



It's Time for a Workforce Disclosure Reset

Why the SEC Should Require More Specific Human Capital Information From Companies

By Alexandra Thornton and Caius Z. Willingham August 2021

Contents

- 1 Introduction and summary**
- 3 The case for workforce disclosure**
- 10 Existing human capital disclosure frameworks offer useful building blocks for disclosure**
- 14 The SEC has begun to act, but it must require more prescriptive disclosures**
- 17 Policy recommendations**
- 22 Conclusion**
- 23 About the authors and acknowledgments**
- 24 Endnotes**

Introduction and summary

The 21st century economy is one in which human innovation and creativity are at the center of creating firm value.¹ Today, all levels of a company's workforce contribute to productivity-enhancing assets and activities, such as digitization of information and processes, research and development, organizational skills and know-how, networking of institutions and people, marketing, advertising, brand equity, reputation, and much more.² These intangible assets make up more than half of the value of companies today.³ While many corporate leaders frequently declare that employees are their most valuable asset, investors and other market participants often have little detailed, reliable, consistent, and comparable information about who comprises that asset—and how these employees are cared for and developed.

At the same time, research over the past few decades has revealed some concerns about the nation's workforce, such as the large and growing wage differential between the median paid worker and top executives and the lack of gender and racial diversity, especially in higher positions.⁴ Despite the value that America's workers bring to their companies, they are dramatically undervalued by their employers. Interestingly, however, it appears as though the post-pandemic reopening has somewhat strengthened the hand of workers and may be modestly improving wages. It is not yet clear if this will be a longer reversal of the years-long stagnation of real wages or merely a brief adjustment.

That said, the gap between CEO and median worker pay has widened⁵ as share prices have soared and companies have bought back hundreds of billions of dollars of their own stock. Put simply, workers have not been fully benefiting from the profits they create.

This is not an accident.

Workers' voices have been stifled by the proliferation of anti-worker laws in many states, while corporations have become increasingly concentrated and powerful.

Human capital management today represents a classic case in which nearly all companies have detailed, digitized information about their workforces but very few are making it broadly available to investors, credit rating agencies and other market participants, or the public. Yet investors and other market participants—as well as policymakers and the public—need this information to make informed decisions about companies, whether it be to price a company’s shares more accurately, inform shareholder voting, or protect workers from racially motivated or other harmful treatment.

The U.S. Securities and Exchange Commission (SEC) has the authority to require companies to disclose information; requiring the disclosure of human capital and job quality information would further the SEC’s mission. In fact, the case for workforce disclosures is very strong. However, to date, the SEC has fallen short on requiring specific workforce-related disclosures, relying instead on a principles-based approach that effectively leaves corporate management in charge of deciding what information companies will share.⁶ This often leaves investors, creditors, and other market participants, as well as governments and the public, with information that is not detailed, reliable, consistent, or comparable enough to use to make informed decisions.

Specific workforce metrics must be developed and used in financial disclosure. There are several human capital metric frameworks proposed by various private sector organizations and others that could provide a foundation for federally mandated workforce disclosures. The Center for American Progress recommends that the SEC require companies to disclose a core set of quantitative workforce metrics in their financial reports that at a minimum, includes:

- Baseline numbers of full-time, part-time, and contract workers, disaggregated by race, gender, and ethnicity and separately by occupation and pay band.
- Job quality indicators such as pay, benefits, and workplace safety.
- Measures of worker voice and empowerment, such as union density.
- Measures of expenditures on training and recruitment.

Understanding the value and prospects of a company requires understanding how it uses its resources. And no resource is more important than a company’s people. The knowledge, education, and experience—as well as the health, diversity, and other characteristics affecting productivity—of a company’s workers will have significant impacts on its value, profitability, and prospects, including its ability to innovate and remain resilient in the long term.⁷ Ultimately, by facilitating investment in the nation’s workforce, transparency around human capital management would benefit the economy more broadly.

The case for workforce disclosure

The SEC has broad authority to require disclosures that further its mission to protect investors; promote fair, orderly, and efficient markets; facilitate capital formation; and protect the public interest.⁸ The increased importance of human capital management in the success of companies today means that this information is critical to investors. But human capital information is also important to other market participants, as well as to the public. And ultimately, transparency about the nation's public-company workforce is needed to keep capital markets healthy and fair and the economy productive. Thus, the commission can and should require a core set of line-item human capital disclosures if it is to carry out its mission responsibly.

Human capital information is important to investors

Corporate investments in human capital are strongly associated with increased profitability and performance as well as economic growth more broadly.⁹ The workforce is an important source of value creation, and companies that value their workers more perform better.¹⁰ For these reasons, institutional and retail investors are increasingly demanding a range of workforce-related information to fill in the information gap between what management knows and what is reported to investors and the public.¹¹

Countless studies have found a positive correlation between human capital investment and a firm's financial performance. A literature review of 92 papers on the subject reported that the majority of studies found positive relationships between workforce training and corporate value.¹² Research from human resources analyst Josh Bersin found that training employees saved a company as much as \$116,000 per person over three years.¹³ One 2012 study found that 71 percent of CEOs identified human capital as one of the most important sources of economic value within their companies.¹⁴ A 2003 multi-country survey found a significant positive relationship between employee goodwill and profitability.¹⁵ And new research by professors Matthias Regier and Ethan Rouen finds that stock markets attribute future value to human capital investments.¹⁶

In fact, in a review of studies on the subject, the SEC’s Investor Advisory Committee found that high-quality human capital management practices were correlated with “lower employee turnover, higher productivity, and better corporate financial performance, producing a considerable and sustained alpha over time.”¹⁷ The committee found that many companies routinely rely on a number of similar metrics and recommended that principles-based reporting on human capital be augmented with specific disclosures, such as expanded disclosure of the number of employees in a company; details around turnover rates and internal hire and promotion rates; safety, training, and diversity data; and more.¹⁸

In addition to assessing value, workforce information and human capital practices help investors assess risks. Fair treatment of workers across the supply chain enhances reputation, just as poor treatment damages it. Poor human capital management also increases liability risks, both directly from worker-related lawsuits and indirectly when work product itself is poor. The COVID-19 pandemic illuminated yet another risk associated with human capital practices: vulnerabilities to labor supply across the supply chain.¹⁹

Many other market participants and the public rely upon human capital information

The work of many market participants across capital markets depends upon reliable and comparable information about companies’ workforce management practices. Investors, brokers, dealers, and stock exchanges care about how a firm’s workforce contributes to its value. Lenders care about the contribution that a company’s workforce makes to its resilience as a borrower and about potential human capital-related disruptions to the company’s ongoing business.

The pandemic also highlighted the importance of workforce information along supply chains. Companies that experienced high numbers of sick employees were unable to maintain operations at normal levels, leaving their business customers in the lurch. As the economy has begun reopening, many companies have experienced supply chain problems again because their suppliers lack employees. Companies that supply goods to other companies and retained their employees during the pandemic have experienced little workforce disruption and are better able to meet their corporate customers’ needs. But many other companies that did not, or were not able to, retain their employees are trying to hire new employees as they reopen, resulting in some labor shortages²⁰ due to hiring and training delays, as well as increased costs that are passed through to their corporate customers. How companies manage and treat their employees has a direct impact on their ability to attract and build a strong workforce and navigate the post-pandemic economy.

Moreover, the pandemic shed new light on the ongoing public discourse over worker treatment, including race, gender, and equity matters.²¹ Social media has accelerated customers' awareness of these issues.²² Treatment of workers, including in sweatshops in other countries, was a concern well before the pandemic.²³ But now more than ever, employees and customers value how companies treat their workers.²⁴ For example, companies that failed to protect the health of their workers during the pandemic faced work stoppages and customer boycotts.²⁵ Employees across the nation have sparked discussions about racism and barriers at their companies.²⁶ And customers are making it clear that they want companies not just to talk about diversity, equity, and inclusion but also to actively promote racial justice through their management practices and to advocate for racial justice publicly.²⁷

It is not enough for market participants to rely on the voluntary disclosures of a handful of large companies or the work of investigative journalists.²⁸ Standardized public disclosure of core human capital management information that is reliable, consistent, and comparable would inform a wide range of market participants, benefiting companies and the public alike.

Healthy and fair capital markets depend upon human capital disclosures

As law professor Lily Kahng explained in her 2017 paper on the topic, intellectual property laws, contract and employment laws, and other legal and organizational mechanisms enable company owners to reap the returns of their workers' economic productivity in the form of capital assets.²⁹ Employees at all levels of an organization contribute to the creation of these so-called intangible capital assets. For example, scientists contribute to a firm's research and development. And fast-food servers contribute to a business' customer service reputation.

Yet in accounting, for example, workers are treated as a cost, separate and apart from the value they create, such as patents and copyrights, not to mention the licensing and royalties, resulting from research and development. Businesses also use mechanisms such as covenants not to compete, nondisclosure agreements, and trade secrets laws to capture and control the labor of their workers.³⁰ In recent decades, this legal landscape has been exacerbated by tax law, which today places a much lighter tax burden on capital income than on labor income³¹—and arguably provides further incentives for firm owners to extract the value created by employees. (see text box)

Tax code incentivizes firms to turn workforce contributions into capital

The tax law generally requires capital expenditures—those that create future benefits or permanently increase the value of a business—to be capitalized, that is, deducted over time so that the deductions are matched with the increased value over time that is created by the expenditure. Although the U.S. Supreme Court confirmed the capitalization principle in 1992,³² numerous exceptions to the principle both before and after that decision have been recognized by the courts and in tax regulations.

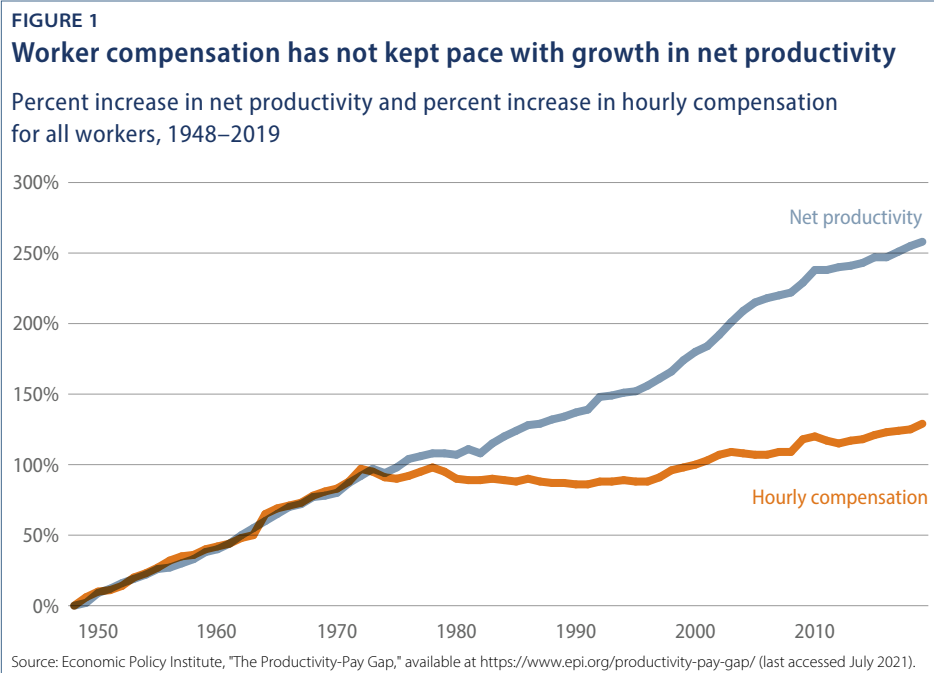
Today, while companies generally must still capitalize acquired intellectual assets, such as when a firm purchases another company or a license, the tax code provides favorable treatment for companies that create intellectual assets in-house, such as when they invest in human capital and otherwise incur human capital-related expenses in their production of income. This occurs, for example, when a company pays workers to develop a brand name, conduct research that results in a new product line, or otherwise contribute to the going-concern value of the business through their work. For this in-house-created capital, the tax law allows most of those costs to be expensed—in other words, deducted immediately.

From an economic perspective, the deduction of investments in labor effectively eliminates income tax on the return on those investments and thus increases the return to capital owners.³³ Moreover, the returns to labor that actually go to workers—their pay—are taxed at a much higher effective tax rate than the labor returns that go to capital owners. The latter benefit from both a much lower tax rate and the ability to delay tax until the asset is sold—known as deferral.

It is telling that, where productivity and worker pay used to rise in tandem, in recent decades, average worker pay has stagnated even as productivity has continued to increase steadily.³⁴ Yet well-trained and fairly compensated employees are more important than ever to the creation of intangible assets and hence a firm's ongoing performance and resilience. They are essential to the innovation that drives value in the knowledge-based, service-oriented economy.

Requiring companies to disclose key metrics about the workers they employ and their human capital management practices is an important step toward reconnecting workforces with the value they create. Such disclosures would emphasize that workforce investments are an asset rather than a cost, as reflected on the balance sheet.³⁵

More reliable, consistent, and comparable information on human capital would provide the information needed—indeed, sought—by investors to guide their investment decisions. And by facilitating and expanding the availability of this important information, the SEC would enhance the overall efficiency and fairness of the capital markets and help ensure that capital flows to the most valuable firms.



Beyond these benefits, an enhanced human capital disclosure regime would help align labor and capital market policies to facilitate the creation of high-quality jobs and help renew the social contract between corporations, workers, and communities.³⁶ It would respond to the emerging consensus among investors, companies, and workers that enhancing environmental, social, and corporate governance (ESG) transparency—particularly around job quality—is important and widely beneficial to all.³⁷

Companies already collect a lot of human capital information

As a matter of course, companies regularly monitor and measure the value of their human capital to assess performance and competitiveness. They have the ability to collect and sort data according to explicit factual and quantitative categories, such as education level, gender identity, race, experience, age, and training.

Indeed, most companies already maintain data on many common workforce metrics for a variety of purposes. To comply with the Fair Labor Standards Act, covered employers must distinguish between employees and independent contractors, and collect data on employee occupation, wages, age, and gender.³⁸ Employers collect data on wages and benefits for IRS tax reporting purposes. Covered companies also confidentially report demographic data on employees, including race, gender, and ethnicity, to the Equal Employment Opportunity Commission (EEOC) on the EEO-1 form. And human resources departments routinely collect data on employee occupation, education, and experience for their own internal management purposes.

Unfortunately, most of these data, including the EEO-1 data on specific companies, are not available to investors, other market participants, or the public. Worse, to the extent information is made available, it is often not detailed, reliable, consistent, or comparable enough to be effectively used in business decisions by investors and other market participants. Public disclosure of basic workforce metrics under a standardized regulatory framework could be more efficient for companies seeking to highlight their best practices, without having to establish benchmarking and metrics on their own. Moreover, a detailed, reliable, consistent, and comparable set of disclosures would allow companies to assess the competitiveness of their workforce more readily and perhaps avoid some of the current expenses, errors, and risks that are inherent in reliance upon third-party consultants using nonpublic data.

While many companies would be better off if they disclosed their workforce metrics, without a standardized regulatory workforce disclosure regime there is little incentive for companies to develop such disclosures on their own. This fact leads to the situation today in which there is little or no meaningful workforce disclosure,³⁹ to the detriment of investors and other market participants, capital markets, and the public.

