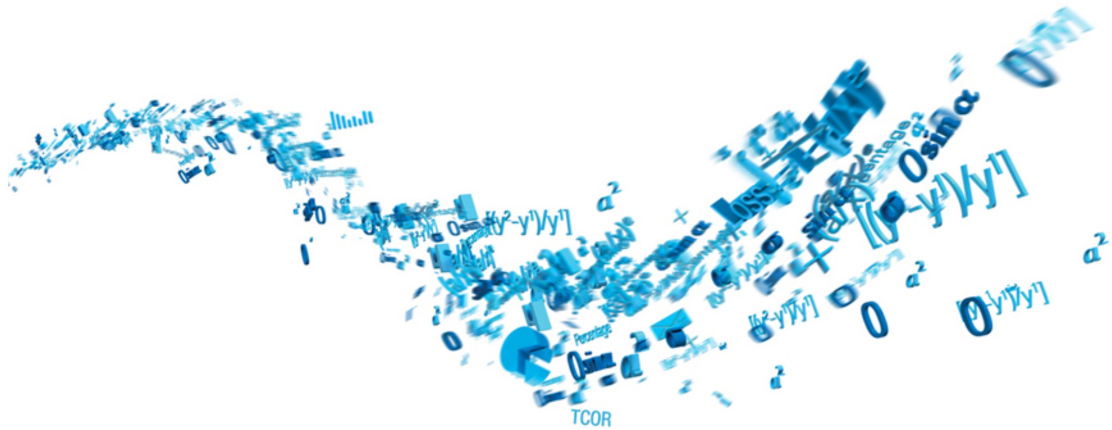


Regulatory/SEC/Proxy Advisor Update

Dodd-Frank Updates

Full implementation of Dodd-Frank remains a work in progress

- While the SEC issued proposed rules related to Pay-for-Performance in 2015 and Anti-Hedging in 2014, there is still uncertainty as to their final effective dates for corporate issuers
- The final pay-for-performance rules are expected to be proposed in mid-to-late 2016 (however, unlikely to be effective before the 2017 proxy season)

Dodd-Frank Rule	Status With SEC	Comments
Say-on-Pay	**Final and Active**	Shareholders must be given a separate “Say When On Pay” vote no less frequently than every six years
Say-on-Golden Parachutes	**Final and Active**	No disclosure required unless an acquisition is pending
Committee Independence	**Final and Active**	
Consultant Independence	**Final and Active**	
CEO Pay Ratio Disclosure	**Final and Active in *2018 proxy season***	Time to review employee population to determine cost – effective approach to determining the median
Pay-for-Performance Disclosure	**Rules have been proposed *(Possibly effective in 2018 proxy season)***	When rules are finalized we will provide an update on the required disclosure
Anti-Hedging Policy Disclosure	**Rules have been proposed *(Possibly effective for 2018 proxy season)***	Consider updating as needed before next proxy disclosure
Clawbacks	**Rules have been proposed *(Possibly effective in 2018 proxy season)***	Consider protective language in all new awards while waiting for final rules to become effective
Other Governance Issues to Consider (Non Dodd-Frank)		
Board of Director Compensation Litigation	Assess whether the existing annual director equity/cash limit is appropriate given the Company’s size and status.	

Key Themes From the 2016 Proxy Season

2015 Proxy Season Statistics

For the 2015 proxy season, **fewer than 2% of** companies failed to receive majority support through the end of the calendar year 2015

Level of Shareholder Approval	2015 Percentage of Companies	2016 Percentage of Companies
Over 90%	77% of companies	79% of companies
Over 70%	92% of companies	94% of companies
Less than 70%	6% of companies	4% of companies
Less than 50%	3% of companies	2% of companies

Key Drivers of MSOP failures

- Quantitative and qualitative pay-for-performance disconnect
  - ***Less than 50% of the CEO's total compensation and equity as performance-based***
- Mega-grants without sufficient mitigating design and disclosure
- Ongoing problematic pay practices and failure of board responsiveness

