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NYC Council Approves Salary Disclosure Law Amendment to Delay Effective Date

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The NYC Council has approved a bill to amend the pending New York City pay transparency law that will require employers to disclose salary ranges in job postings. The bill amends several aspects of the law, including, notably, extending the effective date to November 1, 2022. The bill is currently before Mayor Eric Adams for his signature.

The version of the bill approved by the Council differs in some respects from the original version originally introduced. As was the case in the previous version of the bill, the approved version:

- as noted above, extends the effective date of the law to November 1, 2022 from the current May 15, 2022 date;
- changes references to the term "salary" in the law to read "annual salary or hourly wage," with the stated purpose of clarifying that both hourly and salaried positions are covered by the law; and
- adds language to make clear that the law does *not* apply to positions that cannot or will not be performed, at least in part, in the city of New York.

However, the approved version of the bill eliminates the provision of the original bill that would have excluded employers with fewer than 15 employees from coverage (thus retaining the current 4 employee threshold for coverage). The approved version also does not include a provision in the original bill that would have excluded "general notices that an employer is hiring without reference to any particular position" from the salary range requirement.

In newly added provisions, the approved version of the bill also:

- provides that "[n]o person shall have a cause of action . . . for an alleged violation of this subdivision, except that an employee may bring such an action against their current employer for an alleged violation . . . in relation to an advertisement by

their employer for a job, promotion or transfer opportunity with such employer," thus seemingly limiting a private right of action under the law to current employees and excluding applicants; and

- creates a "safe harbor" provision which permits covered entities to avoid a civil penalty for a first-time violation of the law if, within 30 days of the service of a copy of a complaint of a violation, the covered entity provides proof to the NYC Commission on Human Rights that the entity has cured the violation.

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We will continue to monitor and report on any additional developments as the effective date of the law approaches.

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