The imperative for SEC-mandated human capital disclosure metrics is overwhelming. Because a strong workforce can be a source of competitive advantage, effective workforce management and investment in human capital are measurable organizational assets that can generate future profits as well as contribute to overall growth. Investors, lenders, suppliers, and other market participants looking to assess a company increasingly want more detailed, reliable, consistent, and comparable information about companies' workers—from the C-suite to the factory floor. Increased transparency around how companies select and manage their workforces would help investors and other market participants determine which firms are most likely to be profitable and would help make capital markets more efficient and fairer.

But transparency can only be successful if key workforce factors are standardized so that they can be audited for reliability and compared across firms. Fortunately, the SEC can draw from an abundance of existing human capital disclosure frameworks, as well as a rich academic literature, to determine what those core metrics should be.

Existing human capital disclosure frameworks offer useful building blocks for disclosure

U.S. regulators considering enhanced workforce disclosure requirements can find useful examples of metrics to increase transparency around human capital management in initiatives undertaken in the United States and abroad. Most are private, voluntary initiatives led by nongovernmental organizations but funded in part by issuer-connected accounting and consulting firms. Each has constructed its own framework for describing and measuring the value and quality of human capital in corporations. While these frameworks, already adopted by some companies, serve as useful models when considering federal disclosure requirements, they are not replacements for standardized SEC-mandated, line-item disclosures.⁴⁰

The Sustainability Accounting Standards Board (SASB), originally formed in the United States in 2011 and now operating internationally as part of the newly formed Value Reporting Foundation, completed its sector-by-sector sustainability standards in 2018.⁴¹ The SASB approach for addressing workforce issues is embedded in its five main “sustainability dimensions.” These are environment; social capital; human capital; business model and innovation; and leadership and governance.⁴² The human capital dimension is further divided into three areas: labor practices; employee health and safety; and employee engagement, diversity, and inclusion.⁴³ These areas encompass a broad range of metrics including employee turnover, collective bargaining, diversity, wages, and recruitment.

The Global Reporting Initiative (GRI), an international independent standards organization founded in 1997 by Ceres, a leading sustainability nonprofit, and others, put its sustainability standards in place in 2016.⁴⁴ Now used by more than 1,000 companies in 100 countries, GRI uses a slate of human capital measures, covering recruitment and retention, labor and management relations, health and safety, training and education, and diversity and pay equity.⁴⁵

California model: A ‘good jobs’ certification

In 2021, California controller Betty Yee (D), in partnership with the Drucker Institute, proposed a bold plan to incentivize the creation of quality jobs by establishing a certification for high-road employers.⁴⁶ Introduced in the California Assembly in 2021 by member Ash Kalra (D), whose district encompasses San Jose, this bill would require all private businesses with 1,000 or more employees in the state to disclose a common set of workforce metrics that includes pay; hours and scheduling; health, retirement, and paid leave benefits; internal advancement; turnover; worker safety; use of contract labor; and gender and racial equity.⁴⁷ These metrics would then be made public in an accessible format easily digestible by workers, investors, and policymakers alike.

Based on these disclosures, the state Labor and Workforce Development Agency would determine if the corporation could be certified as a high-road employer, laying the groundwork for the establishment of incentives for certification, including preference in government contracting and tax benefits for certified employers. Perhaps more important, if enacted, the California initiative’s mandatory workforce disclosures would provide a valuable pilot for a federal workforce disclosure regime and would provide invaluable data for policymakers and researchers interested in improving the working conditions of the jobs being created.

The International Organization for Standardization (ISO), which is a standard-setting body composed of representatives from 165 national standards organizations,⁴⁸ offers another approach. Its standards cover a dizzying array of more than 23,700 technology and manufacturing topics and include accounting tools to measure diversity, organizational culture, health and safety, recruitment and turnover, skills and capabilities, and more.⁴⁹

The Human Capital Management Coalition (HCMC), a group of asset owners and institutional investors established in 2013 and co-chaired by the United Auto Workers Retiree Medical Benefits Trust and the California State Teachers’ Retirement System,⁵⁰ focuses on corporate practices related to the management of employees, including but not limited to hiring and retention, employee engagement, training, compensation, fair labor practices, health and safety, responsible contracting, ethics, desired company culture, and diversity.

The HCMC developed its balanced approach to reporting, including four types of fundamental line-item metrics for all companies to disclose:

1. Number of employees: full- and part-time employees, including contingent workers
2. Total workforce cost: wages, benefits, and other transfer payments, as well as expenses related to employees
3. Workforce stability: measured by turnover or a similar indicator
4. Workforce diversity: gender and racial and ethnic diversity across employment bands or employee levels⁵¹

Several other initiatives in Europe also provide useful examples of workforce disclosure metrics. For example, the Organization for Economic Cooperation and Development (OECD), an international forum for governments to work together to promote economic growth, prosperity, and sustainable development, assesses job quality along three dimensions: earnings level, job security, and working conditions. Indeed, concerns about job quality in Europe have given birth to a variety of policy initiatives to draw upon, including the European Union's Laeken indicators of job quality, the International Labour Organization (ILO) Decent Work Agenda, and the U.N Economic Commission for Europe (UNECE) job quality framework.⁵²

The newly proposed EU sustainable taxonomy, which categorizes investment activities as sustainable for the purposes of EU recovery funds and other sustainable investment purposes, incorporates baseline labor standards into its climate framework. Under this law, investments must meet the ILO core labor conventions, the U.N. Guiding Principles on Business and Human Rights, and the OECD Guidelines for Multinational Enterprises to be considered "sustainable."⁵³

The International Financial Reporting Standards (IFRS) Foundation, which oversees the international corollary to the United States' generally accepted accounting principles (GAAP) is considering forming a new Sustainable Standards Board that would aim to harmonize the plethora of disclosure standards noted above, such as the SASB and the GRI.⁵⁴

Finally, the European Trade Union Institute job quality index is another international framework that similarly identifies key dimensions of job quality and offers a range of indicators to measure the quality of the working environment.⁵⁵ In particular, it considers the notion of "collective interest representation" as a dimension among six others to monitor progress in creating more and better jobs. The indicators that embody this dimension are collective bargaining coverage; trade union density; and whether the worker is consulted about changes in work organization.

While all these standards and frameworks provide excellent ideas for developing human capital management metrics and in many instances include similar metrics, their differences in form and substance mean there is a lack of standardization, including of underlying data and methodologies, across companies and industries. In addition, in some cases, their applicability in the United States is limited due to differences in legal and regulatory environments, including both labor law and securities law. Perhaps most importantly, these are all voluntary frameworks and cannot by themselves establish the detailed, reliable, consistent, and comparable information needed by market participants and the public. They are not a replacement for a core set of standardized SEC line-item disclosures.

The SEC has begun to act, but it must require more prescriptive disclosures

For more than a decade, the Securities and Exchange Commission has been acutely focused on just one narrow, but important, element of human capital management: executive compensation.

Adopted in 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act statutorily directed the SEC to require public companies to disclose the ratios of the compensation between their CEOs and the median compensation of their employees.⁵⁶ The purpose of that provision and others related to compensation disclosures was to “encourag[e] shareholder engagement in executive compensation matters by, among other things, increasing the transparency of compensation.”⁵⁷

Prior to the enactment of this rule, the only information directly related to human capital that federal securities law and SEC rules required companies to disclose was the number of people they employed.⁵⁸ Despite the wide swath of information about executives and workers that may be important to investors and other market participants, such as retention rates, training, diversity, and skill levels, the SEC has elected to decline adopting any meaningful line-item disclosures other than this very narrow—even if informative—pay ratio metric.

