

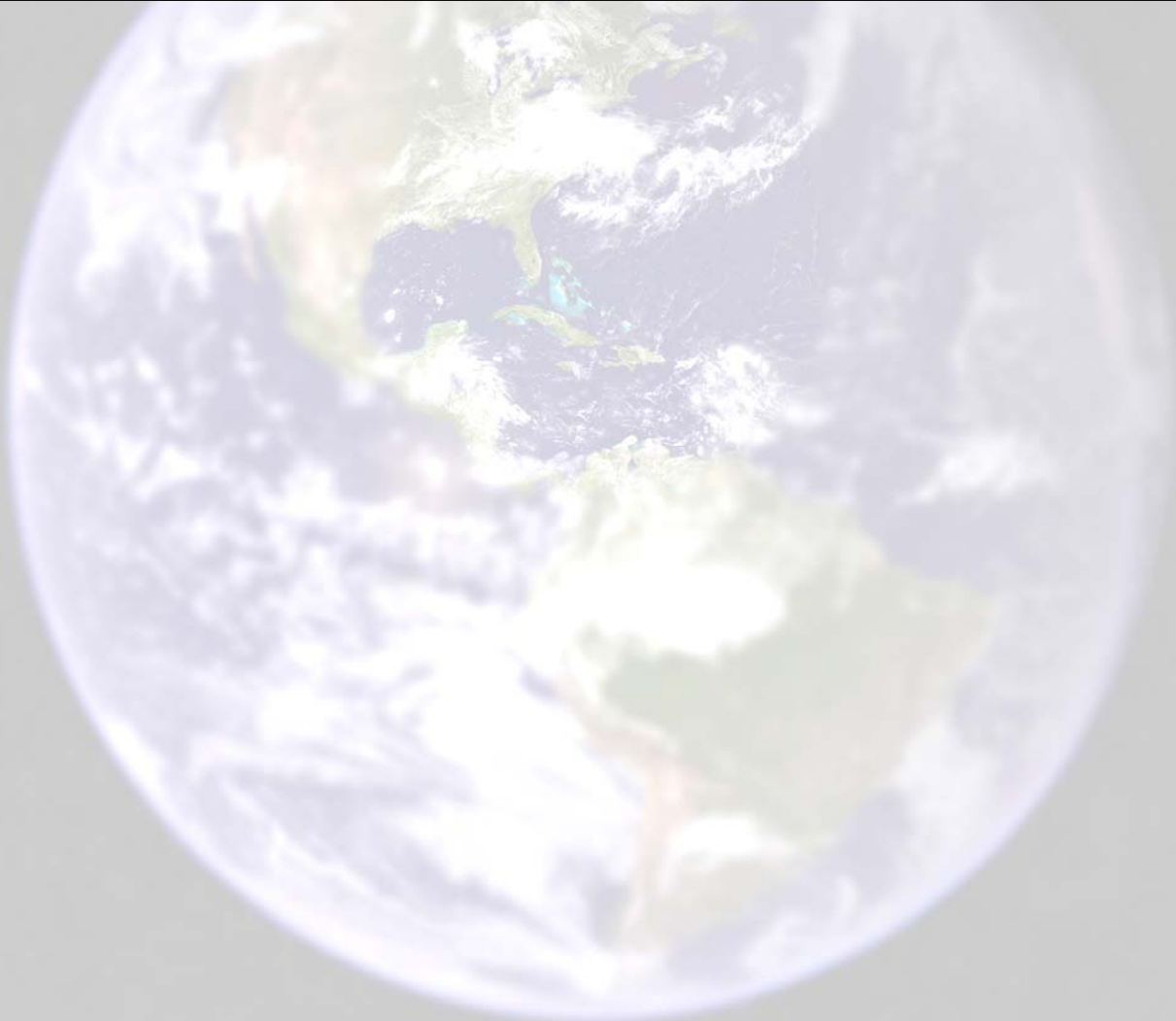
# MERCER



MARSH MERCER KROLL  
GUY CARPENTER OLIVER WYMAN



## FLSA Assessment Toolkit Tools to Determine Exempt/Nonexempt Status



# MERCER



MARSH MERCER KROLL  
GUY CARPENTER OLIVER WYMAN



## FLSA Assessment Toolkit Overview

## Overview

In April 2004, the Wage and Hour Division of the US Department of Labor issued final regulations aimed at modernizing the “white collar exemptions” of the Fair Labor Standards Act (FLSA). The final regulations contain significant revisions and clarifications to the salary and duties tests that determine whether executive, administrative, professional, outside sales, and computer employees are entitled to, or exempt from, overtime pay under the FLSA. The regulations go into effect on August 23, 2004.

