

# Impact of the New Employee Overtime Rule by Industry and Tips for Compliance

*An estimated 1.3 million U.S. workers will be eligible for overtime pay, but the impact varies by industry, job function and role. Here's a deeper look at how companies will be affected.*

The Department of Labor [finalized](#) its long-awaited overtime eligibility rule for salaried employees in September 2019. The new rule goes into effect on January 1, 2020 and requires employers to pay non-hourly and exempt workers who earn \$35,568 or less overtime pay (i.e., one-and-a-half times their hourly equivalent base rate) for any work performed above 40 hours per week. Prior to the new rule, the threshold salary for automatic eligibility for overtime pay above a normal 40-hour week included employees who earned less than \$23,600 a year.

Nationwide, the new rule will provide overtime pay eligibility to an estimated 1.3 million workers who earn between \$23,000 and \$35,568. The impact varies significantly by industry, with certain industries like food services accounting for a large portion of soon-to-be eligible employees. To take a closer look at how the new rule impacts key industries, we analyzed our survey data for financial services, life sciences, retail and technology companies.

Figure 1 provides a snapshot of the number of employees within these sectors in our survey databases that will be eligible on January 1 for overtime pay under the updated rule. While it's clear that the new rule won't be significant for these industries as a whole, it will still be important for companies to assess the individual impact to their organization.

**Figure 1**

## Number of Employees Eligible for Overtime Benefits Under New Salary Threshold

| Sector             | Number of Newly Eligible Employees in Survey* | Eligible Employees as % of all U.S. Employees in Survey |
|--------------------|---|---|
| Financial Services | 2,700   | 0.09%   |
| Life Sciences      | 677   | 0.10%   |
| Retail             | 974   | 0.47%   |
| Technology         | 2,129   | 0.05%   |

\*unless otherwise receiving adjustment to base salary subsequent to entry into survey database

Sources: McLagan Surveys, Radford Global Life Sciences Survey, Radford Global Technology Survey, Aon Total Compensation Measurement Survey

Within the financial services sector, about 58% of newly eligible employees are in retail branch, mortgage or consumer contact center/operations roles. In the life sciences sector, 83% of the overtime eligible employees are entry-level clinical assistants. Among retail companies, 55% of overtime-eligible jobs are in a traditional sales function followed by retail-related job functions including merchandising, store operations and customer service. The majority of the employees at technology companies that will be eligible for overtime pay are in the information technology and services and support job functions and mostly hold technical support and customer service-related jobs.

The overtime eligibility rules have a history of being contentious. Under the Obama Administration, the Department of Labor proposed a salary threshold of \$47,476, adjusted every three years for inflation, which would have been implemented on December 1, 2016. However, weeks before the rule was to take effect, a federal judge ruled that the DOL overreached its authority by changing overtime eligibility based on a salary test without changing the duties test. The new rule does not adjust for inflation and allows incentive payments and non-discretionary bonuses (including sales commissions) to be used to meet up to 10% of the salary threshold.

## Questions Employers Must Consider

Far fewer employees are impacted by the overtime rule than would have been under the 2016 proposal. However, there are some considerations companies should make when assessing how the updated overtime salary will impact their workforce. The first step is to determine how many employees are impacted by the updated salary threshold. Following that assessment, companies should consider the following questions listed below. The answers to these questions will depend on the unique circumstances of your organization, including how many workers are now eligible for overtime.

- Should we reclassify employees that qualify for overtime as non-exempt and pay the overtime costs required? While this may appear to be the easiest way to implement the new rule, it will likely necessitate changes to compensation budgets in other areas.
- Should we decrease the number of working hours for employees that are now non-exempt to avoid incurring overtime costs?
- Should we increase the salaries of non-exempt workers to an amount above the new limit?
- Should we split one person's job that is causing the overtime hours into two positions or shift some duties to others who are otherwise exempt from overtime pay?
- If we adjust pay for some non-exempt employees, should we do anything to adjust pay for exempt employees who are paid slightly above the new threshold rate from a pay equity standpoint? These individuals might earn less than their peers whose previously lower salary will translate to more total cash compensation because of newly received overtime compensation.
- Should we limit or change our policy on job flexibility and telecommuting for overtime-eligible employees to ensure compliance with limits on working hours or manage overtime hours more effectively?

## Next Steps

Beyond meeting the salary test, it's important to note that the new rule provides certain exemptions based on job duties. This is a good opportunity for companies to review the job duties of workers that may fall under these exemptions, including executive, administrative and professional roles. Aside from the overtime pay rule, we recommend companies routinely review job descriptions as part of maintaining their salary structures and job architecture.

If you have questions about addressing overtime pay or other compensation-related topics and want to speak with one of our experts, please write to [rewards-solutions@aon.com](mailto:rewards-solutions@aon.com).

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