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**TO: OUR CLIENTS**

**FROM: LAMB & BARNOSKY, LLP**

**RE: AFFORDABLE CARE ACT LOOK-BACK MEASUREMENT METHOD:  
EXAMPLES & DIAGRAMS**

**DATE: MAY 3, 2013**

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In our April 8, 2013 memorandum, we provided you with a detailed description of the Affordable Care Act's (ACA) look-back measurement method set forth in the Internal Revenue Service's (IRS) proposed regulations. To assist with your further understanding of this method, this memo provides examples and diagrams.

The look-back measurement method focuses on three time periods: the standard measurement period; an optional administrative period; and the stability period. We have color-coded these time periods on our diagrams as follows: the standard measurement period is green; *i.e.*, "go" for measure; the optional administrative period is yellow; *i.e.*, "slow down" and reflect upon what you have measured; and the stability period is red; *i.e.*, your measurements have now stopped.

### **I. Diagram 1: Ongoing Employees**

X-mart's open enrollment period runs from October 15 to December 31. The plan year runs from January 1 to December 31. X-mart establishes a 12-month standard measurement period beginning on October 15, an administrative period running from October 15 to December 31, and a 12-month stability period beginning on January 1.

X-mart counts hours of service for the period of October 15, 2014 through October 14, 2015 (the standard measurement period). From October 15, 2015 through December 31, 2015 (the administrative period), X-mart determines which employees were full-time between October 15, 2014 and October 14, 2015 and sends notifications to those full-time employees to whom it wishes to offer coverage. The determinations as to which employees are full-time; *i.e.*, those for whom X-mart may potentially be penalized, go into effect on January 1, 2016 and remain in place through December 31, 2016 (the stability period).

On October 15, 2015, X-mart begins another standard measurement period; *i.e.*, begins counting hours of service again to determine which employees will be deemed to be full-time for the period of January 1, 2017 through December 31, 2017.

The cycle set forth above repeats itself.

## **II. Diagram 2: Starting the Look-Back Measurement Method in 2013**

Candlewood School District's plan year begins on January 1, 2014, the same date on which it wants to begin its first stability period. It designates a transition period of the following time frames: a six-month period to measure hours (April 14 – October 14, 2013) and a 78-day administrative period (October 15 – December 31, 2013) to determine which employees are full-time and make any offers of coverage. The determination regarding which employees are full-time remains in place from January 1, 2014 – December 31, 2014.

The District designates a 12-month standard measurement period beginning on October 15 and ending on October 14, a 78-day administrative period beginning on October 15 and ending on December 31 and a stability period beginning on January 1 and ending on December 31.

On October 15, 2013, the District begins its first standard measurement period and continues counting hours of service through October 14, 2014. It tallies hours and makes any offers of coverage during the administrative period beginning on October 15, 2014 and ending on December 31, 2014. Determinations regarding which employees are full-time remain in place beginning on January 1, 2015 and ending on December 31, 2015. The cycle set forth in this paragraph repeats itself.

## **III. Diagram 3: New Variable Hour and Seasonal Employees**

On March 15, 2015, John is hired by the Town of Greenville. Greenville has designated a six-month initial measurement period that begins on April 1, 2015 (the first day of the first month following John's hire date) and ends on September 30, 2015. Greenville has also designated a 30-day administrative period.

The time between March 15, 2015 and April 1, 2015 (16 days) counts towards the administrative period. Because the administrative period is 30 days, Greenville has 14 days following the initial measurement period to offer coverage. Accordingly, if John is determined to be full-time, Greenville will not be subject to the Section 4980H(a) penalty if it offers coverage by no later than October 14, 2015.

#### **IV. Diagram 4: New Variable Hour or New Seasonal Employees Become Ongoing Employees**

For all of its ongoing employees, the Village of Covington designates a 12-month standard measurement period beginning on October 15, an administrative period beginning on October 15 and ending on December 31, and a 12-month stability period beginning on January 1.

For all of its new variable hour and seasonal employees, Covington designates an 11-month initial measurement period and a one-month administrative period. The stability period for the new employees must be the same length as the one for ongoing employees. Thus, it is also 12 months.

On July 1, 2015, Covington hires Jane whose work schedule varies. Covington begins the initial measurement period on July 1. Thus, from July 1, 2015 to May 31, 2016, Covington initially measures Jane's hours of service.

On October 15, 2015, the standard measurement period for Covington's ongoing employees begins. On that date, Covington begins a second measurement of Jane's hours which it will continue through October 14, 2016.

