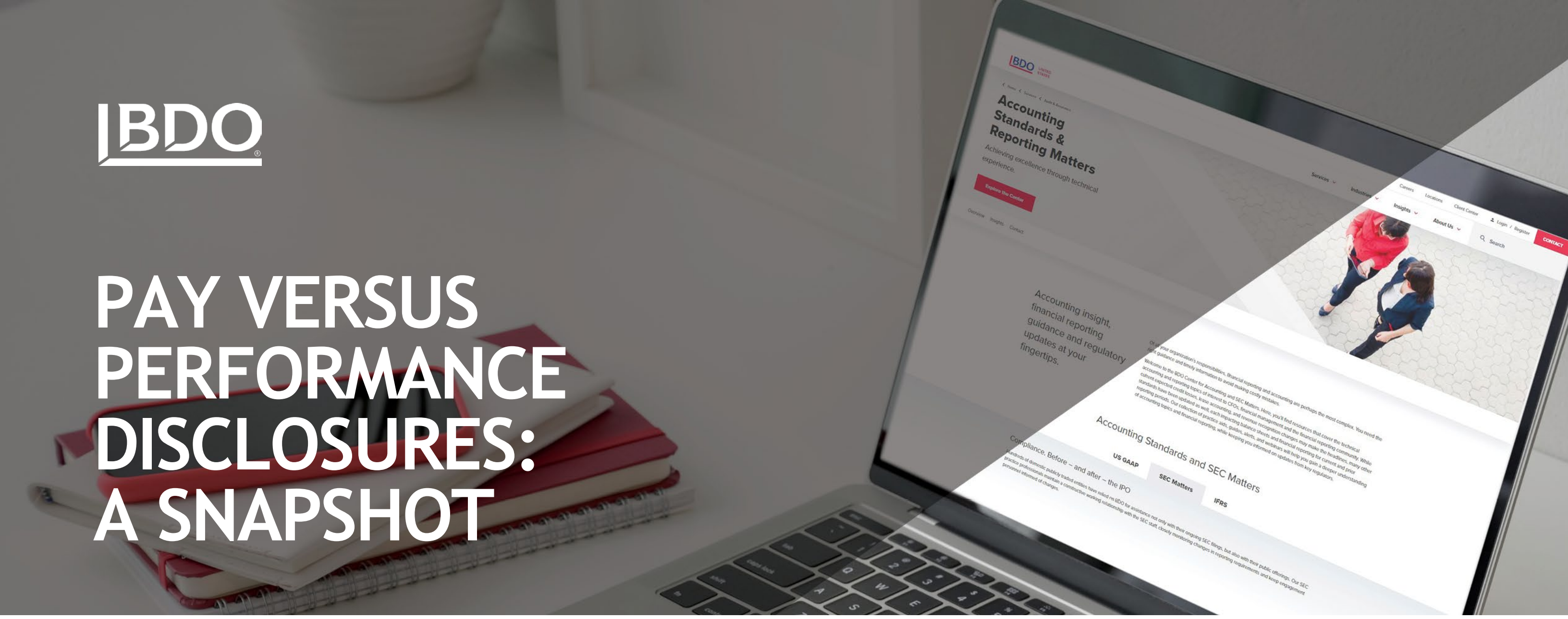

PAY VERSUS PERFORMANCE DISCLOSURES: A SNAPSHOT

MARCH 2023

INTRODUCTION

The pay versus performance disclosure rules pursuant to Item 402(v) of Regulation S-K require registrants to disclose information about the relationship between executive compensation paid and the financial performance of the registrant. Pay versus performance disclosures are required in proxy and information statements that require disclosure of executive compensation. They are not required in registration statements or in annual reports on Form 10-K. Emerging growth companies, registered investment companies and foreign private issuers are exempt from compliance with the pay versus performance rule. As further detailed below, smaller reporting companies (SRCs) may scale their disclosures.

DISCLOSURE PRESENTATION: KEY HIGHLIGHTS

SEC REGULATIONS AND STAFF GUIDANCE

Item 402(v) of Regulation S-K

SEC Staff Compliance and Disclosure Interpretations (C&DIs)

Registrants are required to disclose executive compensation "actually paid" to named executive officers (NEOs),[1] as well as the following financial performance measures:

- Cumulative total shareholder return (TSR) for the registrant
- Weighted TSR[2] for the registrant's chosen peer group
- Net income for the registrant
- Measure used by the registrant to measure financial performance (Company-Selected Measure)

[1] Persons covered under the NEOs are specified in Item 402(a)(3) of Regulation S-K and listed in the SCT.
[2] Weighted based on the stock market capitalization of each respective peer at the beginning of each period for which the return is disclosed.

The disclosures are required in tabular format, as follows:

Pay versus Performance

Year **(a)**	Summary Compensation Table for Total Principal Executive Officer (PEO)	Compensation Actually Paid to PEO **(b)**	Average Summary Compensation Table Total for Non-PEO NEOs	Average Compensation Actually Paid to Non-PEO NEOs	Value of Initial Fixed $100 Investment Based On:		Net Income **(f)**	Company Selected Measure* **(g)**
					Registrant TSR **(c)** **(e)**	Peer Group TSR* **(d)** **(e)**		

*SRCs may omit this disclosure.

