

Important information regarding recent overtime litigation in the U.S. District Court of Eastern District of Texas.

## **Fact Sheet #17M: Financial Services Industry Employees and the Part 541 Exemptions Under the Fair Labor Standards Act (FLSA)**

The [FLSA](#) requires that most employees in the United States be paid at least the federal [minimum wage](#) for all hour worked and [overtime pay](#) at time and one-half the regular rate of pay for all hours worked over 40 in a workweek. However, Section 13(a)(1) of the FLSA provides an exemption from both [minimum wage](#) and [overtime pay](#) for employees employed as bona fide [executive](#), [administrative](#), [professional](#) and [outside sales](#) employees. Section 13(a)(1) and Section 13(a)(17) also exempts certain [computer](#) employees. To qualify for exemption, employees must meet certain tests regarding their job duties and be paid on a salary basis at not less than \$455 per week.

### **Financial Services Industry Employees**

To qualify for the administrative employee exemption, all of the following tests must be met:

- The employee must be compensated on a [salary](#) or [fee basis](#) (as defined in the regulations) at a rate not less than \$455 per week;
- The employee's [primary duty](#) must be the performance of office or non-manual work [directly related to the management or general business operations](#) of the employer or the [employer's customers](#); and
- The employee's primary duty includes the exercise of [discretion and independent judgment](#) with respect to [matters of significance](#).

Employees in the financial services industry generally meet the duties requirements for the administrative exemption and are not entitled to overtime pay if their duties include work such as collecting and analyzing information regarding the customer's income, assets, investments or debts; determining which financial products best meet the customer's needs and financial circumstances; advising the customer regarding the advantages and disadvantages of different financial products; and marketing, servicing or promoting the employer's financial products. However, an employee whose primary duty is selling financial products does not qualify for the administrative exemption. In applying the exemption, it does not matter whether the employee's activities are aimed at an end user or an intermediary. The status of financial services employees is based on the duties they perform, not on the identity of the customer they serve.

### **Where to Obtain Additional Information**

For additional information, visit our Wage and Hour Division Website: <http://www.wagehour.dol.gov> and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243).

This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations.