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## Attorneys React To DOL's Final Overtime Exemption Rule

Law360, New York (May 18, 2016, 8:51 PM ET) -- The U.S. Labor Department on Wednesday issued the final version of the overtime exemption rule raising the minimum salary threshold to qualify for the Fair Labor Standards Act's white collar exemption. Here, attorneys tell Law360 why the new rule is significant.

### **Joshua Alloy, Arnold & Porter LLP**



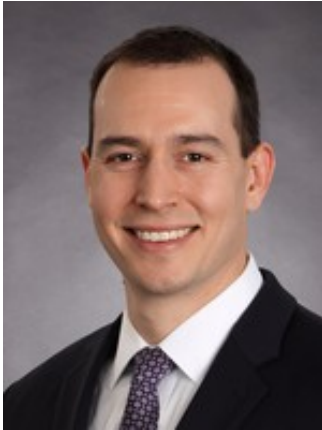
"By more than doubling the minimum salary threshold for exemption from overtime to \$47,476, and increasing the highly compensated threshold to \$134,004, the DOL's final overtime rule will have an immediate and significant impact on most employers. Companies and non-profit organizations must begin — or continue — to carefully analyze their workforce and make difficult business decisions before December 2016. This includes deciding whether to increase salaries for exempt employees earning less than \$47,476, or instead reclassify them and begin paying overtime and carefully tracking their hours. Because the salary thresholds will be updated every three years, employers must also continue monitoring this issue."

### **Tawny Alvarez, Verrill Dana LLP**



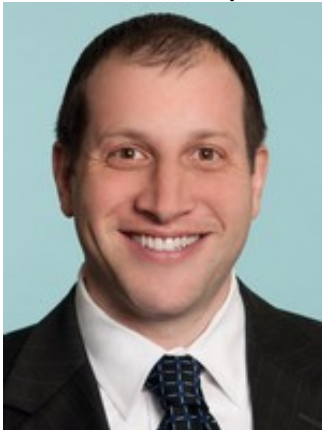
"What is most significant about the rule, is its timing. The rule is now subject to the Congressional Review Act, as there are fewer than 60 'session days' left in the Senate calendar and fewer than 60 'legislative days' remaining in the House calendar. Accordingly, the Congress seated in January 2017 will be able to review the rule and have any potential disapproval resolution considered by the new president. Aside from the timing, the more than doubling of the salary threshold to qualify for the FLSA white-collar exemption will create tremendous strain for many business owners — including employers in more rural areas or communities with lower costs of living. Further, while the salary-level increase is less than proposed, the increase for Highly Compensated Employees was unexpectedly \$10,000 higher than what had been included in the proposed regulations."

**Christian Antkowiak, Buchanan Ingersoll & Rooney PC**



"This is a potential game changer, that's not necessarily as detrimental to employers as it might appear at first glance. During the last 10 years, wage and hour lawsuits have risen to record setting levels. The change to the Fair Labor Standards Act white collar overtime exemptions may provide an opportunity for employers to stem that tide. It has some obvious drawbacks such as the loss of flexibility, new challenges to the method and manner of tracking hours worked, and additional compliance costs. But it may also provide much needed cover for employers looking to reclassify positions that no longer meet an applicable duties' test. In the end, the rule change may provide a pathway for employers to save more money over the long-run, even if the transition period is costly and cumbersome."

**Michael Arnold, Mintz Levin Cohn Ferris Glovsky & Popeo PC**



"The rule will impact employers differently. Some will be impacted greatly while others will barely feel its effect because of how they currently structure their workforce and pay their employees. We would encourage all employers, however, not to bury their heads in the sand on this, and instead, determine where they fall along the impact spectrum and adjust accordingly. In doing so, take a holistic view of the issue, because it affects the workplace in so many ways. Any changes should be designed not only to comply with the law, but also to align with strategic goals and organizational culture."