

Tackling PvP Disclosures:

*Updates for Year 2 Best Practices
and New Data Analytics*



September 5th

11:00am PT / 2:00pm ET

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Brief Background Slide

- For calendar year companies, beginning with the 2023 proxy statement, most public companies are required to include a section with **Pay versus Performance** disclosure for the company's named executive officers (NEOs) following a set of standardized rules
 - *Exceptions for: Emerging growth companies, foreign private issuers, registered investment companies*
- Year 1 required 3 lookback years, Year 2 required 4 lookback years, Year 3 (2025) and beyond will require 5 lookback years
- Rules require detail on the Principal Executive Officer and, separately, averaged detail for all other NEOs

Pay Information	Performance Information
Summary Compensation Table	Company TSR
Compensation Actually Paid <i>(editorial note: that this is not compensation that gets actually paid, nor is it realized pay or realizable pay)</i>	Peer TSR
	Net Income
	Company Selected Performance Measure

- You are also required to show graphs and/or narrative explanations of the relationship between the pay information and performance information

PvP Disclosures | Company Selected Measures

Most Important Performance Measures for 2022

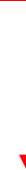
As described in greater detail in the Compensation Discussion and Analysis, the Company's executive compensation program includes linking pay of our NEOs to strategic business, operational, and financial goals for both annual and long-term incentive awards. For the last fiscal year, the most important financial performance measures used by the Company to link executive compensation actually paid to the NEOs, for the most recently completed fiscal year, to the Company's performance are as follows:

- Adjusted EBITDA
- Net Sales
- Free Cash Flow
- Adjusted EBITDA CAGR
- Return on Invested Capital

Pay Vs. Performance - Main Table Example

Year	Summary Compensation Table (SCT) Total for PEO (\$)	Compensation Actually Paid to PEO (\$)	Average SCT Total for Non-PEO NEOs (\$) ⁽¹⁾	Average Compensation Actually Paid to Non-PEO NEOs (\$) ⁽¹⁾	Based on		Net Income (In Millions) (\$)	1-Year TSR Relative to S&P 100 ⁽³⁾
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2023	8,802,824	235,105,454	34,648,486	80,022,929	210.81	118.93	66,732	87 th
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2021	6,322,599	267,277,583	21,657,558	72,131,743	216.42	134.41	76,033	94 th
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Company Selected Measure



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Company Selected Measure



1 How can Compensation Actually Paid (CAP) be Negative?

PvP Disclosures | Reconciliation Example

- To get to Compensation Actually Paid, you add and subtract from the Summary Compensation Table Total Compensation Figure
- Note that the reconciliation is only required for the most recent year (2023 in this case). It is **not** necessary to show the reconciliation for prior years.
- This is an example of a “vertical” reconciliation. Some others have chosen to use a similar chart but in a “horizontal format”

To calculate CAP for 2023, the following amounts were deducted from and added to Summary Compensation Table (SCT) total compensation:

	PEO (\$)	Average for Non-PEO NEOs (\$)
SCT Total	8,802,824	34,648,486
Adjustments		
Deduction for Amounts Reported Under the “Stock Awards” Column in the SCT (i)	0	(32,135,185)
Increase for Fair Value of Awards Granted during year that Remain Unvested as of Year End (ii)	0	36,856,971
Increase for Fair Value of Awards Granted during year that Vest during year (ii)	0	8,353,052
Increase/deduction for Change in Fair Value from Prior Year-end to Current Year-end of Awards Granted Prior to year that were Outstanding and Unvested as of Year-end (ii)	215,308,629	22,984,694
Increase/deduction for Change in Fair Value from Prior Year-end to Vesting Date of Awards Granted Prior to year that Vested during year (ii)	10,994,001	9,314,911
Compensation Actually Paid	235,105,454	80,022,929

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2 Do investors care about this?

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What Does This Mean?
At the end of 2023, the company was worth 210% of what it was worth at the end of 2019

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2 Do investors care about this?