(a) If a registrant changes its fiscal year, disclosures should be provided for the "stub period" in the year of change (i.e., the period between the last fiscal year end and the new fiscal year end). Refer to [C&DI 228D.01] for an example.

(b) Executive compensation "actually paid" during a year is the "Total" column in the Summary Compensation Table (SCT) required by Item 402(c) of Regulation S-K, adjusted for certain amounts related to equity-based compensation and defined benefit and actuarial pension plans discussed further [below]. If the registrant had multiple PEOs in a fiscal year, the compensation actually paid to the PEOs may be aggregated for disclosure if the presentation is not misleading to investors.

(c) Item 201(e) of Regulation S-K defines TSR as dividends plus or minus the change in share price over the measurement period.

(d) The peer group may be either the peer group used for disclosures required under S-K Item 201(e), or a peer group used in Compensation Discussion and Analysis (CD&A) even if such peer group is not used for "benchmarking" purposes. The peer group must be disclosed in a footnote if it is not a published industry or line-of-business index, though registrants that have disclosed the peer group in prior filings may incorporate those filings rather than repeat the disclosure. The peer group is determined each fiscal year; if a registrant changes the peer group in its CD&A, the most recent peer group should not be used to calculate peer group TSR for all years disclosed in the table. Rather, the registrant should calculate peer group TSR based on the specific peer groups disclosed for each individual year along with a footnote to disclose the reason for the change.

(e) If a registrant went public during the earliest year presented in the table (and registered a class of securities pursuant to Section 12 of the Exchange Act), the "measurement point" for purposes of calculating TSR and peer group TSR should begin on the registration date. If a registrant has emerged from bankruptcy and issued a new class of stock pursuant to the bankruptcy plan, it may provide its cumulative TSR and peer group TSR using a measurement period that begins on the date the new class of stock began trading.

(f) Net income (loss) must agree to net income or loss reported in the audited financial statements. Registrants may not use adjusted net income or loss amounts.

(g) The Company-Selected Measure:

May be any financial performance measure that differs from the financial performance measures otherwise required to be disclosed in the table, which includes measures derived from the registrant's net income or TSR (e.g., it is acceptable to use earnings per share, gross profit, or relative TSR as the Company-Selected Measure).

May not be the registrant's stock price if the registrant does not use the stock price to link compensation actually paid to company performance.

May not be omitted even if the registrant uses a "pool plan" to determine its annual bonus awards,[3] and cannot be measured over a multi-year period.

If a registrant does not use any financial performance measures to link executive compensation actually paid to performance, or if it only uses a financial measure required by S-K Item 402(v), the registrant is not required to disclose a Company-Selected Measure.

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[3] Similarly, a registrant may not omit the tabular list of financial measures that are most important to the registrant or the related relationship disclosures.

In addition to the Company-Selected Measure, registrants are required to include a tabular list of three to seven financial performance measures that they believe are "most important" to link executive compensation actually paid to the performance of the company for the most recently completed fiscal year. The Company-Selected Measure must be selected from this list and the "most important" determination should be made considering only the most recently completed fiscal year. A registrant is not required to disclose its method for determining the "most important" measures but should consider whether it would be helpful to an understanding of the measure. If the registrant uses fewer than three measures, the tabular list must include all measures used. If the registrant considers a non-financial measure to be one of the "most important" measures, the rule permits, but does not require, it to be included in the tabular list.

The registrant may present the tabular list as any of the following:

- A single list for all NEOs
- Separate lists, one for the PEO and one for all other NEOs
- Separate lists for the PEO and each NEO

The list does not require the registrant to rank the importance of each measure. SRCs may omit these disclosures.

Registrants must clearly describe the relationship between the financial performance measures and the compensation actually paid to the registrant's NEOs. The disclosures may be presented narratively, graphically, or a combination of the two, and must describe the relationship between the following:

- Executive compensation actually paid and registrant's TSR, net income, and company-selected measure
- Registrant's TSR and peer group TSR

BDO INSIGHT

While many registrants may choose to include the pay versus performance disclosures in or near the CD&A, there is no required location for the disclosures. The SEC stated that mandating disclosure within CD&A may indicate the registrant considered the relationships disclosed under pay versus performance in its determination of compensation, which may not be accurate.

SCALED DISCLOSURES APPLICABLE TO SMALLER REPORTING COMPANIES

SRCs may omit the following pay versus performance disclosures:

- Defined benefit and actuarial pension plan costs from the determination of compensation actually paid, which is consistent with the SCT disclosure requirements pursuant to S-K Item 402(c) that do not require SRCs to calculate the actuarial change in pension value
- Peer group TSR and related discussion on the relationship to the company's TSR
- Company-Selected Measure and related discussion on the relationship to compensation actually paid
- Tabular list of three to seven financial performance measures that they believe to be the "most important" to link executive compensation actually paid to the performance of the company for the most recently completed fiscal year

Additionally, SRCs may provide three fiscal years, rather than five, and two fiscal years, rather than three, in the first proxy or information statement that requires compliance. Further, SRCs are not required to comply with Inline XBRL requirements until the third filing disclosing pay versus performance.