All employers should assess their job classifications and pay practices to ensure compliance with the final regulations. Mercer’s FLSA Toolkit consists of eight items to help employers conduct the assessment and minimize compliance-related risks:

- a job content questionnaire and a set of instructions for completing it,
- two sets of guidelines for evaluating job content and classifying jobs,
- three presentations to inform and prepare participants in the assessment process, and
- an article summarizing the most significant changes contained in the final regulations.

Following the description of the eight tools, below, is a sample process and timeline for an assessment project.

## Toolkit Components

### Job Content Questionnaire (JCQ)

This form is used to gather the detailed job content information needed to determine an employee’s exempt/nonexempt status. The JCQ also captures information that will allow employers to develop or update effective job descriptions, verify job content for market pricing purposes, and comply with the Americans with Disabilities Act. The JCQ should be completed by either the incumbents in the jobs selected for assessment or their supervisors; then it should be reviewed, agreed upon, and signed by both.

### Instructions for Job Content Questionnaire

The instructions are designed to ensure that everyone completing the JCQs provides sufficient detailed information and examples to permit accurate assessment of job content.

### General Guidelines for Assessing Job Content Questionnaires

This document provides a methodology for reviewing JCQs to determine which FLSA exemptions might apply.

## Detailed Guidelines: How to Determine Whether an Employee Qualifies for Exempt Status Under the FLSA Final Regulations

Condensing hundreds of pages of DOL guidance into a relatively simple roadmap, the detailed guidelines include:

- a preliminary analysis that will help assessment team members focus on jobs that need additional consideration,
- a detailed process for evaluating incumbents' duties and responsibilities, and
- instructions for applying the regulations' salary basis and fee basis tests.

Many jobs are likely to be clearly exempt and will require no further examination. Some jobs previously classified as exempt may be so clearly nonexempt under the new regulations that they will require reclassification without a more detailed assessment. Other jobs, however, are likely to require additional data collection and examination to assess exempt/nonexempt status properly. Those in the third category should be given to an FLSA specialist for review and follow-up.

## Appendices

### Leadership Team Briefing: The Final FLSA 'White Collar' Regulations

This presentation for briefing senior executives makes the "business case" for the FLSA assessment, explaining the risks of noncompliance and the overall value of the initiative. It can be used to gain their support for the effort.

### Assessment Team Training: The Final FLSA 'White Collar' Regulations

This training presentation for the employees who will conduct the assessment can be used to launch the project, give an overview of the final regulations, and highlight the salary and duties tests to be applied in the assessment.

### Manager Training: Job Content Questionnaire Process

This training presentation for the managers who will distribute and oversee the completion of JCQs can be used to help them understand the importance of the assessment, their critical role, and the process for completing and reviewing the forms.

### Overview of Key Changes

*GRIST InDepth: Ready or not, the final FLSA 'white collar' regulations are here* provides an overview of the most significant changes contained in the final regulations, and highlights the compliance and business effects of the new rules.

## Sample Process/Timeline

The following sample process/timeline describes how an employer might use the tools to complete an assessment project.

### Week One

- Designate the assessment team members and conduct a project kickoff meeting
- Customize the JCQ form, instructions, and presentations

### Week Two

- Conduct leadership briefing
- Conduct assessment team training
- Conduct managers' JCQ training
- Distribute JCQs and instructions

### Weeks Three and Four

- Collect completed JCQs
- Review JCQs for accuracy, completeness
- Return JCQs that contain incomplete, inaccurate, or inconsistent information for correction by supervisors/incumbents
- Use guidelines to start reviewing completed JCQs

### Weeks Five and Six

- Complete review of JCQs
- Gather any necessary follow-up information for jobs where status is questionable
- Provide classification recommendations to FLSA expert for review

### Weeks Seven and Eight

- Review classification recommendations with legal counsel
- Identify business impact of proposed changes
- Develop communication tools for announcing changes
- Implement necessary changes to job classifications and pay practices

## Software Requirements

To use all the functionality built into FLSA Assessment Toolkit, you will need the full version of Adobe Acrobat® 5.0 or higher. With Adobe Acrobat 5.0 or higher, you can:

