

# Three (3) Major L&E Developments Today -- Impacting Virtually All Employers Throughout the U.S.

## Labor & Employment Law Update

By Jeffrey Risch and Kevin Kleine on April 23, 2024

1.

Higher Salary Threshold for OT Exempt Employees... The annualized salary level for anyone classified as exempt from OT pursuant to the FLSA's white-collar exemptions (executive, administrative, professional) must be no less than \$43,888 (\$844/week) by July 1, 2024 and must then be no less than \$58,656 (\$1,128/week) by January 1, 2025. Automatic escalators are now built into establishing minimum salary thresholds to meet the OT exemption for white-collar salary exempt workers.

2.

Employee Retirement Accounts... The U.S. Department of Labor released its long anticipated "Retirement Security Rule" that aims to expand stricter investment advice fiduciary standards related to employee retirement plans. The final rule and related amendments to prohibited transaction exemptions (PTEs) detail when advice providers are acting in a fiduciary role under the Employee Retirement Income Security Act (ERISA). This means that many advisors, banks, investment firms, and financial institutions that were not previously considered as fiduciaries under ERISA will now be subject to ERISA's strict fiduciary standards -- which are the highest fiduciary standards under federal law. The Retirement Security Rule will significantly impact and affect how investment advisors earn commissions and charge fees. The rule is set to take effect 150 days from April 25, 2025, with ongoing implementation thereafter.

3.

Non-Compete Agreements... The U.S. Federal Trade Commission (FTC) voted to formally ban virtually all employment related non-compete agreements throughout the United States. The final rule also requires employers to rescind existing non-compete agreements to both current and former employees. The final rule appears to adopt a different approach for senior executives than for non-executives -- allowing current agreements to remain but still banning future non-compete agreements with senior executives. The rule is set to take effect in approximately 120 days.

**Be assured that legal challenges will mount. For now, employers need to stay calm and begin to gather as much information as they can before making any drastic or premature decisions. Amundsen Davis LLC's Labor, Employment and Benefits attorneys are carefully reviewing all three developments and will be providing more detailed insight in the coming days.**

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