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FAIR LABOR STANDARDS ACT COMPLIANCE

We have now had an opportunity to study the Administrator's Interpretation and discuss the opinion with leaders in the banking industry. The Interpretation is very disappointing. The new administration ignores the common meaning of regulatory language prepared by the agency in 2004, which supports the proposition that most lending positions satisfy the administrative exemption primary duty test. The Department of Labor now also reverses and withdraws Opinion Letters issued since 2004, which endorse exempt status. Now, lenders who support individuals, as opposed to commercial customers, may be entitled to overtime compensation, for any time worked in excess of 40 hours in a work week.

In response to these developments, we have taken several actions. First, we will participate in a telephone briefing, sponsored by the American Bankers Association, on May 5, 2010. The purpose of this telephone briefing is to provide specific and up-to-date guidance to bankers, regarding the positions viewed as exempt and the positions viewed as non-exempt by the federal regulators. The expectations are fundamentally different from the standards which were published in 2004. Attached is a description of that program, and we certainly welcome your participation.

Secondly, we have updated and substantially modified our Overtime Exemption Guide. This product was originally developed in 2004, to assist bankers review their positions, and ensure compliance with the FLSA overtime exemption standards. In light of the recent developments, that work product had to be extensively revised. The new Overtime Exemption Guide, current as of March 7, 2010, is now available for community bankers (Description also attached). With the remarkable scrutiny placed upon the industry, the fundamental change in the exemption tests, and the breathtaking potential liability, banks will need to reassess their overtime exemption classifications.

Thirdly, through Helms & Greene, we will provide whatever support to the industry we can, to reverse this Administrator's Interpretation. We fully appreciate the disruption. A legal action against the Department of Labor is one of many options. Unfortunately, any challenge, will not result in relief from the Wage and Hour Division and private litigation, for years to come.

For more information about this or other employment compliance issues, please call us, or visit our website.