussion centered on the following themes:

- **Increased pressure to focus on pay equity.** There are two major forces driving the conversation around pay equity. The first is pressure from institutional investors. While the U.S. Securities and Exchange Commission is still considering changes to human capital disclosure requirements, investors are not waiting for mandates; they want more information today. In fact, this proxy season, Ms. Colacurcio said, *"We saw seven of the Fortune 100 face shareholder proposals seeking increased disclosure around pay equity, and there was significant investor support"* This is a new trend that companies should keep an eye on.

  The second pressure point accelerating the pay equity discussion comes from employees. In many cases, they are seeking action and are no longer satisfied with performative commitments from companies. Employee resource groups and public forums have provided workers with a means to strengthen their voices. Ms. Colacurcio said, *"Employees are disclosing their own salaries on Reddit, LinkedIn, Glassdoor, and Google Sheets. The best companies are realizing that they've got to drive the narrative around why they pay what they pay, or their employees are going to do it on their behalf."* In some instances, uncovering pay inequities has been costly for companies. A rise in pay equity lawsuits, some with nine-figure settlements, has only added to the increased attention on the issue.[2]

Another pressure point is the international landscape. As other nations begin to move toward reporting requirements, those disclosures will likely place more pressure on US-based companies, especially those with global workforces. For example, Mr. Porcarelli mentioned the United Kingdom's gender pay gap reporting regulations, which went into effect in 2017 and require companies with least 250 employees to annually disclose the comparative difference between average male and female pay.[3]

- **Pay equity versus pay gap.** Fair pay is defined broadly as equal pay for equal work of equal value. While some companies may announce achieving pay equity they may still be left with a lingering pay gap. Even when people are paid fairly, there can be a disparity in earnings based on gender, race, and ethnicity. Mr. Porcarelli explained that pay gap and pay equity are often conflated: *"The issue that presents for organizations being pressed to declare where they are with respect to pay equity is how to do that and maintain a truthful narrative to say, Yes, we do have pay equity, but we also have a massive pay gap."* He cautioned, therefore, that statements from management to the board that the company has achieved pay equity may not be enough.

- **Advance trust, transparency, and communication.** Pay equity can serve as a catalyst to model trust and transparency throughout an organization. Employees are often happy when their employers voluntarily disclose pay equity data, even if it is imperfect. Mr. Brunson, who views pay equity disclosure as a moral imperative, said, *"We don't hide from difficult conversations, and we have found that our employees appreciate this and allow us to humbly fumble. When you explain to people how and why they are paid what they are paid, they really start to trust the process and the company."* It can be easier to create change when employees understand what it is you are trying to fix. *"Be fair, rigorous, and transparent,"* added Mr. Brunson. One member said, *"We have published salary ranges to all of our people, and it's changed the conversation from an HR activity to a discussion every employee is entitled to have with their manager."*

- **Pay can be a starting point for a broader look at workplace equity.** A pay equity analysis can feed into a broader conversation about workplace equity. One director raised the linkage, asking, *"Does this analysis lead companies to look more closely at the culture of upward mobility in the organization?"* Another added, *"It's easiest to reach representation in the highest-paying roles. but how do we advance people in a representative manner? I like to hold leaders accountable for the 'ins, outs, and ups.' You need to look at movement in the total sense."* Many companies have found that pay gaps exist because employees from underrepresented groups occupy roles where promotions and raises are less common. Mr. Porcarelli thus reframed pay gap as an *"opportunity gap"* and pointed out that, by demonstrating how these broader societal issues go hand-in-hand, companies make pay equity part of a much larger systemic re-leveling that cascades through corporate culture.

- **The operationalization of pay equity.** The tools available to companies for pay equity analysis have improved dramatically in recent years. As a result, for many, this topic has moved from a once-a-year discussion to an ongoing exercise. Managers can now aggregate and analyze data in real time and share it with compensation committees and boards. This data can help companies understand emerging trends in a new way. For example, Ms. Colacurcio said that many companies have learned that their pay disparities are caused by differences in starting salaries. She added, *"It helps to look at the big picture and understand the company policies and behaviors that are driving the issue in the first place—the root cause. From there, shift from a backward-looking audit to a forward-looking approach that's more proactive and preventive."* Mr. Tufte said that technology can also enable in-the-moment guidance for managers: *"Starting pay and promotional pay increases—each of those is a touchpoint where a decision on pay is being made. Empower and train your leaders to make decisions that drive better outcomes over time."*