During the one-month administrative period associated with the initial measurement period (June 2016), Covington determines that Jane was not full-time. That determination applies during the stability period, which would normally be 12 months long, or from July 1, 2016 through June 30, 2017. If Jane also was not full-time during the standard measurement period, then the stability period associated with Jane's initial measurement period is cut short and automatically ends on December 31, 2016.<sup>1</sup>

As of October 14, 2016, Jane has been employed for one complete standard measurement period and is now an ongoing employee. Because Covington has been measuring Jane's hours during that period, her status can now be determined in accordance with the same schedule for ongoing employees; *i.e.*, Jane has been transitioned. Thus, during the three-month administrative period running from October 15 through December 31, 2016, Covington will again determine whether, based upon Jane's hours of service from October 15, 2015 through October 14, 2016, she is full-time.

We hope that these examples and diagrams help you to better understand the look-back measurement method. Please contact us if you have any specific questions with regard to this law or the information provided in this memorandum.

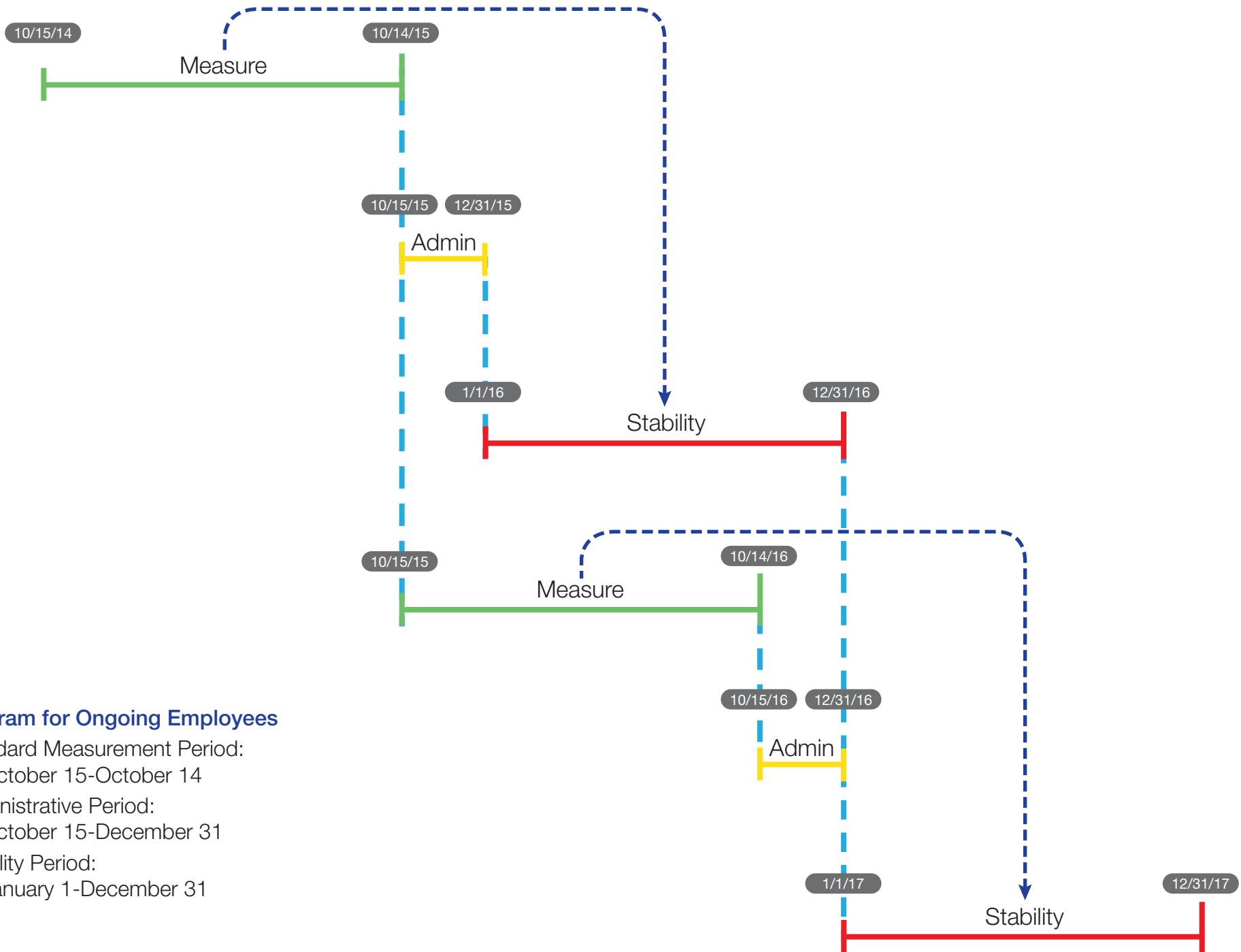
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<sup>1</sup> If Jane was full-time during the initial measurement period, but not during the standard measurement period, Covington must treat her as full-time during the entire stability period associated with the initial measurement period. In this example, Covington must treat Jane as full-time until June 30, 2017.