Current and Future Compensation Governance Issues

We have observed proxy advisors and shareholders focusing their attention on the following 3 issues:

Peer Groups Used for Pay Benchmarking

- Peer groups continue to be an area of focus for proxy advisory firms and investors
- Companies should be prepared to defend the companies comprising their peer group through CD&A disclosure as to how the peer group was established and used in the compensation-setting process
- Most investors now also have access to size data to assess the reasonableness of compensation versus proxy and proxy advisory peer groups

Performance Goal Setting/ Disclosure

- Continued focus of assessment on difficulty and rigors of performance goal. Decrease in goal from prior year without adequate justification and proxy disclosure can trigger automatic concern regarding current year payouts under ST and LT incentive programs
- Above median payouts for below median performance continues to be cited as concerning and potentially problematic if a repeated pattern coupled with poor company performance

Defining Pay for Performance

- Proxy advisors are looking for an outright linkage between (i) short- and long-term total shareholder return (TSR) performance and (ii) total compensation provided to the Named Executive Officers
- If TSR is poor relative to the industry and NEOs still received significant award payouts, companies need to explain which performance measures warranted the payout and how the achievement of those metrics creates shareholder value
- Although TSR performance goals are not officially required under current ISS policies, a pattern of significant payouts under non-TSR measured incentive programs, during a period of continued poor company performance can trigger a pay-for-performance misalignment (i.e., ISS looking for TSR modifier designs or reductions in compensation to better align pay with TSR)

The primary objectives associated with the areas of focus noted above and the proxy advisor policies continue to be (i) to increase transparency with respect to pay practices, (ii) ensure that there is appropriate linkage between pay and performance, and (iii) understand the amount of risk and behaviors that the pay programs are incenting.

ISS CEO Pay-for-Performance Scoring Policy

Quantitative Assessment[1]

Relative Alignment

TSR/Pay

3-Year

- Level of alignment for rankings on TSR and CEO pay
- Peer group of 14–24 peers selected on size and GICS industry group—closest to your company
- The "score" is performance percentile minus pay percentile
- A combined weighted score of **-40** results medium-risk rating
- An overall weighted score of **-50** results in high-risk rating

Multiple of Median

CEO's Pay Divided by Peer Group Median

- A multiple of **2.33×** results in a medium-risk rating
- A multiple of **3.33×** results in a high-risk rating

Absolute Alignment

5-Year TSR Trend vs. CEO Pay Trend

- Alignment between trend of CEO pay and company TSR over 5 years
- An overall score of **-20** results in a medium-risk rating
- An overall score of **-35** results in a high-risk rating

Qualitative Assessment[2]

- Ratio of performance to time-based equity awards; options considered time-based
- Overall ratio of performance-based compensation
- Robustness of disclosure and rigor of performance goals
- Company's peer group benchmarking practices
- Actual results of financial/operational metrics
- Special circumstances (e.g., a new CEO or equity grant practices)
- 3-year realizable pay versus granted pay opportunity
- Any other factors deemed relevant

[1] Each assessment results in a rating of low, medium, or high risk. A company will "pass" the pay-for-performance alignment test if all three ratings are low risk.
[2] An overall Medium- or High-risk concern rating triggers scrutiny under a qualitative assessment, with the highest degree of scrutiny being applied to those companies with an overall High concern.