- **Looking ahead at evolving requirements.** Though the SEC has yet to amend its human capital disclosure requirements to include pay equity, there have been various federal and state policy changes as of late.[4] Recently, the Office of Federal Contract Compliance Programs of the US Department of Labor released a new directive that aims to clarify the agency's authority to access the pay equity audits that government contractors are required to perform, and to confirm that those audits are not privileged.[5] Furthermore, while federal pay equity laws have been in existence for decades and nearly all states have equal pay laws, many lack emphasis on discriminatory pay practices. At the state level, in 2021, California became the first state requiring employers to submit employee pay data by gender and race.[6] California employers with 100 or more employees already must file EEO-1 reports, which collect demographic workforce data.[7] Under the new law, in addition to submitting the EEO-1 report, all EEO-1 filers with at least one employee working in California must also file a report of employee pay data yearly with California's Department of Fair Employment and Housing.[8] The report includes wage data, broken down by race, sex, ethnicity, and job category.[9] Various other states have followed suit by strengthening their laws, with some adding pay transparency requirements.[10]

Appendix A: Questions for directors to consider

As Ms. Colacurcio pointed out, *"The best board members are the ones that are asking good questions."* Some questions for directors to consider when engaging with their management teams on pay equity are as follows[11]:

- ? Did we conduct a pay equity analysis?
- ? Which stakeholders were involved in the process? Did we engage executives, HR, compensation, communications, and legal to ensure the analysis is aligned to our ESG and human capital strategies?
- ? Was the analysis comprehensive? Did it include base, stock, and bonuses (or only base pay), as well as gender, race, and ethnicity (or only gender)? Did it cover all countries where we employ people?
- ? What were the results of the analysis? Were there any disparities by race, gender, or ethnicity?
- ? What actions did we take? Did we remediate salaries? If so, what was the total cost?
- ? Did we uncover root causes such as biased pay policies, inequitable starting salaries, or other systemic issues?
- ? What is our communication strategy? Which stakeholders are we informing of our pay equity status and why?
- ? How do we plan to proactively address employee questions and concerns? How are we preparing for new pay transparency standards—both legislative and cultural?
- ? How frequently do we plan to analyze pay equity? How can we efficiently move from once-a-year analysis (or less) to establishing an always-on view into our pay equity status?
- ? What is our long-term plan for incorporating equitable pay into our business practices? And what preventive actions are we taking to reduce or eliminate pay disparities in the future?

Appendix B: Meeting attendance

- Marcia Avedon, Generac Holdings
- Wendy Carruthers, Envista Holdings
- Stephanie Colyes, Sun Life Financial
- Lisa Gersh, Hasbro
- Kathy Hill, Moody’s
- Leo Mackay, Cognizant Technology Solutions
- Karen Maidment, TD Bank Group
- Cheryl Miller, Tyson Foods
- Jack Moore, KBR
- Dick Poladian, Public Storage
- Meg Porfido, Kaiser Permanente
- Amanda Sourry, PVH
- Darren Moskovitz, Meridian Compensation Partners
- Virginia Rhodes, Meridian Compensation Partners
- John Thompson, Norfolk Southern
- Sharon Wienbar, Resideo Technologies

Endnotes

[1] "Insight: Pay Equity," ADP, accessed July 20, 2022.

[2] Maria Colacurcio, "Are $100M Pay Equity Settlements The New Norm?..." *LinkedIn,* accessed July 20, 2022.

[3] "UK Gender Pay Reporting Law Provides an Opportunity to Strengthen Rewards Programs," AON, March 2017.

[4] Brittany Buccellato, Akerman LLP—HR Defense, "Growing State and Local Equal Pay Protections", JD Supra, April 2, 2021.

[5] Stephania Sanon and Melis Solaksubasi, McDermott Will & Emery, "New Federal Directive Places Contractor Pay Equity Audits Under Scrutiny," JD Supra*,* March 22, 2022.

[6] Erin Connell and Necia Hobbes, McDermott Will & Emery, "California Becomes First State to Require Employers to Report Employee Pay Data By Race and Gender," JD Supra*,* October 2, 2020.

[7] Buccellato, "Growing State and Local Equal Pay Protections."

[8] Buccellato, "Growing State and Local Equal Pay Protections."

[9] Buccellato, "Growing State and Local Equal Pay Protections."

[10] Buccellato, "Growing State and Local Equal Pay Protections."

[11] Maria Colacurcio, "Top 10 Questions For Board Members to Ask Executives About Pay Equity," *Syndio,* May 20, 2021.