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# Rules and Standards for Certification

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**Rule 1**

# Agreement

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To be eligible for certification, employers must agree to adhere to the Rules and Standards set forth herein and to submit to review by a certifying agent acting on behalf of Fair Pay Workplace.

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**Rule 2**

# Adherence

Earning the certification badge entails following the guidelines enumerated in this document for conducting a pay equity review, and creating an acceptable remediation plan that will be reviewed over time for progress achieved as planned. That is, certification is meant to signify that an organization has elected to adhere to the rules and standards set forth by the Fair Pay Workplace Alliance, and agrees to continue to do so over time.

Certification does not necessarily mean or imply that an organization has completed all points on a remediation plan, but that it is committing to do so over a designated period of time.

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**Rule 3**

# Pay Equity Review

A single "pay equity review" consists of the following elements.

All elements must be reviewed by the certifying agent. Upon request, the employer agrees to submit additional verification of items listed on the following pages. In addition to following the specified Rules and Standards in this document, employers agree to follow the spirit of avoiding shortcuts and system-gaming approaches to pay equity.

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## Rule 3A

# Pay Equity Review Groupings

Employer has exerted **reasonable and good faith efforts** to generate at least one grouping schema in which employees doing comparable work based on skill, effort, responsibilities and working conditions are grouped together.

- i. Job code, level, grade, job family (or similar) may not be the right grouping schema. Employers seeking to use these as the sole basis for the primary focal grouping schema must present information as to why these are the most appropriate way of organizing the work, as viewed from an outsider's perspective. By default, these are unlikely candidates.
- ii. Job title is often too granular, and by default, is also not a likely candidate for grouping schema, with exceptions where appropriate.
- iii. For employers with 500 or more employees, if the number of groups too small for robust statistical analysis is greater than 25% of the total number of groups, this automatically triggers a more thorough and detailed audit of the grouping schema applied.
- iv. For employers with fewer than 500 employees, the percentage of groups too small for robust statistical analysis should be no greater than 45% of the total groups.
- v. For employers seeking renewal of certification review, the same grouping schema will be used by default unless the nature of the business has changed. If new groups are being added or removed, they should be flagged for review for the certifying agent.

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### **Rule 3A**

# Pay Equity Review

## Groupings, continued

vi. Groups should span the entire workforce within at least one country at a time. For instance, for global employers, they may group all of their US population employees, and separately group all of their European population of employees separately. They may also elect to combine all employees.

1. In countries in which laws vary by region or state, the employer shall apply the most employee-favorable system to all of the covered employees. For instance, in the United States, if the employer is grouping employees working in Arizona ("Equal" standard), Washington ("Comparable" standard), and California ("Substantially Similar" standard), the employer would apply the comparable standard to all employees.

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**Rule 3B**

# Pay Equity Review

## Protected Categories

Employer has analyzed pay differences by the following **protected categories** listed below. Any additional PCs for which the employer has available data may be analyzed as well, and the Fair Pay Workplace certification may record the other comparisons as well. These are reviewed on a case-by-case basis.

- i. Male vs. Non-Male; where Non-Male includes any individuals who do not identify as male.
- ii. White vs. Non-White
  - 1. The Non-White categorization may require tailoring depending on the employer populations being reviewed. This will be discussed with the certifying agent to ensure that the categories are appropriate for the employee population being reviewed.
  - 2. Subdivisions of race and ethnicity are encouraged, with the assistance of the certifying agent.
  - 3. International employee populations may be subject to additional scrutiny and review on a case by case basis.
- iv. Interaction between i. and ii. (This tests the composite effect of being both non-white and non-male)

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### **Rule 3C**

# Pay Equity Review Compensation

The default form of compensation analyzed shall be "**total annualized discretionary compensation.**" This includes all forms of compensation excluding equity grants or RSUs, that the employer provides to employees being reviewed.