- print
- save
- fill in and save copies of the Job Content Questionnaire (JCQ)
- modify the FLSA documents directly within the PDF files
- navigate using the bookmarks and links

- download attachments in their native applications (PowerPoint or Word)
- extract portions of the FLSA Toolkit

If the full Adobe Acrobat 5.0 or higher is not a viable option for you, you may use Adobe Reader® 6.0, a free product. Adobe Reader 6.0 allows you to view, print, download, and navigate the FLSA Assessment Toolkit. However, you **cannot** fill in and save copies of the completed JCQ, modify the FLSA documents, or extract portions of the Toolkit. (You can purchase an add-on product, Adobe Approval, that allows you to fill in and save PDF forms within Adobe Reader 6.0.)

**NOTE:** Adobe Reader® 5.0 or lower is not recommended for use with the FLSA Assessment Toolkit. With Adobe Reader 5.0, you can view the FLSA Assessment Toolkit, but you will not be able to access the attachments or take advantage of other built-in functionality.

Adobe Acrobat, Adobe Approval, and Adobe Reader are available on the [Adobe website](#). Note that Adobe Reader 6.0 is free.

## Disclaimer

The FLSA Toolkit was drafted for the exclusive use of Mercer Human Resource Consulting (Mercer) clients who purchase it, to assist them in complying with the Fair Labor Standards Act of 1938 (FLSA). Any reproduction or use for commercial or other purposes is prohibited without the express written permission of Mercer. Because Mercer is a consulting firm and does not practice law, we strongly recommend that the FLSA Toolkit and its intended usage be reviewed by the purchaser's legal counsel. The contents of the FLSA Toolkit have been prepared using sources, materials, and information believed to be reliable and accurate. Mercer gives no representation or warranties as to the accuracy of the information in the FLSA Toolkit and accepts no responsibility or liability for any error, omission, or inaccuracy in the information, other than in relation to information that Mercer would be expected to verify on the basis of generally accepted industry practices. Mercer does not assume responsibility for any updates to the FLSA Toolkit that might become necessary as a result of regulatory developments or changes in applicable law. The Toolkit includes generic tools. Mercer is not responsible for any changes that might be necessary to customize the Toolkit for a client's own usage.

# MERCER



MARSH MERCER KROLL  
GUY CARPENTER OLIVER WYMAN



## Job Content Questionnaire

## SECTION I - INTRODUCTORY INFORMATION

Incumbent's Current Job Title	Incumbent's Name
Dept. Name	Supervisor's Name
Supervisor's Title	Completed By
Date Completed	

*NOTE: Attach additional sheets of paper if more space is needed to respond to the questions.*

## SECTION II - POSITION SUMMARY

**A. JOB PURPOSE** In one or two sentences, provide a **brief overview** of the purpose or function of the job. Why does this position exist? Start with the phrase "This position is responsible for..."


**B. MAJOR JOB DUTIES** Specify major duties performed and the approximate percentage of time spent on each. Do not list occasional duties that consume less than 5% of the job. The total should equal 100%. **List job duties in order of importance, and provide at least two examples/comments to describe the work performed to fulfill each duty.**

<b>% of Time</b>	<b>1)</b>
------------------	-----------

<b>Examples/Comments</b>	

<b>% of Time</b>	<b>2)</b>
------------------	-----------

<b>Examples/Comments</b>	

<b>% of Time</b>	<b>3)</b>
------------------	-----------

<b>Examples/Comments</b>	

**F. WORK LEADERSHIP OR SUPERVISION** If employee does not perform all of the duties specified in a question or statement, circle only those he/she performs.