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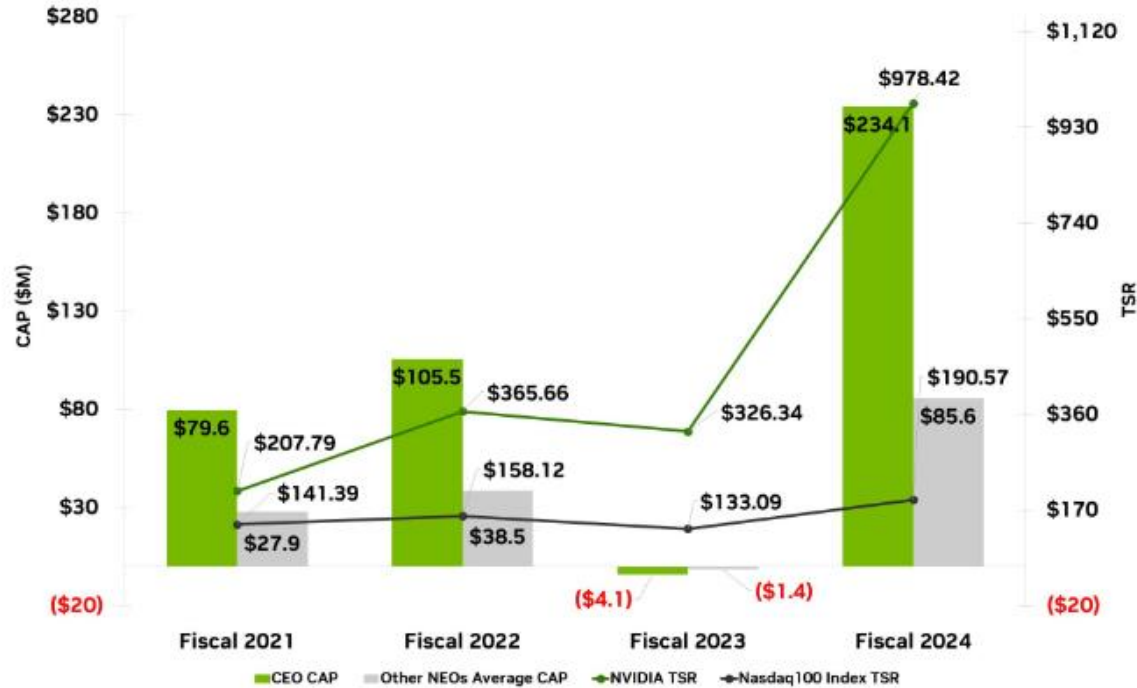
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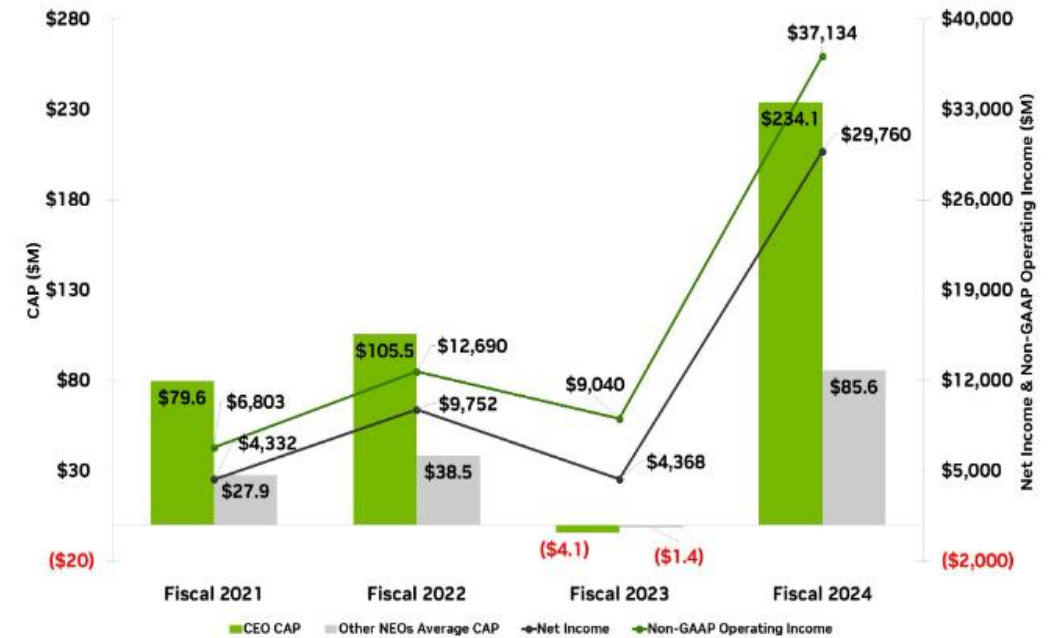
4 What can analysis be done from the data?

