

# Questioning the Salary Question Ban: What are the Pros and Cons?

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*Inquiring about previous salary in job interviews may cause anxiety for both job candidates and hiring managers. It's a touchy subject given the countless variables that could potentially be linked to an individual's compensation history. Most cases of gender pay inequity are, in fact, initiated upon compiling the offer package for a new employee. In an effort to combat the disparity in compensation experienced by so many qualified candidates, several jurisdictions have or are enacting laws that impose restrictions on hiring managers with respect to asking applicants for their previous salary history.*

Knowledge of past compensation is a pivotal tool that organizations have historically used to help determine competitive offer packages. Below we discuss the pros and cons of banning the salary history question from job interviews and what steps to take to best align your firm for hiring success.

## What you should know

Many jurisdictions have or seek to outlaw the longstanding practice of asking candidates about their salary history during the job interview process. Why this sudden change? As the desire to address gender pay discrepancies continues to gain momentum, many governments have ascertained that asking about past compensation heightens the pay equity issue instead of fixing it. Candidates who have consistently been under-paid and answer the question truthfully are now subject to an onward path of unfair compensation. Those who refuse to answer, run the risk of employers making assumptions that will affect future compensation. And so, the idea of eliminating the complicated question was born.

While not yet nationwide, banning the salary question from the hiring process is making its way across the U.S., with New York City (NYC) Mayor Bill de Blasio signing Intro. 1253-A in October of 2017, and California Governor Jerry Brown signing AB-168 in January of 2018. Delaware, New Orleans, and most recently, Connecticut have also implemented a ban on asking applicants for salary history, and New Jersey and Massachusetts just approved their own Pay Equity Acts, which will both go into effect on July 1, 2018. San Francisco, Oregon, Pittsburgh, and Puerto Rico are additionally on track to pass their own bills soon.

The United Kingdom passed legislation requiring all private sector employers with 250 employees or more to publish their gender pay gap in April, 2018. In Asia Pacific, there are laws which prohibit unlawful sex discrimination and mandates for pay equity in select countries, such as India, Pakistan, and Singapore. Progressive steps are being taken in Australia and New Zealand as well. Although a specific global ban on

inquiring about past salary has not yet fully reached firms outside of the U.S., there is growing momentum in many countries around the world towards implementing new policies to promote workplace equality.

## What are the potential implications?

While the ban on asking candidates for salary history is promoting a positive ideal, it does open the door for some possible negative reactions. We have seen our clients struggle with emerging obstacles, such as pay inflation as a result of this regulation. Validating compensation expectations is proving to be a difficult task. As a result, some of our clients are choosing to be transparent with candidates early in the interview process, letting their candidates know the compensation range that they are willing to offer for the role from the very start. Transparency like this is often anchored in external market data for the role, which serves as an invaluable resource in a world where firms can no longer ask about historical compensation. However, it's important to note that while market data is extremely beneficial, it should only be used as a frame of reference. Realistically, there will always be cultural, performance, and organizational design factors that will influence why firms may pay more or less than what the market data shows.

It's impossible to know what exactly the unintended consequences of the ban will be. Take this hypothetical case, for example. Suppose there are two comparable candidates from an experience and skill perspective, where one candidate is a male and the other is female. If the self-assured male candidate asks for a higher salary than is otherwise warranted versus the female candidate, who presents her compensation "ask" more conservatively on the basis of her own compensation history, a gender pay gap may be created or exacerbated.

Not asking candidates for past compensation could result in an even greater discrepancy. The salary question ban may prompt employees to rely upon group averages instead of individual information. Hiring managers may also be tempted to find ways to skirt around the question indirectly, or allow prospects to reveal their salary history on a voluntarily basis. Assumptions will likely be made around those who don't reveal past compensation, subjecting them to lower offer packages. In other cases, employers may make inferior offers to women, expecting them to speak up if they made significantly more in their previous role. Putting women in this position could potentially widen the gender wage gap, given that females are often less willing to negotiate than men.

## What should firms be doing?

The longstanding method of relying solely on compensation history resembles a stool with only one leg to stand on—it is weak. Too often, past salary is used as a proxy for finding candidates of true quality. Financial services firms can no longer stand on such an unstable leg, which uses only previous salary levels as benchmarks. Firms can go even further as to ask themselves: what happens when the state or federal government no longer permits inquiring about pay expectations? This could easily happen down the road, and it's smart to think ahead and start planning now. Hiring teams should develop robust interview processes to identify the best candidate and utilize compensation market data to help establish a competitive offer. It is time to build a sturdy stool with four legs instead of one that focuses on candidate quality, job value, internal pay levels, and external compensation. To combat any negative effects and fully benefit from the salary question ban, here are three steps that we recommend firms take:

1. **Perform a proper assessment:** Firms need to stop falling back on past compensation as a measure of quality. The interview process should be thorough, allowing hiring managers to really get to know

prospects, their past experience, skills, and how they will provide value to the unique goals of your firm. This process should additionally involve formal assessment tools such as Adept-15, which has the ability to measure and foresee employee aptitude for financial positions to help you hire the best talent.

2. **Define job architecture and leveling:** It's important to define how the specific role fits into the firm's overall job architecture. How does the candidate's level of experience and skills fit with the role and how does the role fit within the broader organizational context? Firms should evaluate the true value of the job and compare it to compensation levels for comparable internal positions to help determine pay.
3. **Gather reliable market data through compensation surveys:** External benchmarking market data to determine how to position the offer for the particular candidate is essential. Factors such as employee performance, in addition to the firm's compensation philosophy, will help narrow the focus of the market data.

In today's transforming industry landscape, it's important to get the right compensation data and use it impactfully and appropriately. In response to Intro. 1253-A, 39% of traditional and alternative asset management firms in New York City stated that they will rely more heavily on salary bands and benchmarking to craft offer letters for new hires.<sup>1</sup> We can help firms with job pricing, as well as provide an accurate reading of available data and review compensation packages for accuracy before firms extend an offer.

However, while a powerful tool, data can only go so far. Conducting and studying commentary around a specific job is also critical. Be sure to examine each position being filled from top to bottom—how is it changing? What does it typically pay? What trends are predicted for the future?

To gain insights and learn more about the salary question ban, how this will affect your hiring process, and what solutions are available, please [contact our team](#).

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<sup>1</sup> McLagan 2017 Asset Management Pulse Study

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