Rather, in 2020, as part of an ongoing initiative to modernize Regulation S-K, which prescribes periodic reporting requirements beyond the financial statements, the SEC took a principles-based approach to human capital disclosures. Under that rule, issuers must “provide a description of the registrant’s human capital resources, including in such description any human capital measures or objectives that management focuses on in managing the business, to the extent such disclosures would be material to an understanding of the registrant’s business taken as a whole.”⁵⁹

Unfortunately, the SEC’s recent revision of Regulation S-K did not create detailed, reliable, consistent, or comparable disclosure requirements—despite many comments seeking detailed workforce disclosures and intervening events highlighting the need for such disclosures.⁶⁰

The revisions grant public company executives significant flexibility and allow them to tailor their companies' disclosures in ways that could obscure information that is important to investors and other market participants.⁶¹ The lack of meaningful, standardized metrics allows wide disparity in the types and specificity of disclosures.⁶² According to securities experts Anthony Hesketh and Samantha Ross, the amended S-K rule "leaves too much room for cherry-picking measures that would make management look good."⁶³

This was borne out in a study of the first 50 10-Ks filed after the effective date by the largest SEC-registered companies—with market capitalization greater than \$1 billion. That study, conducted by consulting firm FW Cook, found that the number of firms disclosing on most key human capital topics was at or well below 50 percent, and there were significant differences in the approaches used for disclosure among those that did disclose on a given topic.⁶⁴

A more recent study published by Stanford University reported that 57 percent of the 10-K filings it surveyed contained no quantitative metrics. The following example from a recent filing under the latest rules exemplifies the lack of specificity in some disclosures:⁶⁵

*We provide robust compensation and benefits. In addition to salaries, these programs, which vary by country/region, can include annual bonuses, stock-based compensation awards, a 401(k) plan with employee matching opportunities, healthcare and insurance benefits, health savings and flexible spending accounts, paid time off, family leave, family care resources, flexible work schedules, adoption and surrogacy assistance, employee assistance programs, tuition assistance and on-site services, such as health centers and fitness centers, among many others.*⁶⁶

Critics of the SEC's principles-based take on overseeing disclosure requirements contend that without a clear definition of human capital or prescription of specific workforce measures, the workforce disclosures will be too flexible to inform investors' and other market participants' decisions.⁶⁷ "Without specific guidance on fundamental metrics common to all companies," say Hesketh and Ross, "managers have incentives to contrive bespoke human capital metrics that can conceal a multitude of management failures with hidden financial consequences."⁶⁸ Moreover, independent assurance to ensure reliability is difficult to do without specific mandatory disclosures. Thus, the principles-based disclosure requirement is not rigorous enough to provide meaningful information to investors with respect to human capital management. Equally important, the current disclosure requirements do not permit comparability between corporations.

Because the regulations do not require detailed, reliable, consistent, and comparable information, investors and other market participants cannot easily evaluate a company's human capital in relation to that of other companies in the market. In fact, human capital disclosures in 10-Ks filed in 2020 vary wildly in length and detail.⁶⁹

Requiring public companies to make more detailed workforce disclosures is well within the SEC's authority, yet some federal lawmakers are sufficiently concerned about the SEC's current principles-based approach that they have introduced legislation to require more specific workforce disclosures. In February 2020, Sen. Mark Warner (D-VA) and Rep. Cindy Axne (D-IA) introduced the Workforce Investment Disclosure Act, which would require all securities issuers to disclose workforce metrics.⁷⁰ The requirements detailed in the bill encompass turnover, diversity and demographics, training, corporate culture, compensation, and health and safety. Crucially, this bill contains a backstop that essentially gives the SEC two years to finalize rules and, if it fails, prescribes the use of ISO standards in their place. In the last Congress, Sen. Tammy Baldwin (D-WI) introduced the Reward Work Act, which would have allowed workers to directly elect one-third of their company's board, a measure that would increase worker voice and presumably make companies more receptive to workforce-related disclosures.⁷¹

Fortunately, SEC Chair Gary Gensler signaled in May 2021 that the agency will propose a new rule on workforce disclosures.⁷² The commission has since included the rule as a top priority in its public agenda.⁷³

Policy recommendations

Given the strong and growing call from investors and other market participants for detailed human capital information, growing empirical data showing a strong correlation between “good” workforce practices and firm performance, the ease of tracking employment data digitally, and the wealth of examples of human capital metrics to draw from, the SEC should move forward as soon as possible with a panel of line-item human capital disclosures, accompanied by recommendations for data and methodologies for calculating those metrics.

The SEC must formulate regulations requiring the disclosure of concrete, quantitative metrics that provide a complete picture of workforce practices. These should be disclosed in the 10-K. Line-item disclosures are less susceptible to deceptive and selective statements and furthermore would be subject to audit. To strengthen the value of the audit, these line-item disclosures should also be subject to the Sarbanes-Oxley Act’s regulatory requirement that attorneys representing issuers report uncertainties or possible violations to the chief legal officer and CEO for resolution.⁷⁴ Moreover, if a reporting company claims that a line item is not applicable to it, it should be required to affirmatively demonstrate why.

Finally, these prescribed disclosures should be required of all domestic and foreign corporate issuers, investment managers, and private funds that are subject to SEC registration requirements.

As the SEC and Congress move to expand workforce disclosure requirements, they should require corporations, at a minimum, to make the following disclosures. These disclosures should be refined over time and updated as appropriate, but those refinements and updates should not slow the establishment of a core set of disclosures as soon as possible to meet the needs of investors and other market participants.

Demographics

While 10-K filers are already required to disclose the number of employees they have, this number alone cannot capture the full shape and scope of a company's workforce. Employee numbers should be more detailed, for example, by showing the following:

- Number of full-time employees, disaggregated by race, ethnicity, and gender
- Number of part-time employees, disaggregated by race, ethnicity, and gender
- Number of contract workers,⁷⁵ disaggregated by race, ethnicity, and gender and separately by occupation and pay band⁷⁶
- Summary data on education, experience, and training of the workforce
- List of any human capital certifications, such as the MLT Black Equity at Work Certification⁷⁷

This is the bare minimum of information that is commonly used to describe and analyze a company's workforce. Without this level of disaggregation, meaningful information can remain hidden—for example, where a firm has a high level of workers who are women or people of color but the majority of them are employed in lower-paid positions.

Job quality

Much is made of the need to create jobs, but the quality of the jobs created is just as important. While the Dodd-Frank Act already requires the disclosure of the ratio of CEO pay to median salary, there are many more important job quality metrics. The SEC should require disclosure of the following:

- Median salaries for full-time workers and for part-time workers separately
- Minimum wages for workers, by job duties or another classification
- Percentage of workers paid overtime
- Human resource organizational structure for purposes of determining compensation, incentives, and promotions
- Expenditures on employee benefits, by job classification, race, ethnicity, and gender, broken down into EEO-1 job categories
- Total cost of the company's workforce, including wages, benefits, and other transfer payments and employee expenses, disaggregated by race and gender
- Lost time due to injuries, illnesses, and fatalities
- Occupational Safety and Health Administration violations, wage and hour violations, and discrimination violations,⁷⁸ along with the mine safety violations that are already required under Dodd-Frank⁷⁹

- Percentage of suppliers that were audited for safety and health compliance
- Whether the firm has a policy guaranteeing basic human rights of workers across its supply chain and refrains from doing business with companies that violate workers' human rights⁸⁰

Details of this nature reflect a company's values and could signal the potential for workforce disruption or firm liability. While job quality may seem difficult to pin down, these mostly quantitative metrics make up the building blocks of job quality.

