



MARCH 8, 2019

## **EEOC's pay data collection rule for EEO-1 Reports reinstated**

In August 2017, the federal Office of Management and Budget ("OMB") implemented a stay and review of the effectiveness of the pay data collection aspects of the EEOC's revised Equal Employer Information Report ("EEO-1 Report"). For further information on the stay, see our prior alert: <https://putneylaw.com/client-news/eeocs-pay-data-collection-requirements-for-large-employers-suspended>.

On March 4, 2019, the Hon. Tanya S. Chutkan of the United States District Court for the District of Columbia ruled that the OMB's stay of the pay data reporting requirement was improper, reasoning that the OMB failed to show justification for the stay. Accordingly, Judge Chutkan reinstated the pay data collection requirement.

The revised EEO-1 Report requires federal contractors and employers with 100 or more employees to provide data on pay ranges and hours worked in addition to providing information on employee race, ethnicity, and sex by job category. Employers who are required to file EEO-1 Reports will now need to report W-2 wage information and total hours worked for all employees by race, ethnicity and sex. That information must be provided within 12 pay bands that range from \$19,239 and under to \$208,000 and over.

Judge Chutkan's Order held that vacating the stay on pay data reporting would not be disruptive to the current expectation of filers "because affected entities were on notice that the stay could be withdrawn at any time" and "the revised pay data collection had in place for almost a year by the time it was stayed." The EEOC has announced that the EEO-1 website will open on March 18, 2019 to permit the filing of the revised EEO-1 Reports. **Accordingly, unless Judge Chutkan's ruling is itself**

stayed pending an appeal, employers will need to include pay data in their 2018 EEO-1 Report by May 31, 2019.

### **Takeaway for Employers**

Employers should begin to collect data on pay and hours worked. We encourage you to contact us for assistance in complying with your EEO-1 reporting requirements in advance of the May 31, 2019 deadline.

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If you have any questions regarding your EEO-1 reporting obligations, please do not hesitate to contact us.

**[PUTNEY, TWOMBLY, HALL & HIRSON LLP](#)**