

# Commercial Risk Advisor

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Provided by:  
Risk Strategy Solutions



## 5 Cyber Risk Questions Every Board Should Ask

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When a data breach or other cyber event occurs, the damages can be significant, often resulting in lawsuits, fines and serious financial losses. In order for organizations to protect themselves from cyber risks, corporate boards must play an active role. Not only does involvement from leadership improve cyber security, it can also reduce liability for board members. To help oversee their organization's cyber risk management, boards should ask the following questions:

1. **Does the organization utilize technology to prevent data breaches?** Boards should ensure that the management team reviews company technology at least annually, ensuring that cyber security tools are current and effective.
2. **Does the organization have a comprehensive cyber security program that includes specific policies and procedures?** Boards should ensure that cyber security programs align with industry standards and are audited on a regular basis to ensure effectiveness and internal compliance.
3. **Has the management team provided adequate employee training to ensure sensitive data is handled correctly?** Boards can help oversee the process of making training programs that foster cyber awareness.
4. **Has management taken appropriate steps to reduce cyber risks when working with third parties?** Boards should work with the company's management team to create a third-party agreement that identifies how the vendor will protect sensitive data, whether the vendor will subcontract services and how it will inform the organization of compromised data.
5. **Has the organization conducted a thorough risk assessment and considered purchasing cyber liability insurance?** Boards, alongside the company's management team, should conduct a cyber risk assessment and identify potential gaps. From there, organizations can work with their insurance broker to customize a policy that meets their specific needs.

Contact Risk Strategy Solutions to learn more about cyber risk mitigation strategies that you can start using today to keep your business secure.

# Regular Rate of Pay Rule Highlights

The last updates to the regular rate calculation instructions were made over 60 years ago.

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The final rule accounts for newer forms of employee compensation and benefits.

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The final rule eliminates the “infrequent and sporadic” requirement to exclude call-back pay from the regular rate.



## DOL Updates Regular Rate of Pay Rules

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On Dec. 12, 2019, the U.S. Department of Labor (DOL) announced a new final rule clarifying how to calculate an employee’s regular wage rate under the Fair Labor Standards Act (FLSA). The regular rate is used to determine an employee’s overtime compensation, and guidelines related to this calculation haven’t been significantly updated in over 60 years. Employers will need to familiarize themselves with the new guidance, adjusting their payroll practices for Jan. 15, 2020, when the final rule comes into effect.

As it stands, calculating the regular rate requires employers to include an employee’s wages, commissions, bonuses, payments received in the form of goods (e.g., room and board) and premium payments (e.g., incentive payments for dirty work). However, under the current guidance, it can be difficult for employers to discern what role certain perks and benefits play in regular rate of pay calculations.

The updated rules are designed to account for newer forms of employee compensation and benefits, such as fitness and nutrition classes, weight loss and smoking cessation programs, health risk assessments, paid sick leave and other fringe benefits. Specifically, the DOL’s final rule clarifies that the following employee benefits can be excluded from the regular rate, which in turn makes it easier for employers to offer perks to their workers:

- The cost of certain parking benefits, wellness programs, on-site specialist treatment, gym access and fitness classes, employee discounts on retail goods and services, certain tuition benefits and adoption assistance
- Payments for unused paid leave
- Payments of certain penalties required under state and local scheduling laws
- Reimbursed expenses, including cellphone plans, credentialing exam fees, organization membership dues and travel
- Certain sign-on and longevity bonuses
- The cost of office coffee and snacks
- Discretionary bonuses
- Contributions to benefit plans for accident, unemployment, legal services or other events that could cause future financial hardships
- Call-back pay

For more information, review the official news release from the DOL [here](#).