Worker voice

Study after study has shown that worker power greatly improves productivity and job quality.⁸¹ To that end, companies should disclose the union density within their workforce and whatever expenditures they make to suppress union organizing. The disclosure of third-party lawyers and consultants who provide union organizing advice was outlined in the “persuader rule” proposed by the Department of Labor during the Obama administration and rescinded during the Trump administration.⁸² While reinstatement of the rule by the Labor Department would have the benefit of forcing private companies to disclose this information, the SEC could move forward and include this requirement for public company disclosures as well. It should include the following:

- Percentage of workers who are covered by a collective bargaining agreement,⁸³ disaggregated by job classification, race, and gender
- Legal fees or consultant services for union avoidance
- Description of outstanding National Labor Relations Board complaints and related legal costs
- Standardized survey measures of employee satisfaction

These metrics help translate for investors and others important information that may otherwise be unknowable. They provide a window into the ability of workers to maximize their own well-being and productive capacity to the betterment of the firm.

Human capital development

In an increasingly service-based economy driven by technological advancement, skilled human capital is one of the most valuable assets a company has. While many filers already acknowledge this in their human capital disclosures, the following quantitative measures can paint a better picture than the qualitative descriptors provided currently:

- Total hours of employee occupational training for new and incumbent⁸⁴ workers
- Total expenditures on employee occupational training for new and incumbent workers, including registered apprenticeship programs, types of labor management training partnerships, and other trainings for non-temporary hires
- Education level and degree attainment among the workforce, by occupation
- Recruitment costs
- Voluntary and involuntary turnover, internal hire, and promotion rates
- Whether the company has a business plan for workforce retention and redeployment of workers whose jobs are eliminated as a result of climate change or the firm's management of the physical and transition risks associated with climate change⁸⁵

These workforce development metrics demonstrate in a concrete way how much effort management actually puts behind claims it makes about the resilience and strength of its workforce. They also reflect the firm's prospects for the future as an ongoing concern.

Most of the above indicators are quantifiable and easy to measure, helping paint a clearer picture about the workforce decisions companies make and inform investors about a company's performance on these measures over time. These line items are the floor, not the ceiling, for human capital disclosures and are not a replacement for qualitative descriptions of workforce practices. Moreover, the SEC should monitor and refine line-item disclosures in this area to ensure that they meet the changing needs of investors, other market participants, and the public over time.

Though some companies may protest that these requirements are too burdensome, the evidence suggests that the cost of compliance is modest. The technology to easily collect, track, analyze, and report on these types of data is widely available to businesses of all sizes. Many of the disclosures listed above can be easily aggregated from numbers already collected internally or compiled for other federal disclosures, such as those required by the EEOC. In a pilot program of the High-Road Employer Certification, participating companies reported that compliance posed few challenges.⁸⁶ Moreover, 10-Ks often include this information already—the SEC simply should require that these common indicators are reported in a uniform, comparable fashion. For example, half of 10-K filers already include some information on diversity and inclusion, albeit rarely in a quantitative form.⁸⁷ While the proportion of filers currently providing this information is far too low, the fact that many do demonstrates the feasibility of such disclosures. At a time when technology has the unprecedented capacity to collect, organize, store, and analyze data, there is little excuse not to make this information public and freely available.

When crafting the disclosure metrics and definitions, policymakers should ensure that the SEC coordinates with other relevant agencies, such as the U.S. Department of Labor, to establish common terms and practices. The use of common measures would not only provide cohesion among government agencies on workforce matters but also would be more efficient and benefit firms in need of a supportive infrastructure for sharing workforce data.

Conclusion

Investors and other market participants need more detailed, reliable, consistent, and comparable information about companies' workers and workforce practices to make informed business decisions. A wide range of studies and data analysis has shown the importance of human capital management to the profitability and resilience of companies today—information that is useful to investors and many other market participants, as well as to the public and policymakers concerned about extreme disparities in incomes, wealth, and treatment of people across races, ethnicities, and genders.

Yet the current SEC-mandated disclosures are clearly inadequate—effectively consisting of one compensation metric and a principles-based regime in which management can determine what and how to disclose. But basic workforce information is not an appropriate area for business puffery or, alternatively, confidentiality, nor should the basic disclosures called for above give rise to any serious proprietary concerns. And since most companies already track this information, there is no reason to force investors and other market participants—or the public, for that matter—to search, potentially in vain, for this type of information.

The SEC should adopt a disclosure framework for workforce-related issues without delay. At a minimum, it should require detailed demographic and job quality information, as well as metrics that illicit how firms encourage and incorporate worker voice and how they ensure that their workers grow and develop skills over time. The required disclosures should be accompanied by standardized data and methodologies to ensure that the information is consistent from year to year and comparable across companies.

Transparency around human capital management is a critical first step toward informed investors; efficient and fair capital markets; and capital formation that achieves the outcomes that investors, market participants, and the public expect.

About the authors

Alexandra Thornton is the senior director of Tax Policy for Economic Policy at the Center for American Progress.

Caius Z. Willingham is a research associate for Economic Policy at the Center.

Acknowledgments

The authors gratefully acknowledge Livia Lam and Andy Green for their significant early contributions to this report, as well as Samantha Ross, Rick Wartzman, Cambria Allen, Meredith Miller, Beth Young, Tyler Gellasch, Marc Jarsulic, Karla Walter, Jocelyn Frye, Nicole Lee Ndumele, and others for their comments on earlier drafts.

