

Meghaan Madriz in Law360 on Self-Reporting of FLSA Wage Violations

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PRACTICES Wage and Hour Litigation, Employment Litigation, Labor and Employment

Law360 quoted Haynes Boone Associate Meghaan Madriz on a new U.S. Department of Labor pilot program allowing employers to voluntarily report wage violations under the federal Fair Labor Standards Act.

Law360 [reported](#) that the self-audit program is winning plaudits from employers for giving companies a path to stave off litigation but that many questions remain unanswered.

The DOL Wage and Hour Division's Payroll Audit Independent Determination, or PAID, program, will allow employers to quickly pay back wages to workers in full for overtime and minimum wage violations under the FLSA, thereby avoiding fines and litigation expenses, the report said.

Other aspects of the pilot program, which will be re-evaluated after six months, include that the scope of any settlements will be limited only to the potential violations at issue, and that employers who participate must carefully audit their pay practices with an eye toward the Wage and Hour Division's compliance assistance materials before reporting a violation and agree to correct faulty practices going forward after the matter has been resolved. ...

Meghaan Madriz of Haynes Boone said she would be surprised if the program ended up proving to be popular with employers given that they would essentially be inviting the federal government in for a look at their pay practices.

"Essentially, you're asking the DOL to come in and find a potential violation, and now you're on the DOL's radar that you essentially have [wage] violations," she said. "Generally speaking, companies don't like to self-report violations and have the government come knocking down your door. If possible, you try to resolve them, if you can, quietly."

Madriz pointed out that not all employers want to make a payment of back wages, and that many of them "instead take the gamble to see if employees are going to make a claim and, if so, handle when and if they arrive."

But Madriz said employers are likely to use the program in "narrowly tailored" situations in which they realize a violation has occurred, they commit to fixing it and go to the DOL to bless its calculation of the back wages the company believes it owes.

"A situation where an employer would want to basically open its doors to a government agency to come in and look at its practices would be in a very narrow situation where the employer has identified a FLSA violation ... [and] has also made the decision that they want to go ahead and pay back wages to correct that problem," Madriz said.

Excerpted from *Law360*. To read the full article, click [here](#). (Subscription required)