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## SEC Update

September 2013

### SEC Proposes Rule Requiring Public Companies to Disclose Pay Ratios

On September 18, 2013, as required by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, the SEC **proposed rules** requiring public companies to disclose the median of the annual total compensation of all employees, the annual total compensation of the CEO, and the ratio of the median to the annual total compensation of the CEO.

The SEC indicates in its **press release announcing the proposed rule** that it sought to allow public companies flexibility in selecting the methodology used to calculate the required compensation metrics while fulfilling the statutory rulemaking mandate. For example, a public company may choose to identify the median of the annual total compensation of all employees using its full employee population, a statistical sampling, or another reasonable method. A public company may also employ reasonable estimates to calculate the annual total compensation of employees when determining the median compensation. For example, a company may use a consistently applied compensation measure such as cash compensation amounts reported in its payroll or tax records, as long as the company discloses the measure used. However, the compensation of **all** employees must be considered when determining the median, including part-time, temporary, seasonal, and non-U.S. employees.

Under the proposed rule, the new disclosure requirements would not apply to emerging growth companies, smaller reporting companies, or foreign private issuers. If the proposed rule is finalized as-is, companies providing the disclosure must do so in registration statements, proxy and information statements, and annual reports that must already include executive compensation information as set forth under Rule 402 of Regulation S-K.

The SEC will take comments on the rule proposal for 60 days. After the SEC has reviewed the comments, it will then determine how to finalize the rules.

If you have any questions, please contact a member of Venable's **Corporate Finance and Securities Team**.