Endnotes

- 1 Steve Klemash, Bridget M. Neill, and Jamie C. Smith, "How and Why Human Capital Disclosures are Evolving," Harvard Law School Forum on Corporate Governance, November 15, 2019, available at <https://corpgov.law.harvard.edu/2019/11/15/how-and-why-human-capital-disclosures-are-evolving/>.
- 2 Organization for Economic Cooperation and Development, "New sources of growth: intangible assets" (Paris: 2011), available at <https://www.oecd.org/sti/inno/46349020.pdf>.
- 3 Richard Haigh, "Brand Finance Global Intangible Finance Tracker (GIFT) 2018" (Dallas: Brand Finance, 2018), available at <https://brandirectory.com/reports/global-intangible-finance-tracker-gift-2018>.
- 4 Pippa Stevens, "Companies are making bold promises about greater diversity, but there's a long way to go," CNBC, June 11, 2020, available at <https://www.cnbc.com/2020/06/11/companies-are-making-bold-promises-about-greater-diversity-theres-a-long-way-to-go.html>.
- 5 Lawrence Mishel and Jori Kandra, "CEO compensation surged 14% in 2019 to \$21.3 million" (Washington: Economic Policy Institute, 2020), available at <https://www.epi.org/publication/ceo-compensation-surged-14-in-2019-to-21-3-million-ceos-now-earn-320-times-as-much-as-a-typical-worker/>.
- 6 U.S. Securities and Exchange Commission, "Modernization of Regulation S-K Items 101, 103, and 105," *Federal Register* 85 (196) (2020): 63726–63761, available at <https://www.govinfo.gov/content/pkg/FR-2020-10-08/pdf/2020-19182.pdf>.
- 7 Gary S. Becker, "Investment in Human Capital: A Theoretical Analysis," *Journal of Political Economy* (Chicago: The University of Chicago Press, 1962), available at <https://www.journals.uchicago.edu/doi/abs/10.1086/258724>.
- 8 Alexandra Thornton and Tyler Gellasch, "The SEC Has Broad Authority To Require Climate and Other ESG Disclosures" (Washington: Center for American Progress, 2021), available at <https://www.americanprogress.org/issues/economy/reports/2021/06/10/500352/sec-broad-authority-require-climate-esg-disclosures/>.
- 9 Claudia Goldin, "Human Capital," *Handbook of Cliometrics* (2014): 1–42, available at https://scholar.harvard.edu/files/goldin/files/human_capital_handbook_of_cliometrics_0.pdf.
- 10 Ibid. See Hernando Cortina, "Just Business, Better Margins" (New York: JUST Capital, 2019), available at https://justcapital.com/wp-content/uploads/2019/06/JUSTCapital_JBBM_FullReport_06102019.pdf.
- 11 James Andrus, Hearing on "Climate Change and Social Responsibility: Helping Corporate Boards and Investors Make Decisions for a Sustainable World," Testimony before U.S. House Committee on Financial Services Subcommittee on Investor Protection, Entrepreneurship and Capital Markets, February 25, 2021, link to text available at <https://financialservices.house.gov/calendar/eventsingle.aspx?EventID=407109>.
- 12 Aaron Bernstein and Larry Beeferman, "The Materiality of Human Capital to Corporate Financial Performance" (New York: IIRC Institute and Cambridge, MA: Harvard Law School, 2015), available at https://lwp.law.harvard.edu/files/lwp/files/final_human_capital_materiality_april_23_2015.pdf.
- 13 Josh Bersin, "Rethinking the Build vs Buy Approach to Talent" (New York: General Assembly, 2019), available at https://joshbersin.com/wp-content/uploads/2019/10/Build_vs_buy_Bersin_1.0.pdf.
- 14 IBM Training, "The Value of Training" (Armonk, NY: 2014), available at <https://www.ibm.com/training/pdfs/IBMTraining-TheValueofTraining.pdf>.
- 15 James K. Harter, Frank L. Schmidt, and Corey L. M. Keyes, "Well-being in the workplace and its relationship to business outcomes: A review of the Gallup studies," *Flourishing: The Positive Person and the Good Life* (2003), available at https://www.researchgate.net/publication/237670380_Well-being_in_the_workplace_and_its_relationship_to_business_outcomes_A_review_of_the_Gallup_studies.
- 16 Matthias Regier and Ethan Rouen, "The Stock Market Valuation of Human Capital Creation" (Cambridge, MA: Harvard Business School, 2020), available at https://www.hbs.edu/ris/Publication%20Files/21-047_0369ca63-540e-4f5c-bd38-87ac8953ea24.pdf.
- 17 Investor Advisory Committee, "Recommendation from the Investor Advisory Committee: Human Capital Management Disclosure" (Washington: U.S. Securities and Exchange Commission, 2019), available at <https://www.sec.gov/spotlight/investor-advisory-committee-2012/human-capital-disclosure-recommendation.pdf>.
- 18 Ibid.
- 19 See, for example, Lucia Flores Guevara and Lauren Shields, "The Human Cost of the COVID-19 Pandemic for Workers in the Supply Chain," BSR, December 9, 2020, available at <https://www.bsr.org/en/our-insights/blog-view/the-human-cost-of-the-covid-19-pandemic-for-workers-in-the-supply-chain>; Yun Li and Nate Rattner, "As the U.S. economy restarts from the pandemic, parts of it are severely broken," CNBC, May 11, 2021, available at <https://www.cnbc.com/2021/05/11/as-the-us-economy-restarts-from-the-pandemic-parts-of-it-are-severely-broken.html>.
- 20 For a discussion of post-pandemic labor supply and demand, see Heigi Shierholz, "Republicans, Don't Ignore the Evidence on 'Labor Shortages,'" *The New York Times*, June 6, 2021, available at <https://www.nytimes.com/2021/06/06/opinion/jobs-report-wages-unemployment-covid.html>.
- 21 Peter Adams, "Coronavirus brings thorny issue of worker treatment to the marketing fore," *Marketing Dive*, May 20, 2020, available at <https://www.marketingdive.com/news/coronavirus-brings-thorny-issue-of-worker-treatment-to-the-marketing-fore/578150/>.
- 22 Jennifer Liu, "Glassier and the rise of workers using social media to hold employers accountable," CNBC, October 14, 2020, available at <https://www.cnbc.com/2020/10/14/workers-are-turning-to-social-media-to-hold-employers-accountable.html>.
- 23 See, for example, Marc Bain, "Nike is facing a new wave of anti-sweatshop protests," *Quartz*, August 1, 2017, available at <https://qz.com/1042298/nike-is-facing-a-new-wave-of-anti-sweatshop-protests/>.
- 24 See, for example, Alyssa Meyers, "For Consumers, Brands' Care for Staff Amid Pandemic as Important as Stocked Items," *Morning Consult*, April 15, 2020, available at <https://morningconsult.com/2020/04/15/consumer-crisis-brand-communications-report/>.