- 1) Is the incumbent in charge of a [insert employer name] division, department, sub-department or unit? Yes \_\_\_ No \_\_\_  
If so, describe: \_\_\_\_\_
- 2) Does the incumbent ...  
Interview, select, and train employees? Yes \_\_\_ No \_\_\_  
Set and adjust rates of pay and hours of work for employees? Yes \_\_\_ No \_\_\_  
Direct the work of employees? Yes \_\_\_ No \_\_\_  
Maintain records on employee productivity for use in supervision or control? Yes \_\_\_ No \_\_\_  
Appraise employees' productivity and efficiency to recommend promotions or other changes in status? Yes \_\_\_ No \_\_\_  
Handle employee complaints and grievances and discipline employees when necessary? Yes \_\_\_ No \_\_\_  
Plan other employees' work? Yes \_\_\_ No \_\_\_  
Determine the techniques other employees use in their work? Yes \_\_\_ No \_\_\_  
Apportion work among different employees? Yes \_\_\_ No \_\_\_  
Determine the types of materials, supplies, or tools to be used by other employees? Yes \_\_\_ No \_\_\_  
Control the flow and distribution of materials and supplies? Yes \_\_\_ No \_\_\_  
Provide for the safety of employees and the property of the employer? Yes \_\_\_ No \_\_\_  
Control the budget? Yes \_\_\_ No \_\_\_  
Monitor or implement legal compliance? Yes \_\_\_ No \_\_\_
- 3) Does the incumbent have the authority to hire or fire other employees? Yes \_\_\_ No \_\_\_  
Is it part of the incumbent's job to make recommendations on hiring, firing, advancement, promotion, or other changes of status? Yes \_\_\_ No \_\_\_  
Does the incumbent frequently make such recommendations or are they frequently requested? Yes \_\_\_ No \_\_\_  
Are the incumbent's recommendations frequently relied upon? Yes \_\_\_ No \_\_\_
- 4) What percent of working time does the incumbent spend providing the work leadership duties and responsibilities described above? \_\_\_\_%
- 5) How many employees directly report to the incumbent? \_\_\_\_ List the employees that directly report to the incumbent, including each employee's name, title, and whether the employee is full-time or part-time (if part-time, list the number of hours normally worked by the employee): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- 6) How many employees indirectly report to the incumbent? \_\_\_\_ Describe: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

# MERCER



MARSH MERCER KROLL  
GUY CARPENTER OLIVER WYMAN



## Instructions for Job Content Questionnaire

## Section I – Introductory Information

If you are a supervisor, enter the incumbent's current job title, name, his/her department name, your name as his/her supervisor, your title, your name as the person completing the questionnaire, and the date. If you are the person in the job being described (the incumbent), enter your name and current job title, your department name, your supervisor's name, your name as the person completing the questionnaire, and the date.

## Section II – Position Summary

### A. Job Purpose

Using one or two sentences, describe the overall purpose of the position – that is, the main reason it exists. This should *not* be a list of the incumbent's responsibilities.

#### Completion Tip

A listing of major responsibilities should appear in the Major Job Duties section of the JCQ, rather than in the Job Purpose. It may be easier to summarize the Job Purpose *after* completing the Major Job Duties section because a fresh review of the job details will ensure that all essential components are included in the Job Purpose.

#### Examples

- This position is responsible for recommending, installing, supporting, and upgrading hardware and software products.
- This position is responsible for providing first-tier customer support.
- This position is responsible for developing, managing, and executing marketing programs in support of company-wide marketing and promotional initiatives.
- This position is responsible for performing a wide range of administrative duties of a highly responsible and confidential nature in support of the department's mission and goals.

### B. Major Job Duties

Provide descriptive statements that tell the reader *what the job is all about* – key points that describe the work the incumbent does and the environment in which he/she does it. Also fill in the percentage of time the incumbent typically spends performing each major duty in a representative workweek. **The percentages should total 100%.** You should list the job duties in order of importance (even if more time is spent on less important duties). **Provide at least two examples or explanatory comments for each major job duty.**

For each major job duty, explain:

- *What is done* – providing detailed examples
- *Why it is done* – describing the purpose and/or expected results
- *How it is done* – using active, descriptive verbs

# MERCER



MARSH MERCER KROLL  
GUY CARPENTER OLIVER WYMAN



## General Guidelines for Assessing Job Content Questionnaires

## Step One: Review JCQs for Completeness and Accuracy

If you discover that any sections are incomplete, conflict with one another, or appear to be inaccurate, return the JCQ for correction to the incumbent or supervisor who completed it.

## Step Two: Review Each Completed JCQ to Determine Which Exemptions Might Apply

Look for the following items in the JCQ to help you determine the applicable exemptions:

### Subsections II(A) and (B) – Job Purpose and Major Job Duties

Description of leadership responsibilities ⇒ consider the Executive exemption.

Description of administrative responsibilities ⇒ consider the Administrative exemption.

Description of professional work in a field of science or learning ⇒ consider the Learned Professional exemption.

Description of creative or artistic work ⇒ consider the Creative Professional exemption.

Description of teaching in an educational institution ⇒ consider the Teaching Professional exemption.