Proxy Advisor Policy Application—Glass Lewis

Named Executive Officer Pay-for-Performance Assessment

- Similar to ISS, Glass Lewis takes into account a company's quantitative scoring and letter grade under the Pay-for-Performance Policy and violations of its own list of questionable pay practices
- However, the Glass Lewis methodology is less transparent than the ISS methodology. In its approach, Glass Lewis:
  - Evaluates 3-year financial performance (using TSR, change in EPS, ROA, ROE, change in cash flow) versus 3-year average NEO compensation
    - Excludes the pension values from the compensation totals
    - Focuses on NEOs (versus solely on CEO—which is how ISS measures pay vs. performance)
  - Assigns a letter grade based upon applicable undisclosed weightings (i.e., A through F)
    - A grade of "C" indicates alignment between NEO pay and company performance
    - "A" and "B" letter grades mean a company has outperformed the peers but paid less than its peers
    - "D" and "F" letter grades mean a company has underperformed its peers and paid more than its peers
  - Uses the Equilar "peers of peers" algorithm to generate the pay-for-performance peer group
    - Does not utilize any size parameters for market capitalization or revenues/assets for the peer group
    - Based on frequency of issuer being named a peer, and frequency of those companies being named a peer (i.e., social networking algorithm)
    - Can result in inaccurate or irrelevant peer selection when a Company undergoes substantial M&A activity

