CLIENT ALERT: Update on Massachusetts Pay Transparency Law: FAQs, Filing and More

As of February 1, 2025, covered employers under the Massachusetts pay transparency law, Chapter 141 of the Acts of 2024, will for the first time have to submit copies of EEO data reports to the Commonwealth. The Massachusetts Executive Office of Labor and Workforce Development has recently published FAQs about the law, offering important clarification as to employer obligations and information about compliance. The FAQs also connect employers to a new webpage for the Secretary of the Commonwealth providing instructions for filing and a link for uploading required reports (which will be accepted until Monday, February 3, as the February 1 deadline falls on a Saturday).

As discussed in MBJ's original client alert on the pay transparency law, the 2024 Massachusetts law requires the filing of EEO data reports by covered employers, *i.e.,* employers who employ more than 100 employees in Massachusetts at any point in the prior calendar year and are subject to the requirement to file workforce data information with the EEOC. The required data needs to include workforce demographic information categorized by race, ethnicity, sex, and job category. Covered employers do not need to create new reports or make changes to existing reports in order to comply; instead, a covered employer should file the same EEO data report filed with the EEOC.

The FAQs also clarify that workforce data reporting under the pay transparency law does not, at this time, need to include wage information. Wage information is not currently required for employer EEO reporting to the EEOC, and the FAQs note that the Massachusetts law was designed to mirror EEOC reporting requirements. If the EEOC decides that wage data is required by the EEOC in the future it will become part of the required filings in Massachusetts.

The FAQs confirm that reports submitted by employers will not be considered "public records" subject to disclosure under the Massachusetts Public Records Law. The Executive Office of Labor and Workforce Development will compile the data submitted by employers and create an aggregated report broken down by industry sector; only the aggregated data will be considered public records.

The FAQs also highlight the upcoming deadline of October 29, 2025 for employers with 25 employees in the Commonwealth to start disclosing pay range information in job postings. This requirement extends to any posting intended to recruit job applicants for specific positions, including postings made by third parties (such as recruiters) on an employer's behalf. Covered employers must also provide pay range information for a given position to a current employee who is offered a promotion or transfer to a new position with different job responsibilities, and to employees who hold or are applying for the position upon the employee's request. "Pay range" is defined as the annual salary or hourly wage range the employer reasonably and in good faith expects to pay for the position at the time of posting.

Employers should make sure that personnel involved in wage data reporting and in recruiting and hiring functions are aware of the pay transparency law's provisions. The law provides for a series of

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escalating fines for non-compliance, and also contains an anti-retaliation provision making it unlawful for a covered employer to retaliate against any employee or applicant who complains or takes other protected action with respect to salary disclosure rights. Employers should consult their MBJ attorney with any questions that arise in connection with this new law.

Maura D. McLaughlin is a partner with Morgan, Brown & Joy, LLP, and may be reached at (617) 523-6666 or at mmclaughlin@morganbrown.com. Morgan, Brown & Joy, LLP focuses exclusively on representing employers in employment and labor matters.

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