

## DEPARTMENT OF LABOR PROPOSES NEW OVERTIME RULE RAISING THE WHITE COLLAR AND HIGHLY-COMPENSATED EMPLOYEE EXEMPTION THRESHOLDS

On March 7, 2019, the U.S. Department of Labor issued a proposed rule that will raise the Fair Labor Standards Act’s white collar and highly-compensated employee exemption thresholds for the first time in fifteen years. Specifically, the rule seeks to increase the minimum salary required for workers to qualify for the “white collar” exemptions from \$23,660 per year (or \$455 per week) to \$35,308 (or \$679 per week) per year, as well as raising the overtime eligibility threshold for highly-compensated employees from \$100,000 to \$147,414 per year. Some highly compensated exempt employees may qualify for other overtime exemptions notwithstanding the new salary threshold, but proper analysis should be performed by employers before automatically designating such employees exempt. The rule also allows employers to count various nondiscretionary bonuses and incentive payments towards the salary threshold for up to ten percent of a worker’s salary. The DOL expects the new rule to go into effect in January 2020. This change would have no effect on individual state salary requirements, and employers are advised to consult their local state regulations for compliance.

The DOL declined to include a mechanism in the new rule by which the “white collar” exemption threshold would increase automatically every few years. Instead, the DOL plans to revisit the limit every four years, with each increase subject to notice and comment procedure.

These changes will greatly increase the availability of overtime pay for many American workers. The “white collar” exemption floor, which sets the minimum salary at which executive, professional, and administrative employees may be exempt from overtime pay, has not been changed since 2004. A 2016 rule proposed by the Obama Administration that proposed raising the minimum salary amounts was enjoined by a federal judge shortly before it went into effect.

In addition to verifying if designated exempt employees meet the proposed 2020 salary threshold increases, employers should also confirm that designated exempt employees meet the other requirements for the white collar and highly-compensated employee exemptions.

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Should you have any questions regarding these recommendations, please contact a member of our [Employment Law Group](#) or the [Garfunkel Wild attorney](#) with whom you regularly work.

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