Employers would be forgiven for feeling figurative whiplash from all of the developments surrounding the EEO-1 in recent weeks. After understanding they would not have to submit pay data with their EEO-1 submissions (referred to as “Component 2 data”), in a series of rulings, Judge Tanya Chutkan reinstated the obligation. Since then, employers have been reading tea leaves and following developments, trying to figure what will be required of them and by when.

And while the picture has gotten clearer in recent weeks, developments continue. Last week we reported that the EEOC had issued a statement to employers, notifying them that Component 1 data (the race/ethnicity and sex data traditionally required by the EEO-1 form) is still due by May 31, and that Component 2 data for calendar year 2018 will be due by September 30, 2019. In that statement, the EEOC noted that pursuant to the court’s order it would “also collect Component 2 data for either calendar year 2017 or calendar year 2019.” On May 3, 2019, the EEOC informed employers that it had decided to require submission of calendar year 2017 data by September 30, 2019. So, employers must now submit 2018 and 2017 pay data to the EEOC by September 30, 2019.

To confuse matters more, the Department of Justice has filed an appeal of Judge Chutkan’s ruling, leading employers to wonder whether they would have to file Component 2 data by the September 30 deadline or not. To address that confusion,
the EEOC issued a statement on its website telling employers that the appeal does *not* impact the September 30 deadline. Per the [EEOC](https://www.eeoc.gov):

On May 3, 2019, the Department of Justice filed a Notice of Appeal in *National Women’s Law Center*. The filing of this Notice of Appeal does not stay the district court orders or alter EEO-1 filers’ obligations to submit Component 2 data. EEO-1 filers should begin preparing to submit Component 2 data.

**So Where Are We Now?** The situation remains dynamic and employers should continue to monitor developments. Even so, employers should follow the EEOC’s guidance and begin the process of preparing their Component 2 submissions. As we have noted in prior postings, the Component 2 requirement is more complex than it may seem, and employers should not underestimate the time it will take to prepare the submission. This is particularly true now that employers must submit two years of pay data. We have provided guidance on the new requirement for employers [here](https://www.natlawreview.com/article/eeo-1-saga-continues-appeal-additional-requirements-and-more).

In addition, employers should not forget about the Component 1 submission deadline. If they have not yet made that submission, they should take the time now to review their EEO-1 classifications closely before the May 31, 2019 deadline.

Employers should also consult with counsel to ensure that their Component 2 submissions are compliant and work through the myriad of issues the submissions raise.

We will continue to monitor this matter and provide updates as they become available.

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