- 25 Russell Brandom, "Workers from Amazon, Instacart, and others are calling in sick to protest poor virus protections," *The Verge*, May 1, 2020, available at <https://www.theverge.com/2020/5/1/21243905/mayday-strike-boycott-amazon-target-walmart-whole-foods-instacart-shiptstrike>.
- 26 See, for example, Kevin Draper, "ESPN Employees Say Racism Endures Behind the Camera," *The New York Times*, July 13, 2020, available at <https://www.nytimes.com/2020/07/13/sports/espn-racism-black-employees.html>.
- 27 See, for example, Edward Segal, "80% of Employees Say Racial Justice and Equity Issues Should Be On Corporate Agendas," *Forbes*, June 17, 2021, available at <https://www.forbes.com/sites/edwardsegal/2021/06/17/80-of-employees-say-racial-justice-and-equity-issues-should-be-on-corporate-agendas/?sh=20c80e291688>; Geeta Menon and Tina Kiesler, "When a Brand Stands up for Racial Justice, Do People Buy It?," *Harvard Business Review*, July 31, 2020, available at <https://hbr.org/2020/07/when-a-brand-stands-up-for-racial-justice-do-people-buy-it>.
- 28 Jeff Green and others, "New Data Expose Precisely How White and Male Some U.S. Companies Are," *Bloomberg*, March 9, 2021, available at <https://www.bloomberg.com/graphics/diversity-equality-in-american-business/>.
- 29 Lily Kahng, "Who Owns Human Capital?," *Washington University Law Review* 94 (3) (2017), available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2760098.
- 30 See, for example, Karla Walter, "States Must Act to Protect Workers From Exploitative Noncompete and No-Poach Agreements," *Center for American Progress*, April 2, 2019, available at <https://www.americanprogress.org/issues/economy/news/2019/04/02/467955/states-must-act-protect-workers-exploitative-noncompete-no-poach-agreements/>.
- 31 Alexandra Thornton and Galen Hendricks, "Ending Special Tax Treatment for the Very Wealthy," *Center for American Progress*, June 4, 2019, available at <https://www.americanprogress.org/issues/economy/reports/2019/06/04/470621/ending-special-tax-treatment-wealthy/>.
- 32 *INDOPCO, Inc. v. Commissioner of Internal Revenue*, 503 U.S. 79 (1992), available at <https://www.law.cornell.edu/supremecourt/text/503/79>.
- 33 For a fuller discussion, see Kahng, "Who Owns Human Capital?"
- 34 See Economic Policy Institute, "The Productivity-Pay Gap," available at <https://www.epi.org/productivity-pay-gap/> (last accessed August 2021).
- 35 Angela Hanks and others, "Workers or Waste?" (Washington: Center for American Progress, 2016), available at <https://www.americanprogress.org/issues/economy/reports/2016/06/08/138706/workers-or-waste/>.
- 36 Neera Tanden, "A New Social Contract for the 21st Century," *Democracy Journal*, June 23, 2020, available at <https://democracyjournal.org/magazine/a-new-social-contract-for-the-21st-century/>.
- 37 Thornton and Gellash, "The SEC Has Broad Authority to Require Climate and Other ESG Disclosures."
- 38 U.S. Department of Labor, "Fact Sheet #21: Recordkeeping Requirements under the Fair Labor Standards Act (FLSA)" (Washington: 2008), available at <https://www.dol.gov/agencies/whd/fact-sheets/21-flsa-recordkeeping>.
- 39 Cydney Posner, "Not much data disclosed on human capital, according to new survey," *Cooley PubCo*, May 4, 2021, available at <https://cooleypubco.com/2021/05/04/not-much-data-disclosed-on-human-capital-according-to-new-survey/>.
- 40 Alexandra Thornton and Andy Green, "The SEC's Time To Act" (Washington: Center for American Progress, 2021), available at <https://www.americanprogress.org/issues/economy/reports/2021/02/19/496015/secs-time-act/>.
- 41 See Janine Guillot, "Welcome Remarks from the CEO," *Value Reporting Foundation*, June 16, 2021, available at <https://www.valuereportingfoundation.org/news/welcome-remarks-from-the-ceo/>; *Globe Newswire*, "SASB Codifies First-Ever Industry-Specific Sustainability Accounting Standards," Press release, November 7, 2018, available at <https://www.globenewswire.com/news-release/2018/11/07/1646736/0/en/SASB-Codifies-First-Ever-Industry-Specific-Sustainability-Accounting-Standards.html>.
- 42 Value Reporting Foundation, "Understanding SASB Standards," available at <https://www.sasb.org/implementation-primer/understanding-sasb-standards/#:~:text=SASB%20groups%20such%20activities%20into,and%20reporting%20of%20such%20activities> (last accessed May 2021).
- 43 Value Reporting Foundation, "Human Capital," available at <https://www.sasb.org/standards/process/active-projects/human-capital/> (last accessed August 2021).
- 44 Global Reporting Initiative, "Our mission and history," available at <https://www.globalreporting.org/about-gri/mission-history/> (last accessed May 2021).
- 45 Global Reporting Initiative, "GRI Standards English Language," May 19, 2020, available at <https://www.globalreporting.org/how-to-use-the-gri-standards/gri-standards-english-language/>.
- 46 Betty Yee and Rick Wartzman, "Which big companies truly treat their workers well? California aims to keep score," *Fortune*, March 9, 2021, available at <https://fortune.com/2021/03/09/california-high-road-companies-employer-worker-pay-benefits-safety-equity/>.
- 47 California Legislature, AB-1192, February 18, 2021, available at https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=20210220AB1192.
- 48 International Organization for Standardization, "About Us," available at <https://www.iso.org/about-us.html> (last accessed May 2021).
- 49 Klemash, Neill, and Smith, "How and Why Human Capital Disclosures are Evolving."
- 50 Human Capital Management Coalition, "About the Coalition," available at <https://www.hcmcoalition.org/about> (last accessed May 2021).
- 51 See Cambria Allen-Ratzlaff on behalf of the Human Capital Management Coalition, Letter to SEC commenting on the proposed release "Modernization of Regulation S-K Items 101, 103, and 105," October 22, 2019, available at <https://www.sec.gov/comments/s7-11-19/s71119-6322887-194462.pdf>.
- 52 For information about the Laeken indicators and the International Labour Organization's Decent Work Agenda, see European Parliament Directorate-General for Internal Policies, "Indicators of Job Quality in the European Union" (Brussels: 2009), available at <https://www.europarl.europa.eu/document/activities/cont/201107/20110718ATT24284/20110718ATT24284EN.pdf>. For the U.N. Economic Commissions for Europe's job quality framework, see U.N. Economic Commission for Europe, "Handbook on Measuring Quality of Employment" (New York and Geneva: 2015), available at https://unece.org/fileadmin/DAM/stats/publications/2015/ECE_CES_40.pdf.

- 53 Principles for Responsible Investment, "EU Sustainable Taxonomy," available at <https://www.unpri.org/policy/eu-sustainable-finance-taxonomy/4567.article> (last accessed June 2021); International Labour Organization, "Conventions and Recommendations," available at <https://www.ilo.org/global/standards/introduction-to-international-labour-standards/conventions-and-recommendations/lang-en/index.htm> (last accessed August 2021); European Parliament and the Council of the European Union, "REGULATION (EU) 2020/852 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088," available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32020R0852> (last accessed August 2021).
- 54 International Financial Reporting Standards Foundation, "Consultation Paper on Sustainability Reporting" (London: 2020), available at <https://www.ifrs.org/content/dam/ifrs/project/sustainability-reporting/consultation-paper-on-sustainability-reporting.pdf>. Any reliance upon the IFRS Foundation should be approached with caution, in part because the foundation is largely subject to voluntary funding, including significant amounts from the accounting industry.
- 55 Agnieszka Piasna, "Bad jobs' recovery? European Job Quality Index 2005-2015" (Brussels: European Trade Union Institution, 2017), available at <https://www.etui.org/sites/default/files/WP-2017.06-WEB.pdf>.
- 56 U.S. Securities and Exchange Commission, "SEC Adopts Rule for Pay Ratio Disclosure," Press release, August 5, 2015, available at <https://www.sec.gov/news/pressrelease/2015-160.html>.
- 57 U.S. Securities and Exchange Commission, Pay Ratio Disclosure, Release Nos. 33-9877; 34-75610; File No. S7-07-13, August 5, 2015), p. 10, available at <https://www.sec.gov/rules/final/2015/33-9877.pdf>.
- 58 Klemash, Neill, and Smith, "How and Why Human Capital Disclosures are Evolving."
- 59 U.S. Securities and Exchange Commission, Release Nos. 33-10825; 34-89670; File No., S7-11-19, effective November 9, 2020, available at <https://www.sec.gov/rules/final/2020/33-10825.pdf>.
- 60 See, for example, Commissioner Allison Herren Lee, "Regulation S-K and ESG Disclosures: An Unsustainable Silence," U.S. Securities and Exchange Commission, August 26, 2020, available at <https://www.sec.gov/news/public-statement/lee-regulation-s-k-2020-08-26>.
- 61 U.S. Securities and Exchange Commission, "Modernization of Regulation S-K Items 101, 103, and 105," *Federal Register* 85 (196) (2020): 63726-63761, available at <https://www.govinfo.gov/content/pkg/FR-2020-10-08/pdf/2020-19182.pdf>.
- 62 Neri Buksan and Marc Siegel, "Human Capital Disclosures Findings From 2020 10-Ks," Harvard Law School Forum on Corporate Governance, May 25, 2021, available at <https://corpgov.law.harvard.edu/2021/05/25/human-capital-disclosures-findings-from-2020-10-ks/>.
- 63 Anthony Hesketh and Samantha Ross, "A Company's Workforce Is Its Most Strategic Asset. Investors Deserve Clarity About It," *Barrons*, October 19, 2020, available at <https://www.barrons.com/articles/a-companys-workforce-is-its-most-strategic-asset-investors-deserve-clarity-about-it-51603114430>.
- 64 David Gordon, Dina Bernstein, and Andrew Lash, "Variety of Approaches to New Human Capital Resources Disclosure in 10-K Filings," Harvard Law School Forum on Corporate Governance, December 13, 2020, available at <https://corpgov.law.harvard.edu/2020/12/13/variety-of-approaches-to-new-human-capital-resources-disclosure-in-10-k-filings/>.
- 65 Amit Batish and others, "Human Capital Disclosure: What Do Companies Say About Their 'Most Important Asset'?", Rock Center for Corporate Governance at Stanford University, May 5, 2021, available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3840412.
- 66 Ibid.
- 67 Human Capital Management Coalition, "Human Capital Management Coalition Statement Re: SEC's Regulation S-K Final Rulemaking Urges SEC to Go Further, Seek Company Reporting on Four Metrics," Press release, August 27, 2020, available at <https://www.globenewswire.com/news-release/2020/08/27/2085000/0/en/Human-Capital-Management-Coalition-Statement-Re-SEC-s-Regulation-S-K-Final-Rulemaking.html>.
- 68 Hesketh and Ross, "A Company's Workforce Is Its Most Strategic Asset. Investors Deserve Clarity About It."
- 69 Gordon, Bernstein, and Lash, "Variety of Approaches to New Human Capital Resources Disclosure in 10-K Filings."
- 70 Workforce Investment Disclosure Act of 2020, H.R. 5930, 166th Cong., 1st sess. (February 21, 2020), available at <https://www.congress.gov/bill/116th-congress/house-bill/5930/text>.
- 71 Office of Sen. Tammy Baldwin, "U.S. Senator Tammy Baldwin Reintroduces Legislation to Rein in Stock Buybacks and Give Workers a Voice on Corporate Boards," Press release, March 27, 2019, available at <https://www.baldwin.senate.gov/press-releases/reward-work-act-2019>.
- 72 Katanga Johnson, "U.S. SEC chair planning new workforce data disclosures for public companies," Reuters, May 14, 2021, available at <https://www.reuters.com/business/sustainable-business/us-sec-chair-planing-new-workforce-data-disclosures-public-companies-2021-05-13/>.
- 73 See U.S. Securities and Exchange Commission, "SEC Announces Annual Regulatory Agenda," Press release, June 11, 2021, available at <https://www.sec.gov/news/press-release/2021-99>; *The Washington Post*, "SEC to Consider Mandating More Climate, Human Capital Disclosures," June 23, 2021, available at https://www.washingtonpost.com/business/economy/sec-to-consider-mandating-more-climate-human-capital-disclosures/2021/06/23/48c20c28-d413-11eb-ae54-515e2f63d37d_story.html.
- 74 U.S. Securities and Exchange Commission, Final Rule: Implementation of Standards of Professional Conduct for Attorneys, 17 CFR Part 205, Release Nos. 33-8185; 34-47276, August 5, 2003, available at <https://www.sec.gov/rules/final/33-8185.htm>.
- 75 Over time, these disclosures should be disaggregated by franchise workers, temporary workers, and labor subcontractors. See Hanks and others, "Workers or Waste?"
- 76 While the EEO-1 form requires disclosure of employees by race, ethnicity, and gender, the SEC should consider also requiring companies to disclose employees by sexual orientation, gender identity, and disability status.
- 77 See Tyler Gellach and Lee Reiners, "From Laggard To Leader: Updating the Securities Regulatory Framework to Better Meet the Needs of Investors and Society" (Durham, NC: Global Financial Markets Center at Duke Law, 2021), p. 21, available at <https://web.law.duke.edu/sites/default/files/centers/gfmc/From-Laggard-to-Leader.pdf>; MLT Black Equity At Work, "Scoring Rubric for MLT Black Equity at Work Certification," available at <https://www.mltblack-equityatwork.org/about-the-certification/> (last accessed August 2021). (including: Black representation at every level; compensation equity; inclusive, anti-racist work environment; racially just business practices; and racial justice contribution and investments)