Proxy Advisor Policy Application—Glass Lewis

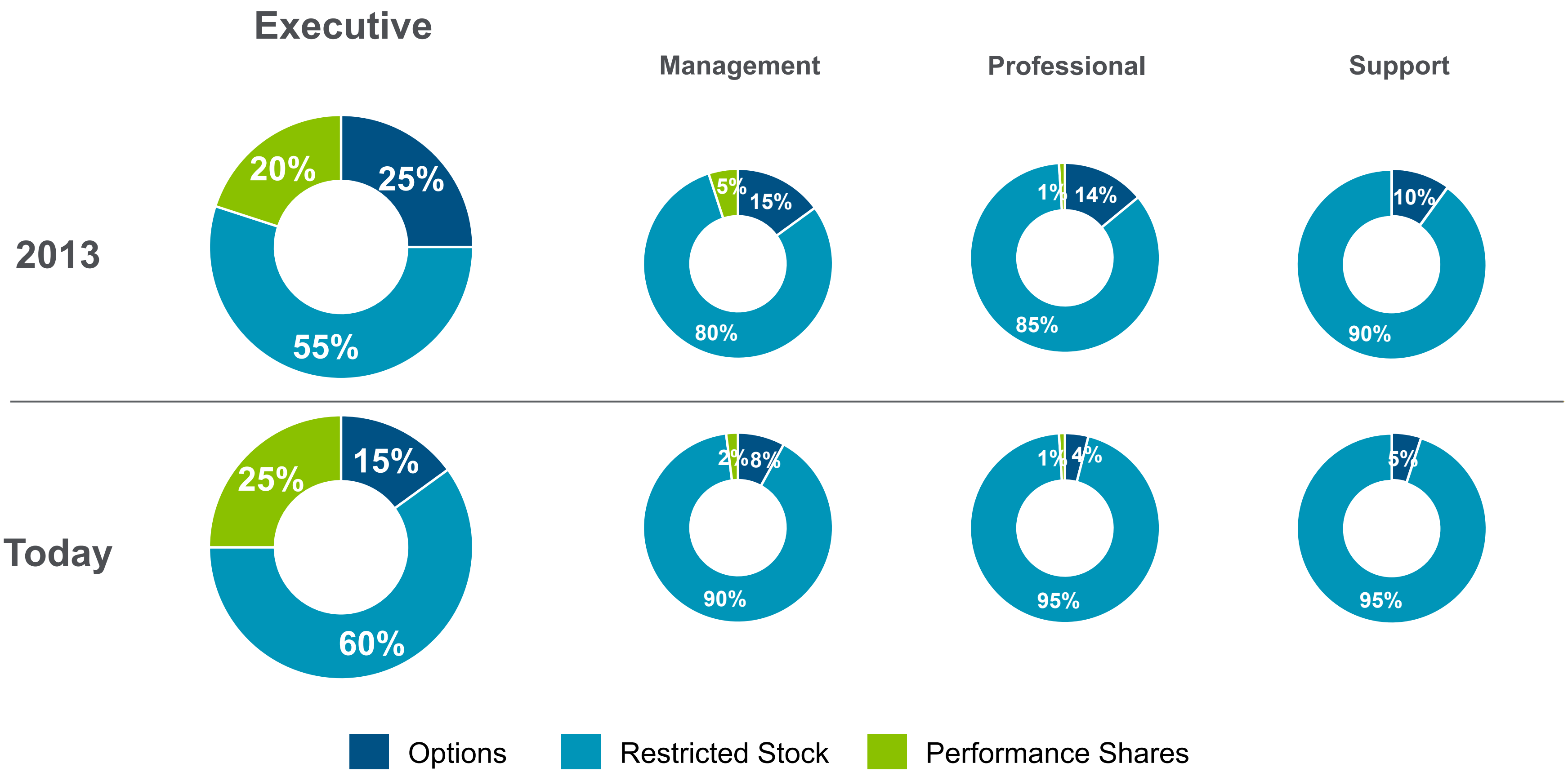
Problematic Pay Practices

- Although not an exhaustive list, the following issues, when weighed together, may cause Glass Lewis to recommend voting against an SOP vote:
  - Inappropriate peer group and/or benchmarking issues
  - Inadequate or no rationale for changes to peer groups
  - Egregious or excessive bonuses, equity awards, or severance payments, including golden handshakes and golden parachutes
  - Guaranteed bonuses and excessive sign on bonuses
  - Targeting overall levels of compensation at higher than median without adequate justification
  - Bonus or long-term plan targets set at less than mean or negative performance levels
  - Performance targets not sufficiently challenging, and/or providing for high potential payouts
  - Performance targets lowered without justification
  - Discretionary bonuses paid when short- or long-term incentive plan targets were not met
  - Executive pay high relative to peers not justified by outstanding company performance
  - The terms of the long-term incentive plans are inappropriate
  - If a company has simply failed to provide sufficient disclosure of risk mitigating policies

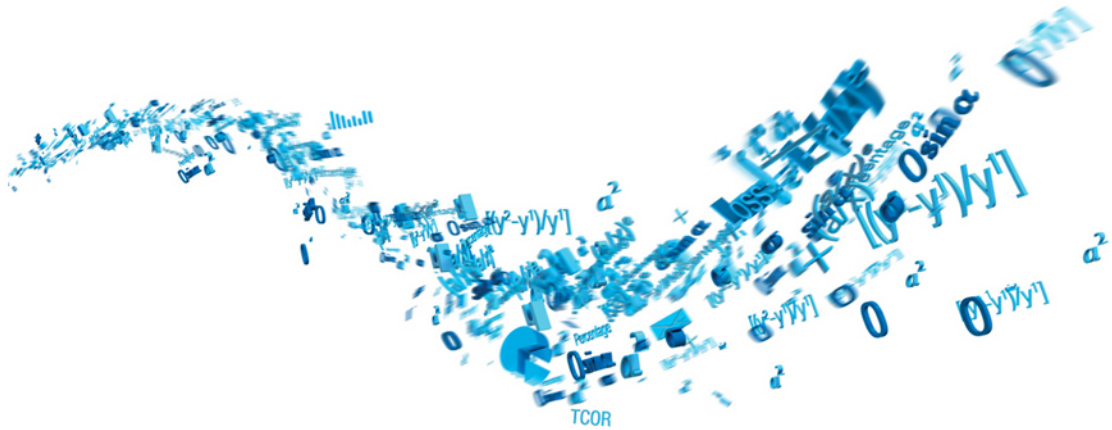
Executive Compensation

Equity Vehicles

RSUs continue to rule the tech equity landscape, and since they comprise the majority of equity awards at every level, where do we go from here?



Source: Radford Technology Global Long-Term Incentive Report.



