



AFFILIATE QUESTIONS AND COMMENTS WITH FLA REPLIES

From December 9 – 12, 2014, the Fair Labor Association conducted a series of webinars on its draft Fair Compensation Workplan, discussing questions, concerns, and suggestions on the workplan with FLA affiliates. Through the beginning of January, the FLA also collected written feedback and comments from brands, suppliers, universities, and civil society organizations.

The chart below records common questions and reflections from the webinars and written comments, along with a corresponding FLA response, grouped into categories. The FLA staff greatly appreciates the thoughtfulness and candor of the comments, and thanks all of our affiliates for their important contributions to the most recent update of the Fair Compensation Workplan.

Timeline and Staffing

Affiliate question or comment	FLA response
<p>We would like to see a Gantt chart spell out the phases of this plan more specifically.</p>	<p>The current version of the plan includes a detailed Gantt chart, or timeline, of the first phase of the workplan which has now been shared with FLA affiliates. A number of commenters asked specific questions about tasks associated with the workplan, and the Gantt chart addresses many of these more specific concerns.</p>
<p>I am concerned about the requirement for affiliates to develop internal fair compensation plans by January 2016 at the latest.</p> <p>I suspect there is no changing the 2020 compliance date, but I would have argued for an earlier date, maybe 2018.</p> <p>The timeline to achieve compliance needs to be made clear and explicit. The language “falls within the FLA’s fair compensation brands” is extremely vague and open to interpretation.</p>	<p>The FLA would like to see internal plans developed as soon as possible. Some member companies are prepared to act quickly. However the new workplan states that “affiliates that have not already developed and shared their fair compensation plans are expected to draft and finalize plans by December 2017.” Clear quantitative goals will be set by June 2017. See 2.4, “Designing Supply-Chain-Wide Programs.”</p>

<p>The learning element is critical; why does the FLA workplan allow for only three months of learning in the last quarter of 2015?</p>	<p>We agree that the research, learning, and sharing of best practices is key and have extended and deepened this in the workplan in the first phase. Please see the details in “Learning and Planning,” 2.2 and 2.3.</p>
<p>What will the composition of the Technical Working Group be?</p>	<p>We propose that the Board create a twelve-member Technical Working Group composed of eight total affiliate representatives (two each from civil society and universities, and one each from business categories), three outside experts, and the FLA VP for Programs. See “Oversight” on page three and Appendix 2, “Technical Working Group Draft Terms of Reference”</p>

Wage data and Benchmarks

Affiliate question or comment	FLA response
<p>Honest and reputable data compared across data collection points is critical. Full collection of the data and transparent analysis based on livable wage is important to have the results necessary for developing an action plan for implementation. The transparent monitoring of progress will determine the results.</p> <p>We don’t need another initiative that takes the issue of compliance away from the workplace and workers' voice, into some private pot of information. If you do gather wage data, can it be shared with workers and unions to facilitate collective bargaining?</p> <p>Can affiliates see samples of wage data collected by other affiliates?</p>	<p>In addition to the compensation data and benchmarks published in SCI reports, the FLA will aggregate and disclose compensation data from suppliers in the annual wage report beginning in 2016. Progress scorecards will be developed in 2017. See 1.6, “Reporting SCI Data,” and 1.8, “Annual Compensation Report.”</p>
<p>Why is the FLA developing “fair compensation bands”?</p>	<p>The current version of the plan no longer refers to “fair compensation bands,” but to wage ladders composed of several benchmarks. See 1.1, “Choosing Benchmarks.”</p>