COMPENSATION "ACTUALLY PAID"

Compensation "actually paid" is determined by adjusting the "Total" column in the SCT for the following:

- **Defined benefit and actuarial pension plans** (not required for SRCs):

  Add:

  - Actuarial "service cost" for services rendered during the fiscal year
  - "Prior service cost," as determined in accordance with U.S. GAAP, of benefits granted during the fiscal year, whether by amendment or initiation of a plan, for services rendered in prior fiscal years

  Deduct:

  - The increase in the actuarial present value from prior fiscal year[4]

- **Equity awards:** The fair value (FV) of equity-based awards is determined using the methodologies and assumptions required by U.S. GAAP. For example, a registrant may not determine the FV of an award as of the end of its fiscal year using an expected term that subtracts the elapsed life of the award from the expected term at the grant date, as this methodology is inconsistent with U.S. GAAP. However, a registrant must consider when an award that contains a market condition vests, as required under S-K Item 402.[5] The following adjustments are required for equity-based awards:

  Add:

  - For awards granted during the fiscal year, FV of the following:
    - Outstanding and unvested awards as of the end of the fiscal year
    - Vested awards, as of the vesting date
  - For awards granted in prior fiscal years, the change in FV of the following:
    - Outstanding and unvested awards from the end of the prior fiscal year
    - Vested awards from the end of the prior fiscal year to the vesting date
  - The dollar value of any dividends or other earnings paid on unvested awards during the fiscal year that are not otherwise reflected in the FV of the award or in any other component of total compensation
    - Dividends to be paid at a future date are excluded from the compensation actually paid as the FV of the award reflects that expectation
    - Dividends that have been paid are included in compensation actually paid (separate from the FV of the equity award) when the FV of the award no longer reflects the expectation of paying that dividend

  Deduct:

  - The FV, as of the end of the prior fiscal year, of awards granted in prior fiscal years that do not meet vesting conditions during the current fiscal year
  - The equity award amounts presented in the SCT ("Stock awards" and "Option awards")

The equity award adjustments included in the computation of compensation actually paid for a newly-appointed NEO should include the change in value of awards that may have been granted in a period prior to the appointment as NEO.

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[4] A decrease in the actuarial present value from the prior fiscal year is excluded from the calculation in the SCT and is therefore excluded from the determination of compensation actually paid.
[5] Under ASC Topic 718, *Compensation – Stock Compensation*, a market condition is not a vesting condition. As such, the determination of when an award containing a market condition vests for disclosure purposes is not consistent with U.S. GAAP.

Required Disclosures

Footnote disclosure for each adjustment in the compensation actually paid calculation is required for each fiscal year presented in the table in the year the pay versus performance disclosure rule is adopted (a registrant may not aggregate equity award adjustments and pension value adjustments for purposes of disclosure).

Additionally, footnote disclosure to the table is required when the assumptions used to calculate the FV of the award in the determination of compensation actually paid materially differ from the assumptions used to determine the grant date FV of the award. A registrant should consider whether such disclosure is required if applying the updated assumptions would result in a material change from the FV of the award on the grant date. The disclosures required when a registrant determines that the assumptions at fiscal year-end materially differ from the grant date are not prescriptive. Disclosing a range or weighted average of assumptions, similar to disclosures in the footnotes under U.S. GAAP, may be appropriate.

Lastly, footnote disclosure for adjustments made in subsequent years to compensation actually paid for years other than the current fiscal year is only required if the information is material to an investor's understanding of the information presented.

TRANSITION

Registrants are required to provide the pay versus performance disclosures for the five most recently completed fiscal years (three years for SRCs) after a transition period. The transition period allows registrants to disclose the following:

- Three years of information (two for SRCs) in the first proxy or information statement that requires compliance with S-K Item 402(v)
- Another year of information in each of the next two annual proxy or information statement filings (next year's annual proxy filing for SRCs)

Newly public companies may provide the disclosures for the most recently completed fiscal year in their first proxy or information statement and add another year of information in future filings until all required years are presented.

The following table summarizes how many fiscal years of information are required to be presented, depending on the transition year and the status of the registrant:

TRANSITION YEAR	REGISTRANT (a)	SRC	NEWLY PUBLIC (b)
1	3	2	1
2	4	3	2
3	5	3	3
4	5	3	4 (c)
5	5	3	5 (c)

(a) Excludes SRCs, newly public companies and those exempt from compliance with the rule.

(b) Excludes emerging growth companies.

(c) SRCs are not required to provide more than three years of information.

BDO INSIGHT

While the disclosures are not required in registration statements or in annual reports on Form 10-K, the rules are complex. Registrants should carefully gather the required information and decide how to present it in a way that will be meaningful to investors.

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