

## The international response to the gender pay gap

GENDER PAY GAP SERIES - NO. 1

As efforts to narrow the gender pay gap are intensified across the globe, we launch our series of global insights into the issue, starting with this overview of the international picture.



### What is the gender pay gap?



The gender pay gap is the difference between what women in aggregate are paid, compared to men.

The gender pay gap and pay equity/equal pay are different concepts:



Pay equity – or equal pay – is about paying people the same for doing the same work or work of equal value.



The gender pay gap measures the average pay of women compared to the average pay of men.

GLOBAL AVERAGE,  
ANNUAL EARNINGS 2017



Source: Global Gender Gap Index 2017,  
World Economic Forum

Pay equity or equal pay is generally about eliminating discrimination and bias (whether intentional or not), whereas the gender pay gap reveals the wider picture of the types and seniority of roles occupied by women compared to men. The gender pay gap is mostly about representation and may be caused by any number of interrelated issues (e.g., education choices, lack of career progression, inadequate mentorship and sponsorship opportunities, starting salaries, motherhood and care-taking roles, cultural norms, etc.) . However, any lack of pay equity will also contribute to the gender pay gap, and in practice the two concepts are easily blurred.



## Global proliferation of regulation

The World Economic Forum's most recent [Global Gender Gap Report](#) concludes that the gender gap in pay, participation and leadership is widening for the first time since 2006 after a decade of slow but steady progress. Paradoxically, this trend is occurring even while many governments are doubling their efforts to narrow the gender pay gap.

It has long been unlawful in the US, the EU and many other jurisdictions to discriminate in respect of employment decisions or to pay women less than men for doing the same job. But since these equality laws have failed to close the gap in earnings between men and women, governments and NGOs are looking at new ways to drive change.

There is no single approach to regulation in this area. The UK and Australian governments have recently focused their efforts on representation and the gender pay gap, requiring employers to publish data about the difference in average pay between men and women. In the UK, gender pay gap data is made available for public use, whereas in Australia the government publishes aggregated pay gap data from which individual companies cannot be identified.

Regulation in this area is expanding across North America, Europe and Latin America. While little regulation currently exists throughout APAC, Australia is a world leader in this area. In the last few months alone, Iceland (already ranked amongst the highest in the world for gender parity) has introduced new legislation requiring employers to certify that they pay employees equally for equal work, the French government has revealed plans to fine companies that do not close unjustified pay equity gaps within three years, Ontario has proposed new pay transparency legislation and Peru has introduced new equal pay legislation.

The topic is gaining momentum, and our expectation is that regulation will continue to increase. It is particularly worth watching out for the more stringent types of regulation being introduced in jurisdictions which are already leading the field, as governments look to build on existing legislation and step up efforts to move the needle.

A number of other countries have focused efforts on pay equity and equal pay – again there is no common theme, but the key ones include:

- Pay equity/equal pay audits (e.g., parts of Canada)
- Works council right of access to pay data (widespread in Western Europe)
- Prohibiting employers from seeking information about applicants' compensation history in the hiring process (states throughout the US)
- Individual right of access to pay data of comparable employees (Germany)

Regulation is unlikely to be globally consistent, even within the EU, leading to a complex patchwork of regulatory requirements with which multinational employers need to comply.



## Company and investor initiatives

Beyond the need to comply with regulation and the desire to do the right thing, companies have other reasons to address their gender pay gap.

First, there is a recognized link between gender diversity and the bottom line. Several studies have demonstrated a correlation between a company's performance and the gender diversity of its leadership teams (see McKinsey's [Why Diversity Matters](#) and [Delivering Through Diversity](#) studies). Correlation does not mean causation (see [Caroline Turner's article](#) for the Huffington Post which questions if diversity could be the result rather than the cause of better performance). Nevertheless it is broadly accepted that the connection holds true (see for example Boston Consulting Group's study [How diverse leadership teams boost innovation](#)).

Second, there is a relationship between addressing the gender pay gap and winning the talent war. Workers (particularly millennials and generation Z) have made it clear they want to work for employers that are purpose-driven, value diversity and inclusion, and pay fairly.

Investors are also showing an active interest in gender diversity driven in part by a desire for fairness and equality and in part by the link between performance and diversity:

- Gender pay equity emerged as a key focus in the US in 2017, with nearly 30 high-profile companies facing shareholder proposals to disclose the extent of the gender pay gap in their organization and their plans to close it ([EY's proxy season review report](#)).
- In the UK, 79 major investors are backing the [Workforce Disclosure Initiative](#), which calls on UK FTSE 50 companies and 25 mega-cap multinationals to disclose details of their gender pay gap and their action plan to address it.

Scrutiny from shareholders and investors is likely to intensify regardless of legal developments. We expect calls for more transparency and active measures to address diversity and inclusion. For companies already under investor pressure, the next stage will be to demonstrate that they are narrowing the gap.

## Our gender pay gap series

In the coming weeks, we will be spotlighting gender pay gap regulations in key jurisdictions and exploring the central issues, including how to narrow the gap.

For more on the global picture and how our global network of over 700 labor and employment lawyers are helping clients address this issue see the Gender Pay Gap and Pay Equity brochure.

**Next in the series: Spotlight on the gender pay gap in the United Kingdom.**