<p>If a supplier asks an FLA-affiliated brand to define “basic needs, discretionary income,” where do brands find those numbers?</p>	<p>Phase 1 of the workplan uses wage ladders in lieu of specific calculations. The FLA will set specific quantitative fair compensation goals by June 2017 for Phase 2 of the plan. Please see the FLA definitions of these terms in footnote 1 and as well as 1.4, “Wage Ladders” and 2.4 “Designing Supply-Chain-Wide Programs.”</p>
<p>How will the FLA choose each of the individual benchmarks?</p> <p>We recommend that some transparent consultation with national unions, governments and NGOs on figures is written into the wage ladder selection, and the process for how interested parties can engage in recommending quality benchmarks is made explicit in your paper and advertised broadly.</p>	<p>The FLA will pilot in 2015 the selection of benchmarks using available ‘living wage’ calculations that approximate the FLA basic needs plus discretionary income standard as well as figures and formulas from sources like the World Bank, the OECD, government, NGOs, and unions. We will do this in consultation with the technical working group and affiliates in early 2015. As noted above, specific quantitative goals or bands will be developed by June 2017. See 1.4, “Wage Ladders.”</p>
<p>Will the FLA account for variability between cities and regions in countries with regional cost-of-living differences?</p>	<p>The FLA will use regional/city benchmarks where available, and will prioritize benchmarking of compensation in regions/cities where FLA affiliates have the biggest footprints. See 1.4, “Wage Ladders.”</p>
<p>What will be the first countries in the project; how will they be chosen?</p>	<p>The technical working group will help select the pilot benchmarking countries in early 2015. Geographic diversity and quality of readily available benchmarks are important. See 1.4., “Wage Ladders.”</p>
<p>In the same industry, will the FLA make distinctions between different products, such as footwear, headwear, and apparel?</p>	<p>No, the benchmarks would be the same where legal minimum wages are the same across industries.</p>
<p>Will the FLA account for inflation?</p>	<p>Yes. See the “Making Change” paragraph on page three.</p>

<p>Is “piece rate pay” included in defining compensation?</p> <p>The FLA should examine closely what employers report as in-kind contributions.</p> <p>Incentive pay can vary from season to season and between individual workers and work teams. The real issue here is whether all workers are entitled to a living wage or just those that meet production targets.</p>	<p>Compensation with and without piece-rate pay is measured and reported, and fair market value of in-kind benefits is included. Please see the discussion and graph in 1.6, “Reporting SCI Compensation Data.”</p>
<p>Why is overtime pay excluded?</p>	<p>The compensation element of the FLA Workplace Code of Conduct calls for “compensation for a regular work week” to meet workers’ basic needs and provide discretionary income. Moreover, the FLA is focused on setting a measurement standard for core earnings so that benchmarking of compensation can be done apples-to-apples. Calibrating every benchmark for different levels of overtime would compound the core task. See 1.6, “Reporting SCI Compensation Data.”</p>
<p>If the lowest legal wages in a factory are for temporary trainees, but the majority of workers receive a higher wage, for which group of workers would FLA assessors report the median compensation?</p>	<p>FLA assessors will report median compensation for the four largest categories of suppliers’ workers in SCI reports.</p>
<p>If mandatory taxes will be deducted from the definition of “compensation,” those deductions should be reflected on the wage ladder.</p>	<p>Yes, the SCI compensation data will show gross pre-tax wages.</p>
<p>How can a company know if it is paying the prevailing wage?</p>	<p>There are some sources for sectoral prevailing wages (or industry averages) data, which the FLA will incorporate into the wage ladder benchmarks where available. Data collected from suppliers and workers could also help determine prevailing wages.</p>

Who will have the final decision about the wage benchmarks?	The Monitoring Committee will be asked to act on a recommendation from the technical working group.
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Language

Affiliate question or comment	FLA response
<p>Why does this plan use the language of “fair wages” and “fair compensation” rather than the “basic needs/discretionary income” language of the FLA Code, and what is the FLA definition of “basic needs?”</p> <p>We feel the terms “fair wages” and “fair compensation” put the FLA out of step with other initiatives pursuing a “living wage” for workers.</p>	<p>The language in this workplan is intended to reflect the FLA Workplace Code of Conduct, which includes a “Compensation” code element, along with references to both “fair wages” and “basic needs ... [plus] some discretionary income.”</p> <p>The “fair compensation” phrase captures more than simply wages, and acknowledges that pay in the agricultural sector is often expressed in prices paid to small-scale producers.</p> <p>The FLA “basic needs” standard is defined as the minimum necessary for a worker and two dependents to have access to resources, including food, safe drinking water, clothing, shelter, energy, transportation, education, sanitation facilities, and access to health care services. See footnote 1 in the introduction to the workplan for the full definitions.</p>

Affiliate Obligations

Affiliate question or comment	FLA response
<p>Should FLA-affiliated brands collect wage data as part of their internal assessments?</p> <p>What if factories are not willing to share wage data?</p> <p>Will the FLA provide templates for affiliates to include in their audit packages?</p>	<p>Yes, brands should collect either specific or aggregate data, where possible. Asking a supplier to share data directly with the FLA is an alternative. Sharing this data is an increasingly common practice, and the FLA will share successful strategies and tools with affiliates for collecting this information. See 1.2, “Data from Companies.”</p>
<p>What if a long-term supplier, with which a brand has a good working relationship,</p>	<p>In 2015 – 2017, the FLA will study and pilot approaches to fair compensation at suppliers</p>

<p>refuses to bring wages into the fair-wage band?</p> <p>What if a brand has no leverage over a particular supplier?</p>	<p>where brands have low leverage. See 2.2 “Case Studies,” 2.3 “Piloting Strategies,” and 2.4 “Designing Supply-Chain-Wide Programs.”</p>
<p>Will the FLA help affiliates collaborate?</p>	<p>Yes. The FLA will conduct pilot projects, as noted in the response above. To help identify other opportunities for affiliate collaboration within factories, the FLA asks affiliates to maintain up-to-date factory lists on the FLA platform.</p>
<p>What are the specific expectations of Participating Suppliers?</p>	<p>Suppliers and buyers are treated alike in the strategy, except where noted. For example, data collection would be handled differently for buyers and suppliers, with buyers having the option of submitting data indirectly.</p>
<p>What is the responsibility of Category B licensees?</p>	<p>Category B licensees are required to operationalize the FLA Workplace Code of Conduct with all suppliers producing licensed products for FLA-affiliated universities. The FLA would like to see this workplan applied beyond the collegiate-licensing supply chain, where possible. See 1.9, “Remediating Pay Violations.”</p>
<p>What is the responsibility of Category C and D licensees?</p>	<p>Category C and D licensees are also expected to apply the FLA Workplace Code of Conduct, but their supply chains are not independently monitored by the FLA. We encourage C and D licensees to engage with this process in their own internal monitoring and during self-assessments, and take advantage of the opportunities for learning as the FLA operationalizes the workplan and member companies test approaches and draft fair compensation plans.</p>
<p>Does this workplan apply only to the first tier of the supply chain?</p>	<p>Yes. The third phase of the workplan, to be developed by 2020, may include second tier and other suppliers.</p>

Can the FLA share a detailed training calendar with affiliates?	Yes, this is not part of the current workplan but can be developed as the plan progresses.
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Overall Strategy

Affiliate question or comment	FLA response
<p>The FLA is not known for holding members accountable. How does the FLA intend to hold affiliates accountable for progress on fair compensation?</p>	<p>The revised plan has considerable detail on planning, implementation, and accountability. The FLA will review company progress at various stages, holding members accountable for progressive levels of achievement with fair compensation. Please see the list of threshold measures in 3.1 “Measuring Progress” and 3.2 “Define Accountability for Progress” where lack of progress will trigger special review of an affiliate's membership by the FLA. The disclosure of data and public reporting of progress by the FLA contribute to accountability for member companies.</p>
<p>The FLA should consider partnering with unions and workers’ rights organizations on issues such as engagement with governments, and other components of the workplan.</p> <p>FLA willingness to collaborate with other MSIs and to consulting with trade union and labor rights organizations is important because other initiatives are already in process.</p>	<p>Work with unions, worker rights organizations, and other MSIs are now integral parts of the workplan. See the introduction (page two), as well as 1.4, 1.9, 2.2, 2.3, 2.4, 2.5, and 3.1.</p>
<p>We propose a pilot project looking at one factory where FLA affiliates make up the majority of buyers, and then build a workplan based on learnings from that project.</p> <p>What if members leave the FLA because this plan is too demanding?</p> <p>Generally, five years to get in line with a</p>	<p>We believe the urgency of implementing the 2011 code element requires a workplan that is wider in scope than a pilot project targeting one factory. However, case studies and pilots are integral parts of the workplan. The workplan has considerable flexibility and sufficient time for learning, planning and making change, but requires a clear commitment from FLA affiliated companies to meeting the obligation to fair</p>