PvP Disclosures | Graphical Relationship Example

NEO CAP versus TSR



NEO CAP versus Net Income & Non-GAAP Operating Income



Pay Vs. Performance - What's "New"?

Updated Guidance	Topic
<p>1 There have been 30 C&DIs issuing clarifications: Questions 128.D.1 – 128.D.30</p>	<ul style="list-style-type: none">• Retirement Eligibility (128.D.18)• Option Valuation (128.D.21)• Reconciliation of SCT to CAP
<p>2 There have been 31 Comment Letters from the SEC</p>	<ul style="list-style-type: none">• Industry Peer Group (as compared to Broad Index)• Labeling Consistency• Descriptive Relationships of CAP to Performance Measures

C&DI Highlights – 128.D.18 – Retirement Eligibility

Considerations for Retirement Eligibility:

- On 9/27, initial C&DI seemed to indicate that if the award holder is Retirement Eligible, and that allows for continued vesting of equity (either in full or pro rata), there is no substantive service condition or risk of forfeiture
- However, on 11/14, a revised C&DI was released

(Revised) Question 128D.18 | Retirement Eligibility

Some stock and option awards allow for accelerated vesting if the holder of such awards becomes retirement eligible. If retirement eligibility was the sole vesting condition, would this condition be considered satisfied for purposes of the Item 402(v) of Regulation S-K disclosures and calculation of executive compensation actually paid in the year that the holder becomes retirement eligible?

Answer: Yes. However, if retirement eligibility is not the sole vesting condition, other substantive conditions must also be considered in determining when an award has vested. Such conditions would include, but not be limited to, a market condition as described in Question 128D.16 or a condition that results in vesting upon the earlier of the holder’s actual retirement or the satisfaction of the requisite service period. [November 21, 2023]

Infinite Equity Commentary: The ambiguous and conflicting language in the original and final C&DIs has not helped. We believe that either interpretation is appropriate (either continuing to remeasure until the actual vesting date, or remeasuring until the satisfaction of the requisite service period), as long as disclosed and footnoted appropriately.

C&DI Highlights – 128.D.21 – Stock Option Valuation

Considerations for Stock Option Valuation:

- The valuation must be ASC718 compliant
- 2 approaches were deemed non-compliant:
 1. Elapsed Time approach – subtract the lapsed time from the initial valuation date to the current valuation date
 2. Simplified approach – midpoint of contractual term and vesting used as a safe harbor for grant date valuations
- Implies that any approach should consider the “in-the-moneyness” level

Infinite Equity commentary: *There are several recognized approaches that are scalable and could easily be applied by registrants. One such approach is IRS Revenue Procedure 2003-68 which provides safe harbor tables for option valuation based on the remaining contractual term and the in-the-moneyness level and are already used in the Proxy for estimation of 280G golden parachute liabilities. However, the tables have limited use for options that are well “in-the-money”.*

PvP Table Choices | Key Findings

Companies have choices to select elements of the PvP disclosure - - for some choices there was a clear majority practice, while for others, practices were more mixed

