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## M E M O R A N D U M

TO : Clients and Friends

FROM : Labor and Employment Law Department of McConnell Valdés

RE : **FINAL REGULATIONS ON OVERTIME EXEMPTIONS UNDER THE "FLSA"**

DATE : April 23, 2004

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Today, *The Federal Register* published the United States Department of Labor's ("DOL") new and final regulations on overtime eligibility for "white-collar" workers under the Fair Labor Standards Act ("FLSA").

The process of revising the regulations began last year with the publication of a proposed rule and a DOL invitation for public comments. On March 18, 2004, McV held complimentary round table discussions with clients and friends on the current regulations and the published proposal to revise the regulations.

The final regulations have simplified some of the tests currently used to determine exempt status under the FLSA and clarified, modified or even reverted, some of the proposals. The most significant change incorporated in the final regulations is a new and higher minimum salary threshold of \$455 per week, (equivalent to \$23,660 per year), for certain exemptions. The DOL also established a new test for highly compensated employees. On the other hand, the final rules provide new descriptive examples of how certain occupations may be covered or not by the defined exemptions and contain new provisions regarding salary deductions.

The new regulations will become effective on August 23, 2004. Employers should analyze the final rule and their workforce to determine whether some workers may be misclassified as exempt or non exempt, before the date of effectiveness. Also, employers should be aware that Regulation No. 13 of the Puerto Rico Minimum Wage Board, outlining the requirements for certain exemptions under local law, remains unaltered.

If you have any questions, or wish additional information regarding this matter, please contact any of the attorneys at the Labor and Employment Law Department of McConnell Valdés.

**McV LABOR AND EMPLOYMENT LAW DEPARTMENT**

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