



DOL Publishes Proposal on New White-Collar Exemption Regulations

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On March 7, 2019, the Department of Labor (“DOL”) published a long-awaited proposal for revising the regulations relating to the white-collar exemptions from overtime and minimum wage under the Fair Labor Standards Act (“FLSA”). In the Notice of Proposed Rulemaking (“NPRM”), DOL has proposed increasing the threshold salary amount for certain white-collar exemptions from its current \$455 per week (or \$23,660 per year) to \$679 per week, or (\$35,308 per year). In 2015, DOL had proposed increasing this threshold to over \$47,000 per year (\$913 per week). As we reported [here](#), that proposal was blocked by a federal court in Texas in late 2016.

In addition to increasing the minimum salary amount, the proposed regulations would allow up to 10% of the threshold amount to include non-discretionary bonuses and commissions which are paid at least annually. The NPRM also proposes increasing the “highly compensated” alternative level and standard from \$100,000 per year to \$147,414 per year. Finally, the NPRM provides for the establishment of a process for DOL to consider the need and feasibility for review of the salary-level every four years through a notice-and-comment process. The proposed regulations address only the threshold salary level for the executive, administrative, and professional exemptions from the FLSA.

DOL has also published additional information, including responses to Frequently Asked Questions about the proposal, on its website (the FAQs can be found [here](#)). With the publication of the NPRM, DOL’s proposal is now officially open for public comment for sixty days. After the comment period is completed, DOL must consider the comments and issue a final proposed rule. While the exact date that the new rules would become effective is not yet certain, it is anticipated that the rule will become final in early 2020.

Key Takeaways

1. Employers should be pro-active in reviewing current salary levels of employees classified as exempt from overtime under the white-collar exemptions.
2. Employers should continue to ensure that any employees classified as exempt from overtime under the white-collar exemptions are primarily engaged in work that qualifies under the “duties” portion of the exemption regulations.
3. Consider whether adjustments may need to be made to employee classifications and/or compensation levels when the new regulations become final and effective.

This Client Alert was drafted by [Helen Holden](#), an attorney in Spencer Fane’s Phoenix, Arizona office. For more information, please visit www.spencerfane.com.

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