Director Compensation

Director Compensation Trends

- Movement away from classified boards to annual elections
- Increase in responsibility, time commitment, liability, and financial expertise; as a result, directors are being paid more
- Identification of nonexecutive chairman or lead director
- Decreased usage of board and committee meeting fee arrangements, replaced with enhanced retainers
- Use of full value stock awards as opposed to stock options
  - Immediate vesting is most common
  - Emerging practice is the use of deferred stock

- ***Anticipate going forward outside director total pay levels will increase at 4%–6% per year***

Board of Director Compensation Litigation

- Because director compensation is typically set by the Compensation Committee, who also receives the compensation, some are alleging that the compensation constitutes a breach of fiduciary duty
- A number of publicly traded companies have recently faced legal action around director compensation, causing many to consider implementing a concrete and meaningful limitation on grants to directors to be included in an equity plan and approved by shareholders
- To avoid any possible director compensation litigation, you should consider placing an annual aggregate dollar value or share limit for non-employee director grants in the plan document or in its Director Compensation policy

Appendix A – Dodd Frank Details

Dodd-Frank: CEO Pay Ratio

- On Sept. 18, 2013, the SEC proposed the CEO Pay Ratio rules and on August 5, 2015 the SEC approved the final rules
  - The effective date for the CEO pay ratio is for fiscal years that begin on or after 1/1/2017
  - For calendar year filers, that would mean the first disclosure would occur in the 2018 proxy season
  - The added year to get ready is a HUGE relief for companies with complex and/or global structures
- The final rules provided some improvements over the proposed rules:
  - Identifying the median employee is only required once every three years (provided the employee population has not changed in a way that would significantly affect the ratio (e.g., corporate mergers and acquisitions)
  - Median Employee can be identified using the employee population as of any date during the last three months of the fiscal year
    - This includes any full-time, part-time, seasonal, or temporary worker employed by the registrant or any of its subsidiaries on that day
  - Nondiscriminatory benefit plans can be added to the numerator and denominator
  - Optional narrative and supplemental ratios are permitted to provide helpful context
- The final rules retained several operational guidelines that give employers flexibility
  - 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
  - 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
  - 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

