

CLIENT ALERT: US DOL Issues Long-Awaited Final Overtime Exemption Rule Effective Date is December 1, 2016

On May 18, 2016, the U.S. Department of Labor Wage and Hour Division (“US DOL”) issued its long-awaited updated regulations that substantially increase the minimum salary required to qualify for exemption to the minimum wage and overtime requirements of the Fair Labor Standards Act of 1938 (“FLSA”).

The new rule greatly narrows the exemption for white collar workers. Under the updated regulations, beginning on December 1, 2016, most salaried workers earning less than \$913 a week—about \$47,476 a year—must now receive overtime pay when they work more than 40 hours a week. The new threshold salary is a substantial increase from the previous cutoff for overtime exempt status, which had been \$455 a week or \$23,660 annually. The updated regulation also increases the total annual compensation required to meet the highly compensated employee exemption from \$100,000 to \$134,004. The new regulation for the first time permits certain non-discretionary bonuses and commissions that are earned quarterly or more frequently to be included in the salary-level. However, this non-guaranteed compensation cannot constitute more than 10% of the total earnings. The US DOL contends that 4.2 million workers will become eligible for overtime under the new regulation.

In addition to increasing these basic salary and compensation ceilings, the updated regulations establish a mechanism for automatically updating the minimum salary and compensation levels every three years based on various indices. According to the US DOL, “[t]he standard salary level will be updated to maintain a threshold equal to the 40th percentile of weekly earnings of full-time salaried workers in the lowest-wage Census Region.” Future automatic updates to the salary and compensation thresholds will occur every three years, beginning on January 1, 2020.

As noted above, employers will be required to comply with the new rule by December 1, 2016.

The DOL’s Fact Sheet on the Final Rule can be found [here](#).

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