Description of computer-related work ⇒ consider the Computer and Administrative exemptions.

Description of sales responsibilities ⇒ consider the Outside Sales exemption.

### Subsection II(C) – Supplemental Job Duties Information

One or more “yes” responses ⇒ consider the Administrative exemption.

### Subsection II(F) – Work Leadership or Supervision

If leadership duties are checked in subsections 1, 2, **and** 3, **and** at least two full-time positions (or the equivalent) are listed in subsection 5 ⇒ consider the Executive exemption.

# MERCER



MARSH MERCER KROLL  
GUY CARPENTER OLIVER WYMAN



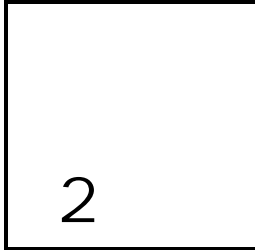
## Detailed Guidelines: How to Determine Whether an Employee Qualifies for Exempt Status Under the FLSA Final Regulations



Marsh & McLennan Companies

## Contents

1. Introduction.....	1
2. Preliminary Analysis.....	3
▪ Part One: Does the employee earn at least \$455 per week (\$23,660 per year)? .....	3
▪ Part Two: Does the employee satisfy the streamlined duties test for highly compensated employees? .....	4
▪ Part Three: Does the employee satisfy the “duties” test of one or more of the white collar exemptions?.....	6
3. Detailed Duties Tests .....	8
▪ Executive Exemption .....	9
▪ Business Owner Test.....	13
▪ Administrative Exemption .....	14
▪ Academic Administrator Test .....	18
▪ Learned Professional Exemption .....	21
▪ Creative Professional Exemption.....	24
▪ Teaching Professional Exemption .....	26
▪ Computer Exemption .....	28
▪ Outside Sales Exemption .....	30
4. Salary Basis and Fee Basis Tests .....	32
▪ Salary Basis Test.....	32
▪ Fee Basis Test .....	34



## Preliminary Analysis

The Preliminary Analysis section includes three Parts to assist you in beginning to determine which employees may qualify for exempt status.

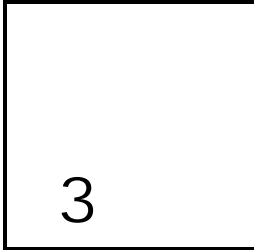
Part One sets forth the salary level test. With certain limited exceptions, an employee who does not earn at least the requisite salary amount cannot qualify for exempt status under any of the white collar exemptions, while an employee who earns at least this amount may be either nonexempt or exempt, depending on whether the employee satisfies any of the other Parts in this Section and/or in Sections 3 and 4.

Part Two sets forth the streamlined duties test for highly compensated employees. A highly compensated employee who satisfies this streamlined test is exempt, while an employee who does not satisfy this test may be either nonexempt or exempt, depending on whether the employee satisfies any of the other Parts in this Section and/or in Sections 3 and 4.

Part Three of this Section is a roadmap to the more specific duties tests (and their alternatives) set forth in Sections 3 and 4.

### **Part One: Does the employee earn at least \$455 per week (\$23,660 per year)?**

In general, the \$455 weekly salary is an absolute minimum requirement for an employee to be eligible to satisfy the white collar exemptions and tests set forth in Sections 3 and 4. An employee must receive at least this amount for each week he/she works. It may be translated into \$910 biweekly, \$985.83 semimonthly, \$1,971.66 monthly, or \$23,660 annually. It cannot be prorated for part-time work (e.g., an employee who works 20 hours and earns \$250 will not satisfy the salary level test and cannot be exempt). However, an employee who works a portion of the year and earns



## Detailed Duties Tests

Section 3 sets forth the detailed requirements for each of the duties tests that assist in determining whether employees who satisfy the salary level test and/or the streamlined duties test for highly compensated employees (both set forth in Section 2 above) qualify for exempt status under any of the white collar exemptions. The detailed tests are presented as follows:

- Executive exemption and related business owner test
- Administrative exemption and related academic administrator test
- Learned Professional exemption
- Creative Professional exemption
- Teaching Professional exemption
- Computer exemption
- Outside Sales exemption.

Most of these tests require that an employee also be paid on a salary basis or fee basis; the requirements for satisfying those tests are set forth in Section 4.

## Executive Exemption

To qualify for the Executive exemption, an employee must either (i) satisfy all four of the following Parts *and* be paid on a salary basis (see Section 4 for questions on the salary basis test), or (ii) satisfy the business owner test described below.