Choices	Results
<p><u>TSR comparator group:</u></p> <ul style="list-style-type: none"> Peer group used for making executive pay decisions Peer group or published industry/line of business (LOB) index from annual report performance graph 	<p>Most (81%) used an industry / LOB index from annual report performance graph as their TSR comparator group</p>
<p><u>Company selected measure (CSM):</u></p> <ul style="list-style-type: none"> Can use relative TSR Can use stock price if it's an incentive plan metric Can't use: <ul style="list-style-type: none"> Absolute TSR or net income because already in table Multiyear metric 	<p>CSMs varied among companies, even within the same industry sector but:</p> <ul style="list-style-type: none"> Almost 30% of the S&P 500 sample selected earnings per share (EPS) Almost 30% of the Russell 3000 sample selected earnings before interest, taxes, depreciation and amortization (EBITDA) In four of 11 industry sectors, more than half of companies selected the same CSM: In Financials, 58% used a return metric; in Materials, 55% used EBITDA; in Real Estate, 75% used EPS; and in Utilities, 63% used EPS
<p><u>List of three to seven metrics</u></p> <ul style="list-style-type: none"> How many? Whether to include non-financial metrics? 	<p>Majority chose to include three to five measures in their tabular list:</p> <ul style="list-style-type: none"> Over 75% of the sample did not include any nonfinancial measures Revenue and EPS were the most common measures — each used by over 40% of the sample
<p><u>Description of pay vs. performance relationship:</u></p> <ul style="list-style-type: none"> Graph/chart, narrative or both 	<ul style="list-style-type: none"> Approximately 90% used at least one graph/chart to describe the relationship Most did not include robust narratives

Blackline – Case Study

- Unique Disclosure requiring Engagement with Internal and External Stakeholders
 - Internal Stakeholders
 - ✓ Investor Relations – What is the appropriate Peer Group to use (consistent with Performance Graph?)
 - ✓ Accounting - Are re-valuations ASC718 compliant?
 - ✓ Legal – Overall responsibility for proxy statement
 - ✓ Human Resources – Who are the Named Executive Officers and the Summary Compensation Table amounts
 - ✓ Compensation Committee – Overall consultation regarding choices made
 - External Stakeholders
 - ✓ External Counsel
 - ✓ Equity Valuation Consultant
 - ✓ Compensation Consultant

Blackline – Process / Timeline

- Compile outstanding equity data (anytime after March of fiscal year as to include current year grants)
- Compose list of potential Named Executive Officers for fiscal year
- Initial estimates for Compensation Actually Paid reviewed in Q3 of Fiscal Year
- Final estimates done on January 2nd
- Final calculations and disclosures completed upon completion of Summary Compensation Table
- Drafting of Proxy in January

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Company Selected Measure



4

What can analysis be done from the data?

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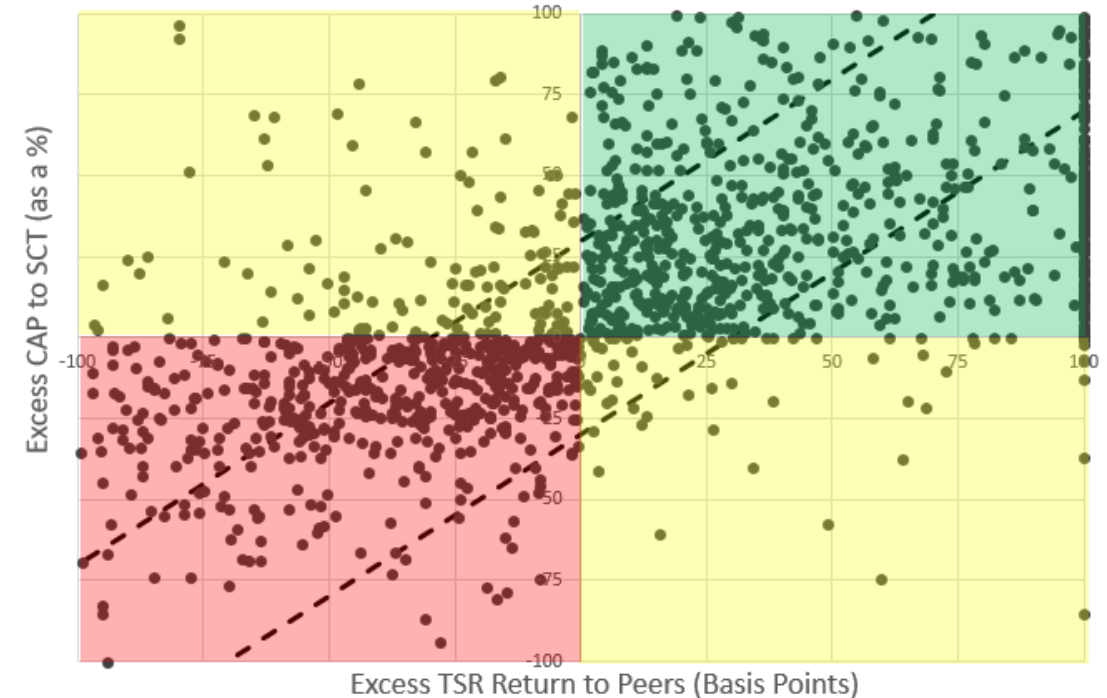
Measuring PvP Alignment | The Russell 3000

- Start with Russell 3000, eliminate EGCs, SRCs, and FPIs – leaving 2,200 companies.

Distribution of Quadrants / Zones				
	Zone A	Zone B	Zone C	Total
Quadrant 1	464	133	N/A	597 (27.1%)
Quadrant 2	227	453	187	867 (39.4%)
Quadrant 3	225	325	31	581 (26.4%)
Quadrant 4	N/A	62	963	155 (7.0%)
Total	916	1251	311	2,200 (100%)

- Quadrant 1 – Accumulated CAP is greater than SCT, but TSR is less than Peers
- Quadrant 2 – Accumulated CAP is greater than SCT, and TSR is greater than Peers
- Quadrant 3 – Accumulated CAP is less than SCT, and TSR is less than Peers
- Quadrant 4 – Accumulated CAP is less than SCT, but TSR is greater than Peers
- Zone A – Delta between Pay/TSR is > than 30%
- Zone B – Delta is within +/- 30%
- Zone C – Delta between Pay/TSR is > than -30%

PEO Pay Vs. Performance Alignment: RTSR



Fact 1
TSR > Peers
(Quadrants 2+4)
only 46% of time

Fact 2
CAP > SCT
(Quadrants 1+2)
67% of time

PvP Analysis – What are Sharing Ratios?

What is the relationship between excess Compensation Actually Paid, as compared to the increase in TSR (or market capitalization)?

$$\text{Sharing Ratio} = \frac{\text{Excess CAP}}{\text{Excess Market Cap}} = \frac{\sum \text{CAP} - \sum \text{SCT}}{\text{Market Cap}_{2019\text{YE}} \times (\text{TSR}_{2023} - \text{Peer TSR}_{2023})}$$

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For every \$1B of excess Market Cap, then \$600K was delivered to the CEO

4 Year Total \$248.5M \$739.6M

$$\text{Sharing Ratio} = \frac{(\$739.6M - \$248.5M)}{\$920B \times (210.81 - 118.93)} = \frac{\$491M}{\$845B} = 0.06\%$$

Starting Market Cap

Company TSR minus Peer TSR

Would not have been created at Peer TSR

Sharing Ratios | The Russell 3000

- Based on the 2,200 companies observed, 867 were in Quadrant 2, and 581 were in Quadrant 3.

Category of Market Capitalization	Total #	Quadrant 1 #	Quadrant 2 # Median Ratio	Quadrant 3 # Median Ratio	Quadrant 4 #
Micro Cap (<\$300M)	206	94	73 1.30%	16 -3.45%	23
Small Cap (<\$2B)	771	195	283 1.23%	232 -0.63%	61
Mid Cap (<\$10B)	737	170	292 0.76%	222 -0.35%	53
Large Cap (<\$200B)	458	130	207 0.39%	104 -0.09%	17
Mega Cap (>\$200B)	28	8	12 0.06%	7 -0.01%	1
All	2200	597	867 0.75%	581 -0.36%	155

