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**The Netherlands – Minor
Revision of the Highly
Skilled Salary Criterion**

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flash Alert

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Subordinate legislation¹ has been published in the Netherlands that codifies a rule whereby the 13th month's salary payment is excluded from the monthly-based salary criterion for highly skilled migrants and holders of a European blue card unless it is spread over the entire year and paid on a monthly basis to the highly skilled migrant.

Why This Matters

It is essential that employers of highly skilled migrants are aware of this change, so that the 13th month's salary payment can be paid on a monthly basis where applicable, or a higher monthly salary can be agreed, for example.

Background

On January 1, 2014, the salary criterion for highly skilled migrants and holders of a European blue card was changed from an annually based methodology to a monthly based methodology. (For related coverage, see [Flash International Executive Alert 2014-125](#), December 23, 2014.) This change caused confusion with regard to the assessment of fixed salary components that are paid annually rather than monthly, such as vacation allowance and the 13th month's salary payment.

IND Also Used a Standard Amount Including Vacation Allowance and 13th Month's Salary Payment

After the introduction of the monthly criterion, the Immigration and Naturalisation Service ("IND") also applied a standard amount including vacation allowance alongside the standard amount excluding vacation allowance. This could also include a 13th month's salary payment, provided this was laid down in the contract. Although the vacation allowance and the 13th month's salary payment are not usually paid on a monthly basis, an exception was made for these two salary components, which allowed them to be paid on an annual basis.²

As of March 1, 2015, Standard Amount Excluding Vacation Allowance

When it switched to a monthly criterion in 2014, the government failed to mention that this involved the monthly salary *excluding the vacation allowance*. This was rectified as of March 1, 2015.³

For the sake of completeness, the gross monthly amounts applying as of March 1, 2015, are listed below:

Highly skilled migrant of 30 years and older:	EUR 4,189 excluding vacation allowance
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Highly skilled migrant younger than 30 years of age:	EUR 3,071 excluding vacation allowance
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Highly skilled migrant who graduated in the Netherlands:	EUR 2,201 excluding vacation allowance
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Meijburg & Co. Note

It is still unclear whether a salary adjustment will have to be made for currently employed highly skilled migrants for whom the 13th month's salary payment was a crucial factor in the granting of a residence permit. The IND has not yet taken a decision on this.

Footnotes:

1 Cf. *Staatscourant* 2015, no. 13033.

2 Refer to the IND Procedural Guidelines no. 2013/20 (Implementation and Advisory Departments of the Immigration and Naturalisation Service).

3 Cf. *Staatsblad* 2015, no. 44.

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