Part One: Does the employee manage the organization or a department or subdivision thereof?

First, is the employee in charge of a recognized unit that has a permanent status and a continuing function?

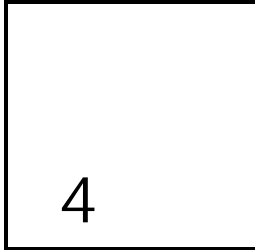
In many cases, this is quite simple to determine, as formally established departments or subdivisions of an organization frequently have a title and the employee is identified as the manager of that unit. In other circumstances, the analysis will not be as straightforward. For example, the unit may not be located within the employer's physical location, could move from place to place, or could include different employees at different times. None of these factors alone would defeat the exemption, as long as there is a basis to conclude that the unit has a continuing function. When an enterprise has more than one establishment, the employee in charge of each establishment may be considered in charge of a recognized subdivision of the enterprise.

***If the answer to this first question is yes, continue with the next question. If the answer is no, the employee does not qualify for the Executive exemption (unless the employee qualifies under the "business owner" test, which follows below).***

Second, does the employee "manage" a department or subdivision?

In answering this question, consider whether the employee performs the following activities:

- interview, select, and train employees
- set and adjust the rates of pay and hours of work of other employees
- direct the work of other employees
- maintain records on employee productivity for use in supervision or control
- appraise other employees' productivity and efficiency to recommend promotions or other changes in status
- handle employee complaints and grievances and discipline other employees when necessary
- plan other employees' work
- determine the techniques other employees use in work
- apportion work among different employees
- determine the types of materials, supplies, or tools to be used by other employees
- control the flow and distribution of materials and supplies



## Salary Basis and Fee Basis Tests

### Salary Basis Test

For an employee to satisfy the salary basis test, the answer to Part One must be yes and the answer to Part Two must be no.

Part One: Does the employee receive a predetermined amount constituting all or part of his or her compensation, which is not subject to reduction because of variations in the quality or quantity of the work performed?

In general, the employee must receive his or her full salary for any week in which her/she performs any work, regardless of the number of days or hours worked. However, exempt employees do not need to be paid for any workweek in which they perform no work.

The employee may be paid additional compensation for additional work without violating this requirement, as long as the arrangement includes a guarantee of at least the minimum weekly required amount (see Part One of Section 1) paid on a salary basis.

***If the answer to Part One is yes, continue with Part Two. If the answer is no, the employee does not satisfy the salary basis test.***

Part Two: Are improper deductions taken from the employee's salary?

Deductions **are** permissible in the following circumstances:

- an entire workweek when no work is performed
- full-day absences that exceed the employee's allotment of paid leave time

# MERCER



MARSH MERCER KROLL  
GUY CARPENTER OLIVER WYMAN



## Leadership Team Briefing: The Final FLSA 'White Collar' Regulations

# What's at Stake

- Costs of noncompliance can be extremely onerous
  - **2-3 years' back pay (potentially times two for willful violations)**
  - **civil penalties (of \$1,100 per paycheck issued without overtime due)**
  - **criminal penalties (of \$11,000 per violation)**
  - **attorneys' fees**
- Individual liability for managers responsible for pay classifications and practices
- A DOL investigation is . . .
  - **very easy to initiate (as little as a single call from an employee to the local DOL office)**
  - **potentially invasive, disruptive, and expensive**

# Business Impact

- Recent business practices may be problematic under new FLSA regulations
  - **leave staffing models and the emphasis on productivity statistics have resulted in longer workdays**
  - **stock analysts respond favorably to organizations that reduce headcount**
- Final regulations may necessitate:
  - **examination of the business financial impact of paying overtime to positions previously classified as exempt**
  - **redefinition of staffing models, i.e., how and by whom certain tasks are done**
  - **redefinition of the work**
  - **recalibration of the pay program**

# MERCER



MARSH MERCER KROLL  
GUY CARPENTER OLIVER WYMAN



## Assessment Team Training: The Final FLSA 'White Collar' Regulations

## New Standard Duties Tests

- “Standard Duties Tests” replace current “long” and “short” tests for each exemption (and include new requirements and changes)
- 20% limitation on nonexempt duties contained in current “long tests” eliminated
- **Impact:** Simplifies the analysis – to ensure compliance, employers should assess job content of all employees who earn between \$23,660 and \$100,000