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**Rule 3D**

# Pay Equity Review

## Groups Large Enough for Robust Statistical Analysis

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For all groups that have at least 30 employees per group and at least 10 employees per sub-group (e.g. at least 10 men), the PC shall not be considered ruled out as potentially contributing to the explanation of variation of compensation in that group if the p-value for the appropriate parametric test is less than .05. In such instance, employers may apply multivariate regression analysis as described in section f. in this document. If the p-value for the appropriate test is greater than or equal to .05, no further analysis is required.

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## Rule 3E

# Pay Equity Review

## Groups Not Large Enough for Robust Statistical Analysis

For all groups that have fewer than 30 employees per group or fewer than 10 employees per sub-group, no analysis is required if the total percentage of the individuals in this category of groups is less than or equal to 5% of the workforce for employers greater than or equal to 200 employees, or less than or equal to 10% of the workforce for employers with fewer than 200 employees.

- i. For groups that require analysis in this category, the employer has taken reasonable steps to conduct a "**cohort review**" of these groups, and has set forth a remediation plan (see Remediation Plan in this document). Cohort review steps are outlined in the appendix.
- ii. Employers agree to random spot checking by the certifying agent of cohort reviews conducted. The employer seeking certification shall provide information to the certifying agent upon request about how the employer arrived at the conclusions for remediation or non-remediation in any of the groups in this category. If the reasons provided are not satisfactory, the certifying agent may request that the employer take corrective action with respect to the employees in the group(s) at issue.
- iii. If the employer fails to provide information in a reasonable timely manner, or has not conducted the cohort reviews, or otherwise fails to comply with requests to review cohort groups, certification may be revoked or amended, within the discretion of the certifying body.
- iv. If the employer fails to provide such information or otherwise comply three times, the certification will be revoked.

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**Rule 3F**

# Pay Equity Review

## Multivariate Regression Analysis

For all groups that have at least 30 employees per group and at least 10 employees per sub-group (e.g. at least 10 men), and a p-value of less than .05 for appropriate parametric test for the PC's coefficient, employers should apply any and all controls as per the rules and standards set forth in this document. If the p-value for the coefficient associated with the PC is greater than or equal to .05, no further action is required. If the p-value is less than .05, please refer to the section entitled Remediation Plan in this document.

- i. Model integrity: If the R squared ("variation explained") for any model is deemed to be insufficiently low by the reviewing certifying agent, the results of the regression model may be subject to refinement in order to achieve or maintain certification. In general, models showing R squared values should be between 65% and 95%. However, this must be reviewed on a case by case basis.
- ii. Other standard regression model assumptions apply as well, and will be reviewed by the certifying agent as appropriate.

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### **Rule 3G**

# Pay Equity Review Controls

Controls refer to factors used to explain gaps in groups in which statistical evidence from the parametric testing suggests that being a member of the PC in question may not be ruled out as likely contributing to explaining variation in compensation. The employer's selection of which controls to apply to any and all groups shall be reviewed by a certifying agent. The following are standards for the application of controls to groups:

- i. Controls must be neutral. The certifying agent may spot check controls randomly to statistically test the neutrality of the applied controls.
- ii. Controls must be job-related.
- iii. Controls measure difference of skill, output, or effort within a group of comparable employees. For instance, if a company employs 100 engineers, it would be legitimate to differentiate how the company paid those engineers based on years of relevant experience, tenure with the company, location, or educational attainment. Employers may consult with the certifying agent about the viability of contemplated controls.
- iv. Direct measures are preferred to indirect measures where available. Indirect measures are disfavored in some instances. Direct measures are exogenous and not created or assigned by the employer (e.g.: tenure, years of experience, educational attainment, etc.). Indirect measures are endogenous because they are fabricated by the employer and assigned by the employer (e.g.: performance evaluation scores).