- 78 For federal laws prohibiting job discrimination, see U.S. Equal Employment Opportunity Commission, “Federal Laws Prohibiting Job Discrimination Questions and Answers,” available at <https://www.eeoc.gov/fact-sheet/federal-laws-prohibiting-job-discrimination-questions-and-answers> (last accessed July 2021).
- 79 See U.S. Securities and Exchange Commission, “SEC Adopts Dodd-Frank Mine Safety Disclosure Requirements,” Press release, December 21, 2011, available at <https://www.sec.gov/news/press/2011/2011-273.htm>.
- 80 See JUST Capital, “The Core Issues of JUST Business by Stakeholder,” available at <https://justcapital.com/issues/> (last accessed July 2021); Charlie Mahoney and Mona Patni, “Chart of the Week: Companies That Provide Human Rights Disclosure Outperform Those That Don’t,” JUST Capital, May 20, 2021, available at <https://justcapital.com/news/chart-of-the-week-companies-that-provide-human-rights-disclosure-outperform-those-that-dont/>.
- 81 Benjamin Artz, David G. Blanchflower, and Alex Bryson, “Unions Increase Job Satisfaction in the United States” (Cambridge, MA: National Bureau of Economic Research, 2021), available at <https://www.nber.org/papers/w28717>; Masayuki Morikawa, “Labor unions and productivity: an empirical analysis using Japanese firm-level data,” *Labour Economics* 6 (17) (2010): 1030–1037, available at <https://www.sciencedirect.com/science/article/abs/pii/S092753711000031X>; Arindrajit Dube, Ethan Kaplan, and Owen Thompson, “Nurse Unions and Patient Outcomes,” *ILR Review* 69 (4) (2016): 803–833, available at https://www.dropbox.com/s/apfhs670zx609g1/DKT_2016.pdf?dl=0.
- 82 See JDSupra, “DOL Mulls Return to Obama-Era ‘Persuader’ Reporting Rule,” May 4, 2021, available at <https://www.jdsupra.com/legalnews/dol-mulls-return-to-obama-era-persuader-9412304/>; “U.S. Department of Labor Rescinds 2016 Persuader Rule,” Press release, July 17, 2018, available at <https://www.dol.gov/newsroom/releases/olms/olms20180717>.
- 83 For an example of union membership disclosure, see Alcoa Corp.’s 2020 10-K disclosure. U.S. Securities and Exchange Commission, “Form 10-K: Alcoa Corporation,” available at https://www.sec.gov/ix?doc=/Archives/edgar/data/1675149/000156459021008854/aa-10k_20201231.htm#ITEM_1B_UNRESOLVED_STAFF_COMMENTS (last accessed August 2021).
- 84 For a definition of “incumbent,” see U.S. Department of Labor, “20 CFR § 680.780 - Who is an ‘incumbent worker’ for purposes of statewide and local employment training activities?,” Legal Information Institute, available at <https://www.law.cornell.edu/cfr/text/20/680.780> (last accessed August 2021).
- 85 See Brandon J. Rees, “Re: Public Input Welcomed on Climate Change Disclosures,” U.S. Securities and Exchange Commission, June 14, 2021, available at <https://www.sec.gov/comments/climate-disclosure/cll12-8914386-244692.pdf>.
- 86 Yee and Wartzman, “Which big companies truly treat their workers well? California aims to keep score”; Drucker Institute, “High-Road Employer Certification Initiative,” available at <https://www.drucker.institute/programs/employer-certification/> (last accessed June 2021); Drucker Institute, “Technical Notes for California High-Road Employer Certification Initiative” (Claremont, CA) available at <https://www.drucker.institute/wp-content/uploads/2021/03/Technical-Notes-for-Worker-Metrics.pdf> (last accessed June 2021); California Legislature, AB-1192.
- 87 Gordon, Bernstein, and Lash, “Variety of Approaches to New Human Capital Resources Disclosure in 10-K Filings.”

Our Mission

The Center for American Progress is an independent, nonpartisan policy institute that is dedicated to improving the lives of all Americans, through bold, progressive ideas, as well as strong leadership and concerted action. Our aim is not just to change the conversation, but to change the country.

Our Values

As progressives, we believe America should be a land of boundless opportunity, where people can climb the ladder of economic mobility. We believe we owe it to future generations to protect the planet and promote peace and shared global prosperity.

And we believe an effective government can earn the trust of the American people, champion the common good over narrow self-interest, and harness the strength of our diversity.

Our Approach

We develop new policy ideas, challenge the media to cover the issues that truly matter, and shape the national debate. With policy teams in major issue areas, American Progress can think creatively at the cross-section of traditional boundaries to develop ideas for policymakers that lead to real change. By employing an extensive communications and outreach effort that we adapt to a rapidly changing media landscape, we move our ideas aggressively in the national policy debate.

