



November 7, 2023

The Honorable Julie Su
Acting Secretary
U.S. Department of Labor
200 Constitution Ave., NW
Washington, DC 20210

The Honorable Jessica Looman
Principal Deputy Administrator
Wage and Hour Division
U.S. Department of Labor
200 Constitution Ave., NW
Washington, DC 20210

Amy DeBisschop
Director, Division of Regulations, Legislation,
and Interpretation
Wage and Hour Division
U.S. Department of Labor
200 Constitution Ave., NW
Washington, DC 20210

Re: Federal Register 1235-AA39, Division of Regulations, Legislation, and Interpretation, Wage and Hour Division

Dear Acting Secretary Su, Deputy Administrator Looman, and Director DeBisschop,

As a leading representative of America's 33 million small businesses, Small Business Majority is pleased to submit comments in response to the U.S. Department of Labor's efforts to update Wage and Hour Division regulations regard qualification for overtime pay for salaried employees. While we support the substance of the proposed rule, it is imperative that the Department consider the needs and challenges of small businesses when implementing this rule. Our comments below reflect feedback we have received from employers in our small business network.

Small Business Majority is a national small business organization that empowers America's diverse entrepreneurs to build a thriving and equitable economy. We engage our network of more than 85,000 small businesses and 1,500 business and community organizations to deliver resources to entrepreneurs and advocate for public policy solutions that promote inclusive small business growth. Our work is bolstered by extensive research and deep connections with the small business community that enable us to educate stakeholders about key issues impacting America's entrepreneurs, with a special focus on the smallest businesses and those facing systemic inequities.

Through this work, we understand that today's entrepreneurs and small business employees need a modernized, yet transparent and predictable labor framework that promotes wealth creation, financial security and access to quality jobs. Our comments focus on three key areas that will impact entrepreneurs and their ability to implement this change for qualifying salaried employees, including increasing the implementation period to ensure compliance for the smallest firms, conducting outreach and education on the new guidance, and ensuring stability and predictability through regular increases to the threshold. These comments are informed by feedback we solicited from our national network of small business owners.

Extend the Effective Date to Maximize Small Entity Compliance

It's critical that small business owners are educated on this rule change and have ample time to update their policies and procedures. It's especially important to consider that many small employers do not have HR or administrative staff or access to legal advice to inform them of new labor regulations and ensure the business is able to implement them in a timely manner. Expanding overtime pay to millions of

private-sector workers without providing adequate time for a small business owner to navigate the new protections will leave many unprepared for, and perhaps simply unaware of, this change. The current implementation period of 60 days is simply not enough time for the smallest businesses to fully understand and properly comply with the rule. Moreover, many businesses are working on public and private sector contracts that prescribe fixed payments for specific work functions. These businesses need time to restructure their contracts accordingly. As such, we strongly urge the Department to extend the effective date for the rule change to allow for 180 days for small businesses with fewer than 50 employees to comply. This will ease the implementation period for small businesses to give them the opportunity to understand the rule and make necessary adjustments.

Conduct Education and Outreach to the Small Business Community

To similarly ensure successful implementation and maximize compliance, we urge the Department to engage in an educational and outreach campaign that explicitly details the steps that small business owners will be required to take to comply with these new standards. Much of the feedback we received from our network of small business owners speaks to this need. For example, one small business owner shared that she is concerned about how she will implement stricter time-management policies to comply with the new rule. And the owner of a consulting firm urged the Department to consider the necessary infrastructure many employers lack to implement structural policy changes to their business. This owner shared her concern that many small businesses will fail to comply not because they're ill intentioned, but they're ill equipped due to a lack of resources or staff in place to help the business understand and implement the rule.

As such, it's critical that the Department provide technical assistance to small businesses to support the successful implementation of this rule. We ask the Department to leverage its relationships and network in both the public and private sectors to ensure that adequate information is made available to our entrepreneurs, particularly the smallest and hardest to reach firms. Successful outreach will increase compliance and decrease the number of mistakes made by business owners who are acting in good faith to comply.

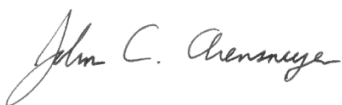
Maintain Triennial Indexing to Provide Certainty and Predictability

Small Business Majority supports automatically increasing future salary thresholds on a triennial basis to prevent large and sudden increases to the threshold in the future. Smaller, predictable increases that are known well in advance will allow small business owners to be better prepared for any staffing or compensation changes they need to make.

Small Business Majority thanks the Department for its work to support America's entrepreneurs who bring quality jobs to their communities. To remain successful in these efforts, we again ask you to consider in the final rule an extended implementation period of 180 days and robust outreach and education efforts to small firms. We thank you for including provisions that will gradually increase the salary threshold requirements on a set schedule in the future to ease future compliance for small employers.

We look forward to continuing to work with you on policies to benefit America's entrepreneurs. Should you have any questions or would like to discuss our feedback further, please contact our Government Affairs Director, Alexis D'Amato at adamato@smallbusinessmajority.org or (202) 967-0995.

Sincerely,



John Arensmeyer
Founder & CEO
Small Business Majority