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October 20, 2023

The Honorable Julie A. Su  
Acting Secretary  
U.S. Department of Labor  
200 Constitution Avenue, NW  
Washington, DC 20210

Dear Acting Secretary Su:

On September 8, 2023, the Department of Labor’s Wage and Hour Division (WHD) published a notice of proposed rulemaking (NPRM) entitled “Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employees.”<sup>1</sup> Among other changes, this proposed rule significantly raises the salary threshold—which was recently updated in 2019—for employees to be considered exempt from overtime rules under the *Fair Labor Standards Act*. Because this far-reaching regulatory change will impact countless businesses and other employers, we are concerned that WHD allowed only for a 60-day period for public comment. We request that you extend the comment period by an additional 60 days to allow for a more considered review of the NPRM and for the regulated community to provide robust comments.

Under the NPRM, the public comment period will close on November 7, 2023. Allowing so little time for stakeholders to comment suggests that the WHD is out of touch with the resources required for smaller employers to respond to such a complex and economically significant proposal. An additional 60 days will give employers and other affected stakeholders additional time to compile employment trends in their workplaces and provide them with a “reasonable and meaningful” opportunity to provide comments, as required by the *Administrative Procedure Act*.<sup>2</sup>

Overtime regulations have far-reaching implications for both employers and employees. Any effort resulting in increased compliance costs and confusion will need to be considered along with labor market trends, current economic conditions, and other burdens that already negatively affect nonprofits, institutions of higher education, private sector businesses, and other employers. Further, stakeholders and lawmakers need to understand why WHD believes that changing a

<sup>1</sup> 88 Fed. Reg. 62,152 (proposed Sept. 8, 2023)

<sup>2</sup> *Forester v. Consumer Prod. Safety Comm’n*, 559 F.2d 774, 787 (D.C. Cir. 1977).

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regulation that was recently updated is warranted.<sup>3</sup> Providing a more reasonable amount of time for the public to evaluate the NPRM will help ensure that such a regulatory change at this time is in the best interest of affected stakeholders and the economy, and that the benefits would truly outweigh the costs.

Please respond with a written notification of your decision on this request no later than October 30, 2023.

Sincerely,



Virginia Foxx  
Chairwoman

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<sup>3</sup> Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employees, 84 Fed. Reg. 51,230 (Sept. 27, 2019).