



EEOC Proposes Mandatory Reporting of Pay Data by Employers with Over 100 Employees

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On the seventh anniversary of the Lilly Ledbetter Fair Pay Act, the U.S. Equal Employment Opportunity Commission (EEOC) proposed a new rule requiring employers with over 100 employees to submit pay data by gender, race and ethnicity to the federal government. The proposed rule comes from a recommendation of the President's Equal Pay Task Force and is intended to shed light on discriminatory pay practices and help with enforcement of equal pay laws. Both the EEOC and the Office of Federal Contract Compliance Programs (OFCCP) would jointly have access to the pay data for enforcement purposes.

As currently proposed, beginning in 2017, covered employers would submit a revised Employer Information Report (or EEO-1 Report) with relevant pay data. The pay data would include an employee's W-2 earnings, along with the hours worked by that employee. The data would be submitted in the aggregate and would be grouped by salary ranges and job categories, and would omit any identifying information such as names or social security numbers. A sample of the proposed new EEO-1 Report is available [here](#). The EEOC is seeking input from employers on how to report hours worked for salaried employees who do not typically track working hours.

A complete copy of the proposed rule is available on the [Federal Register website](#). Anyone who wants to comment on the proposed regulation may submit comments through April 1, 2016. Because the changes would amend the EEO-1 report, the EEOC will hold a public hearing on some date in the future.

If this proposal goes into effect, employers will want to assess their current pay practices for any potential issues before pay data disclosure is mandatory. If an issue is discovered, employers should remedy any potential problem before the problem is flagged by the EEOC. If you need more information or assistance preparing for

these changes (such as a privileged audit of your organization's pay practices) please contact [Kerri Coriston Sturm](#), [Neal Shah](#) or any other member of the Frost Brown Todd's [Labor and Employment Practice Group](#).

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