Observation #1

- Sharing Ratios decrease as the Market Cap level increases

Observation #2

- Success is rewarded more than underperformance is disincentivized (bigger slopes in Quadrant 2 than Quadrant 3)

Peer Group Selected

We have summarized the Selection for Communications Services (GICS = “50”) and Utilities (GICS = “55”)

Sub-Industry	Sub-Industry	#	Firm Value of \$100	Peer TSR - Value of \$100			GICS 12/31/2023 Value of \$100	Comparison Median Peer vs. GICS
				25th	Median	75th		
GICS 50 = Communications Services								
50101010	Alternative Carriers	7	\$78.14	\$101.28	\$107.36	\$124.06	\$68.63	\$38.73
50101020	Integrated Telecom Svcs.	7	\$86.00	\$81.91	\$101.00	\$132.19	\$73.21	\$27.79
50102010	Wireless Telecom Svcs.	4	\$170.14	\$84.00	\$84.00	\$97.36	\$190.17	-\$106.17
50201010	Advertising	12	\$139.68	\$97.00	\$126.11	\$138.99	\$130.79	-\$4.68
50201020	Broadcasting	9	\$47.57	\$62.47	\$91.46	\$105.70	\$57.88	\$33.58
50201030	Cable & Satellite	6	\$64.74	\$89.38	\$95.49	\$118.38	\$97.00	-\$1.51
50201040	Publishing	4	\$153.57	\$140.10	\$152.00	\$152.01	\$152.01	-\$0.01
50202010	Movies & Entertainment	13	\$70.99	\$100.21	\$127.65	\$151.76	\$88.08	\$39.57
50202020	Interactive Home Entertainment	1	\$100.58	\$159.36	\$165.71	\$185.86	\$154.43	\$11.28
50203010	Interactive Media & Services	12	\$77.67	\$93.89	\$124.60	\$151.29	\$193.37	-\$68.77
TOTAL	TOTAL	75	\$83.95	\$91.00	\$118.93	\$143.77	\$134.74	-\$15.81
GICS 55 = Utilities								
55101010	Electric Utilities	23	\$99.47	\$107.00	\$107.97	\$111.01	\$115.28	-\$7.31
55102010	Gas Utilities	8	\$106.66	\$99.79	\$107.92	\$108.98	\$97.17	\$10.75
55103010	Multi-Utilities	12	\$104.07	\$94.10	\$107.78	\$111.60	\$100.88	\$6.90
55104010	Water Utilities	6	\$99.95	\$91.76	\$99.67	\$105.73	\$105.51	-\$5.84
55105010	Ind.Power Producers & Energy Traders	2	\$149.03	\$111.69	\$111.80	\$111.90	\$111.15	\$0.64
55105020	Renewable Electricity	2	\$136.65	\$99.08	\$111.05	\$142.30	N/A	N/A
TOTAL	TOTAL	53	\$105.10	\$101.43	\$107.78	\$111.32	\$109.95	-\$2.17

Infinite Equity commentary: *There is a wide range in the “Peer TSR” when comparing selections of companies within the same GICS code. This may be because there has never been formal thought in the selection of the Industry Index for the Performance Graph, or it could alternatively be because the company has an inappropriate GICS code.*

Going forward, we anticipate much further rigor being put into the selection of the Peer TSR (either using an Industry Index or a custom group of Performance Peers).

Getting Ready for PvP Table Year 3

Action Items

Did you re-value stock options?

Reconsider your valuation methodologies if you subtracted elapsed time or used the simplified method to determine the expected life.

Does your company have retirement eligibility provisions?

Consult with counsel on interpretation of C&DIs to determine to use the legal vest date or the retirement eligibility date.

Did your company recently IPO?

Check the as of dates for your fair value and TSR calculations.

Did your company recently lose EGC status?

You are required to comply with the full rules but may file for transitional relief to report only 3 years.

Does your company grant performance awards?

Ensure market conditions are valued through the vesting date, and that performance conditions reflect performance assessments.

Does your company have a disconnect between Pay and Performance?

Ensure that you are not disclosing (Quadrant 1/Zone A)

Questions and Closing Thoughts

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