## Executive Exemption

- Employee must:
  - **have primary duty of managing the enterprise or a customarily recognized department or subdivision AND**
  - **direct the work of two or more full-time employees AND**
  - **either have authority to hire/fire or have his/her recommendations on hiring, firing, advancement, promotion, or any other change of status of employees be given particular weight**
- (An employee can also qualify if he/she is a “business owner” – actively engaged in managing an enterprise in which he/she holds at least a 20% equity interest)
- Must be paid on a salary basis

# MERCER



MARSH MERCER KROLL  
GUY CARPENTER OLIVER WYMAN



## Manager Training: Job Content Questionnaire Process



## Your Critical Role

- We're assessing job content information to minimize compliance-related risk to our organization
- You play a critical role in this process
- You know each incumbent's duties and responsibilities
- Your participation provides key information that will ensure we gather and assess accurate information that reflects incumbents' current duties and responsibilities
- We are relying on you to help us meet our obligations under the FLSA

## JCQ Process

- You will be asked to either complete a Job Content Questionnaire (JCQ) for each incumbent who reports to you or have the incumbent complete one
  - **if you complete a JCQ, have the incumbent review and approve it**
  - **if incumbent completes a JCQ, you need to review and approve it**
- All JCQs must be completed and returned to **[Insert Name and Date]**
  - **e-mail and send signed hard copy**
  - **the sooner you can complete your JCQs, the better**
  - **but don't sacrifice thoroughness!**
- Direct questions to **[Insert Name and Contact Number]**

# MERCER



MARSH MERCER KROLL  
GUY CARPENTER OLIVER WYMAN



Overview of Key Changes  
GRIST InDepth: Ready or not, the final  
FLSA 'white collar' regulations are here

This article was first published in the [Legal Info Service \(LIS\)](#), a Web-based news and analysis compendium available to Mercer clients. The LIS keeps Mercer consultants and clients up to date on the Fair Labor Standards Act (FLSA) as part of its coverage of the broad spectrum of HR and benefit issues. Contact your Mercer consultant for more information about the LIS, a product of Mercer's Washington Resource Group (WRG), or call WRG customer service (+1 202 263 3950).

## GRIST InDepth: Ready or not, the final FLSA 'white collar' regulations are here

*By Nancy Shallow, Tracy Thurnell, and Neil Grossman of the Washington Resource Group  
May 6, 2004*

### **In This Article**

[Summary](#) | [Background](#) | [Most significant changes](#) | [Jobs that cannot be exempt](#) | [Salary level test](#) | [Executive standard duties test](#) | [Administrative standard duties test](#) | [Professional standard duties test](#) | [Computer employee standard duties test](#) | [Outside sales employee standard duties test](#) | [Streamlined duties test for highly compensated employees](#) | [Salary basis test](#) | [Key definitions](#) | [Other important provisions](#) | [Conclusion](#)

### Summary

On April 20, the Wage and Hour Division of the US Department of Labor issued final regulations aimed at modernizing the “white collar exemptions” of the Fair Labor Standards Act (FLSA). After receiving more than 75,000 comments in response to changes it proposed in 2003 and encountering significant congressional opposition, the DOL has not included some of the most controversial proposed changes in the final regulations. Nevertheless, they contain significant revisions and clarifications to the salary and duties tests used to determine whether executive, administrative, professional, outside sales, and computer employees qualify for exemption from the FLSA’s minimum wage and overtime pay requirements. All employers need to conduct extensive assessments of current classifications and pay practices to ensure compliance by August 23, 2004, when the final regulations go into effect.

### Background

**FLSA basics.** The FLSA requires most employers to pay employees a minimum wage (currently \$5.15 per hour) and overtime pay at one and one-half times an employee’s regular rate of pay for hours worked over 40 in a work week. However, there are exemptions from these requirements for bona fide executive, administrative, professional, outside sales, and computer employees who meet certain tests. Determining whether an employee qualifies for one of these “white collar exemptions” has always involved three tests. The employee has to:

- be paid a predetermined, fixed salary that is not subject to reductions because of the quality or quantity of work performed (the “salary basis test”),
- be paid above specified salary amounts (the “salary level test”), and

# MERCER



MARSH MERCER KROLL  
GUY CARPENTER OLIVER WYMAN

Mercer (US) Inc.  
1255 23rd Street NW, Suite 250  
Washington, DC 20037  
202 263 3900