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**Rule 3G**

# Pay Equity Review

## Controls, continued

- iv. If controls are missing a small percentage of values, employers may impute missing records using standard methods for this that allow employees to lend data to the model and avoid being dropped from the model. However, imputation may not be appropriate under certain circumstances—for instance, if too many records are missing (greater than 25%). The reviewing certifying agent has discretion to review decisions to impute.
- vi. Employers are not permitted to over-fit or over-count controls to artificially impact the model. For instance, it is inappropriate to include a variable that tracks tenure in months, AND a second variable that tracks tenure in year in the same regression model. Employers must share information with the reviewing certifying agent to ensure that all controls are proper and appropriate under the circumstances. Refer to section f. in this document regarding regression model assumptions as well.

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**Rule 3H**

# Pay Equity Review Remediation Plan

Employers must generate a remediation plan that includes each group for which the PC coefficient is less than .05 net of applied controls. For small groups, a remediation plan is required under conditions laid out in the Cohort Review in the appendix (forthcoming). Remediation plans may be created and reviewed under the supervision of the Employer's attorney for the purpose of assessing legal risk and are therefore subject to attorney-client privilege and other applicable rules. The Remediation Plan includes the following information at a minimum:

- i. Total all up budget to remediate. Minimum budgets to remediate require that after the budget is applied (monies distributed), that no group still shows a PC coefficient p-value of less than .05. This must be the case for at least PCs b.(i) through b.(iii) noted in this document.
- ii. A timeline for the planned disbursement of funds.
- iii. Note that employers are required to include in a remediation plan pay adjustments in which statistical evidence suggests that the traditionally disadvantaged group is the group to whom compensation is being disproportionately provided. For instance, if the statistical analysis described above suggests that men are the underpaid group, men would be eligible to receive additional compensation to correct potential imbalances.

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**Rule 4**

# Frequency of Review

How long does a Fair Pay Workplace Certification last?

In general, the frequency of review is a function of three things: average rate of change of employee headcount per month, frequency of updating compensation, and frequency of promotions or other organizational structural changes. These factors are reviewed by the certifying agent at the time of review. The default length of certification is annual, however it is within the discretion of the certifying agent to shorten that time or grant provisional certification status that may be revoked if an organization fails to conform with provisional conditions.

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**Rule 4**

# Frequency of Review, continued

The following events automatically trigger termination of the certification and necessitate re-review:

- A. WARN Act triggering event or similar RIF or major headcount changing event
- B. Acquisition and merger of another business that impacts greater than 10% of the workforce being reviewed
- C. Change in more than 10% of the groupings
- D. Other major structural change in the business
- E. Material breach of conditional certification provision as judged in the discretion of the certifying agent and reviewed by the Fair Pay Workplace Director if necessary

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**Rule 5**

# Communication About Review

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Companies have an obligation to share a link on the company's website to an externally facing statement regarding their compliance with Fair Pay Workplace Rules and Standards, and provide written documentation that demonstrates alignment with the standards. Companies also have an obligation to share a topline summary of results internally with employees.

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**Rule 6**

# Starting Pay

Employers agree not to ask applicants about their previous compensation or about their compensation expectations. Employers will ensure that for new hires into groups with a PC coefficient less than .10 that they will ensure that starting compensation is checked to ensure that no newly hired employee is hired at a rate that exacerbates the gender or racial gap in that group. Upon request, employers commit to stating the salary range for the position for which an offer is being made.

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## **Rule 7**

# Corrections

Employer agrees to commit to identifying and correcting underlying policies, practices, and behaviors that need to be changed to ensure ongoing pay equity.

- A. Identifying the underlying policies, practices, and behaviors that have contributed to the existing pay gap.
- B. Develop a coherent strategy with quantifiable benchmarks and key performance indicators (KPIs) that states how these processes will be optimized and tracked to assess progress. (As an example, if an organization discovers that major gaps in sponsorship are an underlying cause of their pay gap, they commit in their strategy to structuring mentorship/sponsorship matching and comparing seniority of mentorship w/in mentee populations as a KPI.)
- C. Communicate this strategy to employees to foster accountability.



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**Fair Pay Workplace Certified means trust.  
It's good for business, for people and for the world.**

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