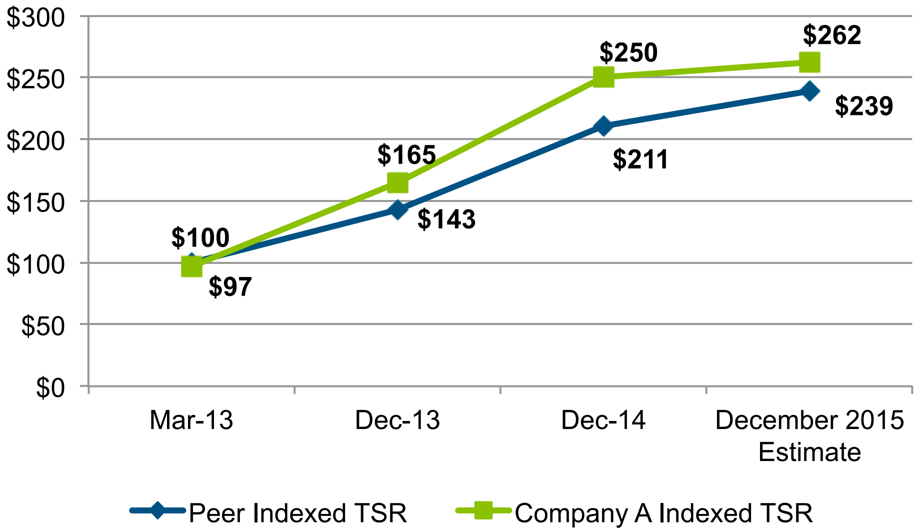
Dodd-Frank: CEO Pay Ratio Continued

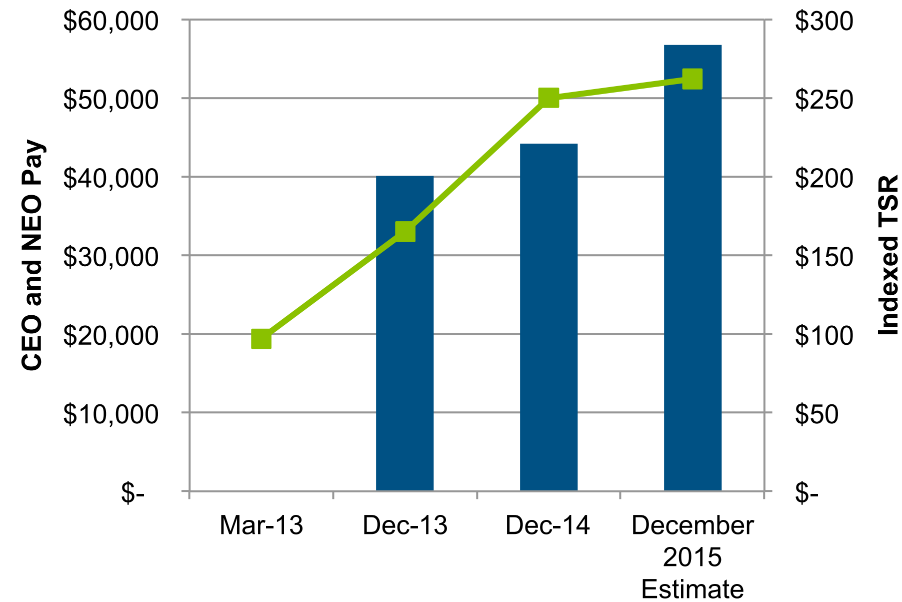
- Registrants must briefly disclose and consistently apply any methodology used to identify the median and any material assumptions, adjustments, or estimates used to identify the median or to determine total compensation or any elements of total compensation, and registrants must clearly identify any estimated amount
  - This disclosure should be a brief overview; it is not necessary to provide technical analyses or formula
  - Somewhat unusual for the SEC to qualify the narrative disclosure
- A registrant may annualize the total compensation for all permanent employees (other than those in temporary or seasonal positions) that were employed by the registrant for less than the full fiscal year (such as newly hired employees or permanent employees on an unpaid leave of absence during the period)
- Even though companies are likely at least another proxy season away from having to disclose this ratio in the proxy, many companies are modeling out how this ratio may appear based upon the preliminary guidance of the proposed rules (with some companies already disclosing similar type calculations in their proxy statements)
  - While the impact and values of this ratio to investors and outsiders is unclear, it will likely be a topic of conversation in the press. As such, many companies are interested in understanding how their projected ratio appears relative to others in the industry
  - Many commentators believe that it will be difficult to compare company ratios to each other, given the different possible calculation methodologies and differences in global business structures and employee populations

Dodd-Frank: Pay-for-Performance Disclosure

- On April 29, 2015, the SEC voted in favor of proposing rules for “pay-versus-performance” disclosure based on guidelines included in the Dodd-Frank Wall Street Reform and Consumer Protection Act.
  - The comment period expired on July 6, 2015.
  - Given the timing delays on the other executive compensation rules, we do not expect the Pay Versus Performance rules to become effective before the 2018 proxy season (i.e., for FY 2017 compensation).
- The proposed disclosure reflects the SEC’s attempt to help shareholders gain a better understanding of how executive pay compares to company performance by:
  - Comparing Named Executive Officers (NEOs) compensation as described in the Summary Compensation Table (SCT) to what the SEC is calling compensation “actually paid;”
  - Using Total Shareholder Return (TSR) as the performance measure comparing performance to compensation “actually paid;” and
  - Using TSR of a company’s peer group (likely one listed in the CD&A for compensation or performance purposes) to provide additional context for the company’s performance.
- As part of the disclosure, registrants will need to include a new table in the proxy statement that highlights the following:
  - Total compensation of the Principal Executive Officer reported in the SCT for the current year, and each of the prior four years; total compensation “actually paid” to the Principal Executive Officer in each of those years;
  - The average total compensation of the other NEOs reported in the SCT for the current year and each of the prior four years; the average total compensation “actually paid” to the other NEOs in each of those years; and
  - For each year, the cumulative TSR of the company measured as of the end of the year; and for each year, the cumulative total shareholder return of a peer group selected by the company.

