

OPTIMIZING STRATEGY & TACTICS

EBEC for Public Companies

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Topics to be Discussed

1

Executive Compensation Programs: Design Considerations for Public Companies

2

Executive Compensation Considerations for Pre-IPO Stage Companies

3

For Your Information (FYIs)


EXECUTIVE COMPENSATION PROGRAMS

Design Considerations for Public Companies

EXECUTIVE COMPENSATION PROGRAMS

Design Considerations in 2025

PAY ELEMENTS				
	BASE SALARY	ANNUAL INCENTIVE PLAN	LONG-TERM INCENTIVE PLAN	BENEFITS / OTHER COMPENSATION
PURPOSE	Guaranteed, competitive pay to attract and retain executive	Incentive aligned with short-term performance goals	Incentive aligned with long-term shareholder interests & long-term performance goals	Necessary for a competitive total pay package
CLASSIFICATION	Fixed	Variable	Variable	Fixed
PERFORMANCE PERIOD	n/a	1-year	3 to 5 years	n/a
TYPE	Cash	Cash	Cash or Equity	

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- Retirement Benefits (e.g., 401(k) plans, nonqualified deferred compensation plans)
 - Health & Welfare Benefits (e.g., executive wellness program, life insurance)
 - Post-Termination Benefits (e.g., executive severance plan)
 - Executive Perquisites (e.g., executive security benefits, personal use of corporate aircraft)
 - Other (e.g., employee stock purchase plan, dividend reinvestment plan)

EXECUTIVE COMPENSATION PROGRAMS

Design Considerations in 2025



FACTORS TO CONSIDER

- Market conditions and impact on financial outlook
- What competitors are paying their executives
- How to align management and shareholders
- Conditions that will apply to annual and long-term incentive awards
 - e.g., performance metrics; time-based vesting conditions; performance-based vesting conditions
- If granting incentive equity, type of grant (e.g., stock options, restricted stock units (RSUs), performance-based RSUs) & number of shares available to grant

Executive Compensation Considerations for Pre-IPO Stage Companies

Executive Compensation Considerations for Pre-IPO Stage Companies

1

Formalize your process

2

Compensation consultants for executive compensation program design

3

Preparing a public company incentive equity plan

4

Engaging a stock plan administrator for the public company's incentive equity plan

FYIs

Internal Revenue Code Section 162(m)

- Limits a public company's deduction for compensation paid to "covered employees" to \$1 Million per year
- American Rescue Plan Act of 2021 (ARP): expanded deduction limitation via expansion of "covered employee" definition
 - IRS has proposed regulations to implement the ARP amendments
- Possible amendments under One Big Beautiful Bill Act

EXECUTIVE COMPENSATION CLAWBACKS

Exchange Act Forms, C&DIs 104.20 – 104.25

KEY TAKEAWAYS INCLUDE

- “Big R” or “little r” restatements trigger marking applicable checkbox
- If a clawback policy is triggered, but no recovery of incentive-based compensation from executive officers, issuers will still need to:
 - mark the check box indicating that the restatement required a recovery analysis; and
 - briefly explain why there was no recovery
- A restatement during/after the company’s most recently completed fiscal year will trigger disclosure under Regulation S-K, Item 402(w)(2) the following year even if no clawback occurs
- Interim-only restatements:
 - don’t require marking the clawback-related checkboxes (these boxes only apply to restatements of annual periods) but
 - will trigger disclosure under Regulation S-K, Item 402(w) the following year

SEC Executive Compensation Roundtable

- When: June 26, 2025
- Open to public and available to livestream on SEC.gov
- Agenda for the roundtable includes 3 panels on executive compensation decisions and disclosures

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