



JPMorgan Settles Gender Pay Bias Suit For \$9.8 Million

Insights

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JPMorgan Chase recently signed a conciliation agreement with the U.S. Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) agreeing to settle a long-running pay equity lawsuit alleging that it underpaid some of its female employees. Key provisions of the November 2 agreement require JPMorgan to pay \$800,00 in back pay and interest to affected female employees, to conduct an annual pay equity analysis of its U.S. employees for the next five years, and to allocate \$9,000,000 during the five-year period for pay adjustments for women and minorities to address pay equity.

The Lawsuit

The OFCCP, which enforces anti-discrimination and affirmative action obligations under Executive Order 11246 for companies that contract with the federal government, sued JPMorgan in 2017. The agency claimed that the company discriminated against a group of at least 93 female employees by compensating them significantly less than their male counterparts.

As a federal government contractor, JPMorgan must comply with affirmative action obligations, including ensuring that it does not discriminate against its employees on the basis of sex in its compensation practices. According to the Administrative Complaint filed by the OFCCP, the alleged pay disparities dated back to 2012. In addition to pay disparities, the OFCCP claimed that JPMorgan "failed to evaluate compensation systems applicable to individuals employed in the [impacted group] to determine whether there were gender-based disparities."

Key Settlement Terms

As noted above, JPMorgan will pay approximately \$9.8 million dollars to resolve the lawsuit. The conciliation agreement not only addresses the alleged pay disparities impacting class members, which was narrowed to 67 from the original 93, but implements an annual pay equity analysis system in effect for the next five years aimed at ensuring that women and minorities are also being compensated equitably.

Using the analyses, JPMorgan has agreed to allocate \$1.8 million per year for the five-year period and to make annual pay adjustments for women and minorities to address pay equity. If the pay adjustments required in a given year total less than \$1.8 million, JPMorgan will use the differential to fund inclusion and diversity efforts and programs. The company is also required to provide annual progress reports of its compliance with the annual analyses requirements of the agreement. Those reports will be confidential and privileged.

The agreement also contains favorable terms for JPMorgan. The OFCCP will close “all pending, scheduled or in-person compliance evaluations” of JPMorgan. Further, assuming JPMorgan complies with the terms of the agreement, it will be exempt from OFCCP audits for at least seven years. Of course, JPMorgan must continue to comply with its affirmative action obligations under Executive Order 11246.

Takeaways

Although the Labor Department has had some recent setbacks in pay bias litigation (most notably losing a huge case filed against Oracle in California alleging discrimination against women and minorities in pay practices), it continues to enforce its anti-discrimination mandates and it obtained a fairly sweeping settlement against JPMorgan. Companies should remain vigilant and audit their pay practices to ensure pay equity.

While JPMorgan had certain legal obligations to ensure pay equity as a federal contractor, pay equity requirements are not limited to large federal contractors. There are a myriad of other federal, state, and local laws that create obligations for employers to ensure that women (and other employees) are not underpaid. Consult with legal counsel for more information about your company’s obligations and best practices.

Service Focus

Pay Equity and Transparency