Pay vs. Performance Modeling





Given the SEC's suggestion regarding the use of graphs, we anticipate most companies will use visuals as part of the requirement of providing a clear description of the relationship between the following:

- The company's TSR and the peer group's TSR; and
- The executive compensation actually paid to the NEOs and the company's TSR

Dodd-Frank: Anti-Hedging Policies

- On Feb. 9, 2015, the SEC proposed rules on the disclosure of equity hedging policies as required by the Dodd-Frank Wall Street Reform and Consumer Protection Act
  - The proposed rules did not provide a specific effective date
  - Since this proposed disclosure does not require calculations or measurements, we believe it would likely be effective for proxy statements issued after the final rules are published
    - For calendar year filers, that would mean the first disclosure could occur in the 2017 proxy season
- The rules would require companies to disclose whether they permit any employees, officers or directors, or any of their "designees," to purchase financial instruments / engage in transactions that have the effect of hedging or offsetting any decrease in the value of company equity securities:
  - Granted as part of compensation; or
  - Held by them, "directly or indirectly"
  - The rules would require companies to file disclosure in proxy statements relating to election of directors
  - Disclosure would be placed in the CD&A section of a company's proxy statement
- Timing of the requirements are unknown at this point; however, regulations will not be finalized until the 2018 proxy season, at the earliest

Dodd-Frank: Clawback

- On July 1, 2015, the SEC proposed rules directing national securities exchanges to establish listing standards requiring companies to adopt a clawback policy
- The proposal significantly expands the situations in which such clawbacks would be used, and would also apply to a larger group of executives than current rules. The key terms of the proposed rules are as follows:
  - Companies would be required to develop and enforce recovery policies that, in the event of an accounting restatement, recoups "incentive-based compensation" they would not have received based on the restatement
  - Requires the recovery of incentive compensation in excess of what would have been paid or awarded during the 3-year period preceding the date on which the company is required to prepare the restatement
- For purposes of this rule, "incentive-based compensation" is defined as "any compensation that is granted, earned or vested based wholly or in part upon the attainment of a financial reporting measure"
  - This means annual and long-term incentive compensation payouts based upon such measures
- Financial reporting measures are "measures that are determined and presented in accordance with accounting principles used in preparing the issuer's financial statements, any measures that are derived wholly or in part from such measures, and stock price and total shareholder return
  - Current or former executive officers, including any other person who performs policy-making functions for the company, who have received incentive compensation, are covered by the policy
  - Recovery would be required without regard to fault
  - Companies would have discretion not to recover the excess incentive-based compensation if the direct expense of enforcing recovery would exceed the amount to be recovered
  - Companies would be required to file its recovery policy as an exhibit to its annual report
  - Companies who do not fully comply with the applicable listing standard would be subject to delisting

Dodd-Frank: Clawback Continued

- In case of a restatement that triggers the policy, a company would be required to disclose its recovery actions in the annual report and proxy statement. The disclosure should include:
  - The date on which it was required to prepare each accounting restatement, the aggregate dollar amount of excess incentive-based compensation attributable to the restatement, and the aggregate dollar amount that remained outstanding at the end of its last completed fiscal year
  - The name of each person subject to recovery from whom the company decided not to pursue recovery, the amounts due from each such person, and a brief description of the reason the company decided not to pursue recovery
  - If amounts of excess incentive-based compensation are outstanding for more than 180 days, the name of, and amount due from, each person at the end of the company's last completed fiscal year
- The proposal requires the exchanges to file their proposed listing rules no later than 90 days following the publication of the new rule, with the listing rules to become effective no later than one year following the publication date
- Companies would be required to adopt its recovery policy no later than 60 days following the date on which the listing exchange's listing rule becomes effective
- While the initial rules have been proposed, the SEC will still have to collect comments on the measure, and would have to vote on it again before it could go into effect. As such, we do not expect the policy to become effective earlier than the 2018 proxy season