

September 4, 2015

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

VIA ELECTRONIC SUBMISSION: <http://www.regulations.gov>

Re: RIN 1235-AA11: Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees

Dear Ms. Ziegler:

The Puerto Rico Hotel & Tourism Association (“PRHTA”) respectfully submits these comments on the US Department of Labor (“DOL”) proposal to amend the Fair Labor Standard Act (“FLSA”) regulations implementing the exemption from minimum wage and overtime pay for executive, administrative, professional, outside sales, and computer employees. PRHTA is a nonprofit trade organization that represents the collective interests of more than five hundred thirty (“530”) business associates related to the tourism industry in Puerto Rico.

It is no secret that Puerto Rico currently faces a difficult fiscal and economic crisis.¹ As a result, rating agencies have downgraded its general obligation bonds to junk levels status.² A direct consequence of these downgrades is that the Island’s capacity to borrow money and solve its critical situation has been limited.

The above situation is exacerbated when you factor in the high unemployment levels and low labor participation rate that characterizes its labor market. As a

¹ <http://www.project-syndicate.org/print/cause-of-puerto-rico-economic-crisis-by-anne-krueger-2015-09>

² http://www.washingtonpost.com/business/economy/puerto-rico-bonds-downgraded-to-junk-levels/2014/02/04/c9495a22-8ddf-11e3-833c-33098f9e5267_story.html

matter of fact, recent local Department of Labor's statistics show that unemployment in Puerto Rico reached 11.9% in July 2015 while labor participation rate was measured at 39.5% by that same date.³ In other words, Puerto Rico's labor force participation rate is among the lowest in the world, with less than half of eligible workers participating in the formal economy and its unemployment rate has been persistently well above the U.S. mainland's.

Numbers don't lie and for that reason even the Federal Reserve Bank of New York highlighted the importance of improving labor market opportunities in Puerto Rico by revisiting the applicability of the federal minimum wage and other labor related costs. To that effect, its report "*An Update on the Competitiveness of Puerto Rico's Economy*" published on July 31, 2014 stated the following:

*"The Island's high minimum wage, equal to the federal minimum wage on the U.S. mainland, was cited in our previous report as one potentially strong disincentive for firms to expand their hiring of young workers. The mainland is currently considering an increase in the federal minimum wage level, and there have been recent increases in minimum wages by some states and local governments. Since the per capita level of income in Puerto Rico is far below that of the U. S. mainland, and the Island's productivity growth has not kept pace with the mainland's, passage of a significant hike in the federal minimum wage could potentially harm job and training opportunity for lower-skilled workers."*⁴

The DOL's proposal to increase the minimum weekly salary level for exempted employees to the 40th percentile of earnings for full time salaried workers nationwide and the automatic adjustment of the minimum salary level on an annual basis will more than double the current minimum salary level for exempt employees. Puerto Rico's businesses will not be able to absorb these costs. As a result, the DOL's proposal will promote the loss of jobs and further deepen the crisis previously described.

Apart from the Island economic situation, the DOL needs to consider that Puerto Rico's employees currently are entitled to a series of mandatory benefits that are not part of the rest of the US jurisdiction total employee's compensation. Examples are a mandatory Christmas Bonus, mandatory paid vacation and sick leaves, mandatory paid jury duty leave, mandatory overtime of 1.5 base salary

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<http://www.mercadolaboral.pr.gov/lmi/pdf/Grupo%20Trabajador/2015/EMPLEO%20Y%20DESEMPLEO%20EN%20PUERTO%20RICO%207.pdf>

⁴ <http://www.newyorkfed.org/outreach-and-education/puerto-rico/2014/Puerto-Rico-Report-2014.pdf>



for hours worked over eight (8) a day, mandatory maternity leave of eight (8) weeks at full pay, mandatory non occupational disability leave for up to six (6) months, among others.

To avoid the negative consequences that the implementation of the DOL's proposal will have in Puerto Rico, the PRHTA respectfully request that the Island be exempted from its application or that the proposal be adjusted to the reality of our fragile economy and shrinking labor market.

Respectfully;

A handwritten signature in black ink, appearing to read 'Miguel Vega', with a stylized flourish extending to the right.

Miguel Vega
Chairman of the Board

