

U.S. Department of Labor Ramps Up Wage and Hour Division

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The U.S. Department of Labor (DOL) has announced that it will hire 100 new investigators in its Wage and Hour Division (Division). This is a strong signal that the DOL will be increasing its focus and prioritization of enforcement actions. This increased focus will also likely spur an increased number of class and collective actions directly filed by plaintiffs' attorneys.

Employers should audit the following wage and hour policies and practices now: (1) exempt employee classification; (2) independent contractor classification; and (3) FMLA compliance and other leave issues. Exemptions under the FLSA require a detailed analysis of the salary and job duties performed by a specific employee to determine whether the position is exempt from overtime requirements. The misclassification of individuals as independent contractors is another very complicated area of the law which requires detailed legal analysis that likely implicates various intersecting laws and regulations. In addition to these wage and hour considerations, employers should review their FMLA and leave policies – the FMLA falls under the purview of the Division and will also likely be an area of focus. FMLA administration is a significant responsibility and leave issues are complicated and full of potential pitfalls. Employers should review their leave practices to ensure they are adhering to all of the law's requirements.

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