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July 13, 2015

VIA ELECTRONIC SUBMISSION www.regulations.gov

Mary Ziegler, Director
Division of Regulations, Legislation and Interpretation
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W., Room S-3502
Washington, DC 20210

Re: Request for Extension of Comment Deadline on Proposed Rulemaking Regarding Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employees (80 Fed. Reg. 38515, July 6, 2015), RIN: 1235-AA11

Dear Ms. Ziegler:

On behalf of the Partnership to Protect Workplace Opportunity, I write to request a 60-day extension of the comment period, to November 3, 2015.

The Partnership consists of a diverse group of associations, businesses, and other stakeholders representing employers with millions of employees across the country in almost every industry. (*See* http://protectingopportunity.org/ for additional information, including a list of partners.) The Partnership's members believe that employees and employers alike are best served with a system that promotes maximum flexibility in structuring employee hours, career advancement opportunities for employees, and clarity for employers when classifying employees. The Department of Labor's proposed regulation amending the exemptions for executive, administrative, professional, outside sales, and computer employees (the "EAP exemptions") would dramatically impact the ability of the Partnership's members to maintain that flexibility and clarity. The proposed massive increase to the salary level -- more than doubling the current level -- is far higher than the Partnership anticipated and will require additional time to determine the true impact of the Department's decision.

The Department's proposal would place the minimum salary level required for exemption higher than the minimum required by every state law (including California and New York), and fails in any meaningful way to account for regional economic differences, or the devastating impact such a large increase is likely to have in the non-profit and educational sectors (among many other

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industries). The scope of the increase -- and, thus, its economic impact -- is unexpected and will require additional economic assessment.

The need for additional economic analysis on the impact of the salary increase is further compounded by the Department's unprecedented decision to index the salary level for future increases, as well as its failure to choose between two different options for doing so. As a result, the regulated community must now provide its comments on both options, as well as any other options that may be identified (including, of course, the option not to require automatic, annual increases to the salary level). Determining the expected impact of the multiple methods will require significantly more in the way of economic analysis, as well as outreach to the Partnership's members as we attempt to determine the impact of the increase not only in the first year, but in the second year, and the fifth year, and in the years beyond. Issues related to salary compression, and the potential impact of essentially forced salary increases on future merit increases will also need to be considered and analyzed.

The economic analysis and assessment of the legal and practical impacts of the salary-related issues must be considered along with the Department's inexplicable decision to leave open the possibility of regulation on a variety of significant issues without any specific regulatory proposals. After spending more than 15 months following the announcement of the rulemaking process by President Obama discussing the EAP exemptions with the regulated community, the Department chose not to make specific regulatory proposals with respect to the duties tests, but also chose not to close off the possibility of regulatory action on the duties tests in a final rule. Rather than simplifying the regulatory process, the Department's chosen course of action complicates the ability of the regulated community to provide meaningful, substantive comments. Because the Department elected not to focus the discussion with specific regulatory proposals, the regulated community must use its comments not only to identify its own proposals, but also to guess as to what other proposals may be submitted and then explain the presumed impacts of those hypothetical proposals.

The Department could have used the substantial input it received during the 15 months it spent considering the President's directive to develop a regulatory proposal that was narrowly focused and reflective of the input it received. Instead, it issued a proposed rule that it could have just as easily issued 14 months ago. Under these circumstances, where the Department is effectively asking the regulated community to develop what the Department itself could not, 60 days is a woefully inadequate length of time to provide for comment.

Accordingly, the Partnership urges the Department to extend the comment period by 60 days, to November 3, 2015.

Sincerely yours,

SEYFARTH SHAW LLP

Alexander J. Passantino

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