<p>principle that companies have already signed up to meet, by joining the FLA, seems way too generous.</p> <p>This strategy is long overdue after the long debate on the code language in the year leading up to the approval of the new code.</p>	<p>compensation in the FLA code. See 2.2, “Case studies”, 2.3, “Pilot strategies”, and timeline.</p>
<p>Does the plan assume that in all factories and all countries current compensation levels are not fair?</p>	<p>No, this is not assumed. In the “Taking Stock” phase, we may find that supplier compensation compares favorably with available benchmarks. See 1.6, “Reporting SCI Compensation Data.”</p>
<p>What about a more positive model like Fair Trade that identifies specific factories for affiliates based on their progressive pay practices?</p>	<p>We anticipate that all affiliates will make progress in steps, and FLA public reporting on fair compensation will recognize specific buyers and suppliers who are making measurable progress. However, the long-term strategy is intended to move FLA brands and suppliers together toward fair compensation goals, not a small subset of suppliers.</p>
<p>The FLA is not qualified to analyze whether brands have purchasing practices that support fair wages.</p> <p>We are pleased that the strategy gives some importance to pricing and sourcing practices as factors and would encourage this as an emphasis in the piece.</p>	<p>Brands are expected to address the compensation effects of purchasing practices, in accordance with the FLA’s Principle 8: “Company Affiliate aligns planning and purchasing practices with commitment to workplace standards... [and] holds relevant staff accountable for the implementation of planning and purchasing practices that help avoid negative impacts on workers and working conditions.” See 2.5, “Acting Together on Wage-Related Issues.”</p>
<p>We are concerned that suppliers will leave the FLA if they are unable to create operational efficiencies to offset the cost of increased wages, or feel that they have to bear the burden of higher labor costs alone.</p> <p>While we agree that increasing productivity is necessary in some factories, we would be concerned if the FLA gave too much weight</p>	<p>We emphasize in the workplan the need for buyers and suppliers to work together toward fair compensation. The “Learning and Planning” element has been deepened to help member companies learn about and share best practices around increasing efficiencies and other facets of fair compensation. We think that productivity improvements represent one aspect among many that can be part of a</p>

<p>to the idea that wages can be increased solely or primarily by increasing productivity.</p> <p>We recommend that the productivity piece is not given priority within the workplan.</p> <p>We are also concerned that increasing productivity can contribute to health problems, such as muscular-skeletal injuries that have been common in factories owned and operated by some FLA member companies.</p>	<p>comprehensive strategy for raising wages.</p>
<p>Will the FLA look into whether there are university affiliates that might be able to help develop case studies?</p>	<p>Yes, we hope to partner with university affiliates. See 2.3, “Pilot Strategies.”</p>
<p>Are there anti-trust concerns related to brands collaborating together?</p> <p>We recommend the FLA seek legal counsel to ensure the various stages of the plan do not trigger anti-trust concerns.</p>	<p>The FLA will seek the advice of counsel throughout this project, and will share anti-trust guidance with affiliates. See 1.6, “Reporting Compensation Data,” and 2.3, “Pilot Strategies.”</p>
<p>Do you expect any push-back from governments that might see this as anti-competitive?</p> <p>FLA member companies can start helping right away by doing the right thing on minimum wage issues in places like Haiti.</p>	<p>FLA affiliates acting together can be clear about their goals: a more level compensation playing-field, sustainable industries, effective wage enforcement, and well-run wage-setting processes. See 2.5 “Acting Together on Wage-Related Issues.”</p>
<p>FLA companies will not be enthusiastic about engaging governments to raise minimum wages.</p>	<p>Affiliates will approach the minimum wage issue in different ways. For example, nine FLA member companies signed a letter in November 2014 in support of a fair, inclusive minimum wage-setting process and higher wages in Cambodia.</p>
<p>I find it hard to believe that brands will pay to raise wages in the absence of a regulatory or market reason to do so.</p>	<p>The FLA Workplace Code of Conduct includes both the obligation to comply with legal requirements on wages, and to meet workers’ basic needs and provide discretionary income.</p>

	<p>This plan is meant to guide the FLA and its affiliates on how to put the second part of that code element into practice. Collective action on wage policy is an important part of the strategy.</p>
<p>We disagree that progress on wages should not “shock the system,” because there are numerous examples of minimum wages jumping significantly without industry impact.</p>	<p>The current workplan no longer refers to this. However, the FLA also recognizes that there is a critical difference in impact between regulatory minimum-wage increases and voluntary increases in pay in individual factories.</p>
<p>We suggest that the FLA integrate support for freedom of association as a core element of the strategy.</p> <p>Collective bargaining does not really occur in most of the countries where FLA is active but it might make sense to acknowledge that collective bargaining is a desirable goal.</p>	<p>We agree. See the introduction (pages one and two), as well as 1.1, 2.2 and 2.5,</p>
<p>We disagree that the data around living costs and benchmarks are mature enough to succeed with this plan.</p> <p>It is a huge frustration of NGOs and trade unions that companies have for 15 years used confusion about the numbers as an excuse for inaction. Getting agreement of member companies that this has been the case and can't continue is vital.</p>	<p>We think that the data and methodologies are maturing and that we must not wait for full agreement on the data (hence the use of wage ladders) to begin to make measurable progress on implementing the 2011 enhancement to the compensation code element.</p>