**THIS MEMORANDUM IS MEANT TO ASSIST IN GENERAL UNDERSTANDING OF THE CURRENT LAW AND MAY CONSTITUTE ATTORNEY ADVERTISING. IT IS NOT TO BE REGARDED AS LEGAL ADVICE. THOSE WITH PARTICULAR QUESTIONS SHOULD SEEK THE ADVICE OF COUNSEL.**

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**Diagram for Ongoing Employees**

Standard Measurement Period:

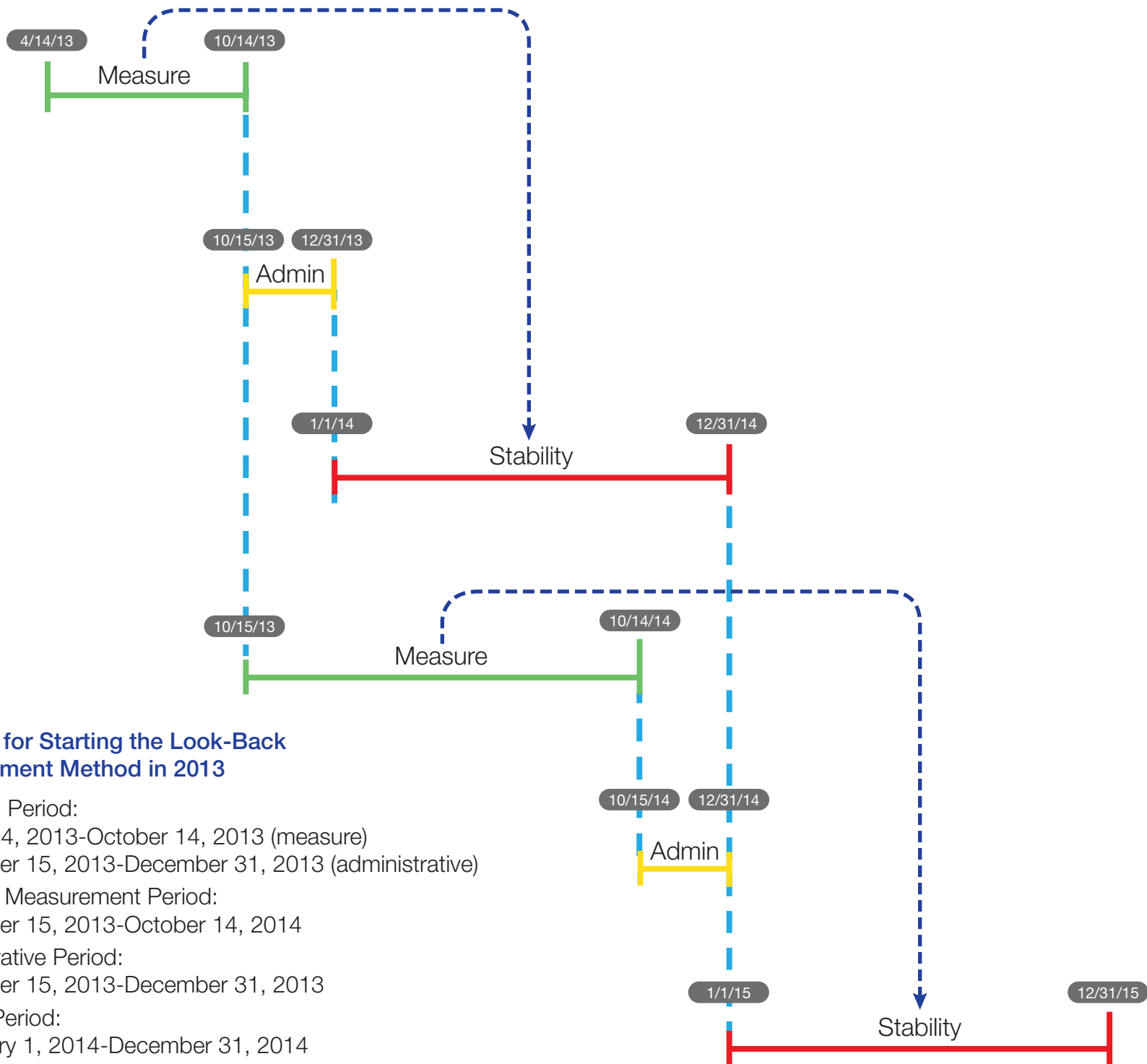
October 15-October 14

Administrative Period:

October 15-December 31

Stability Period:

January 1-December 31



**Diagram for Starting the Look-Back Measurement Method in 2013**

Transition Period:

- April 14, 2013-October 14, 2013 (measure)
- October 15, 2013-December 31, 2013 (administrative)

Standard Measurement Period:

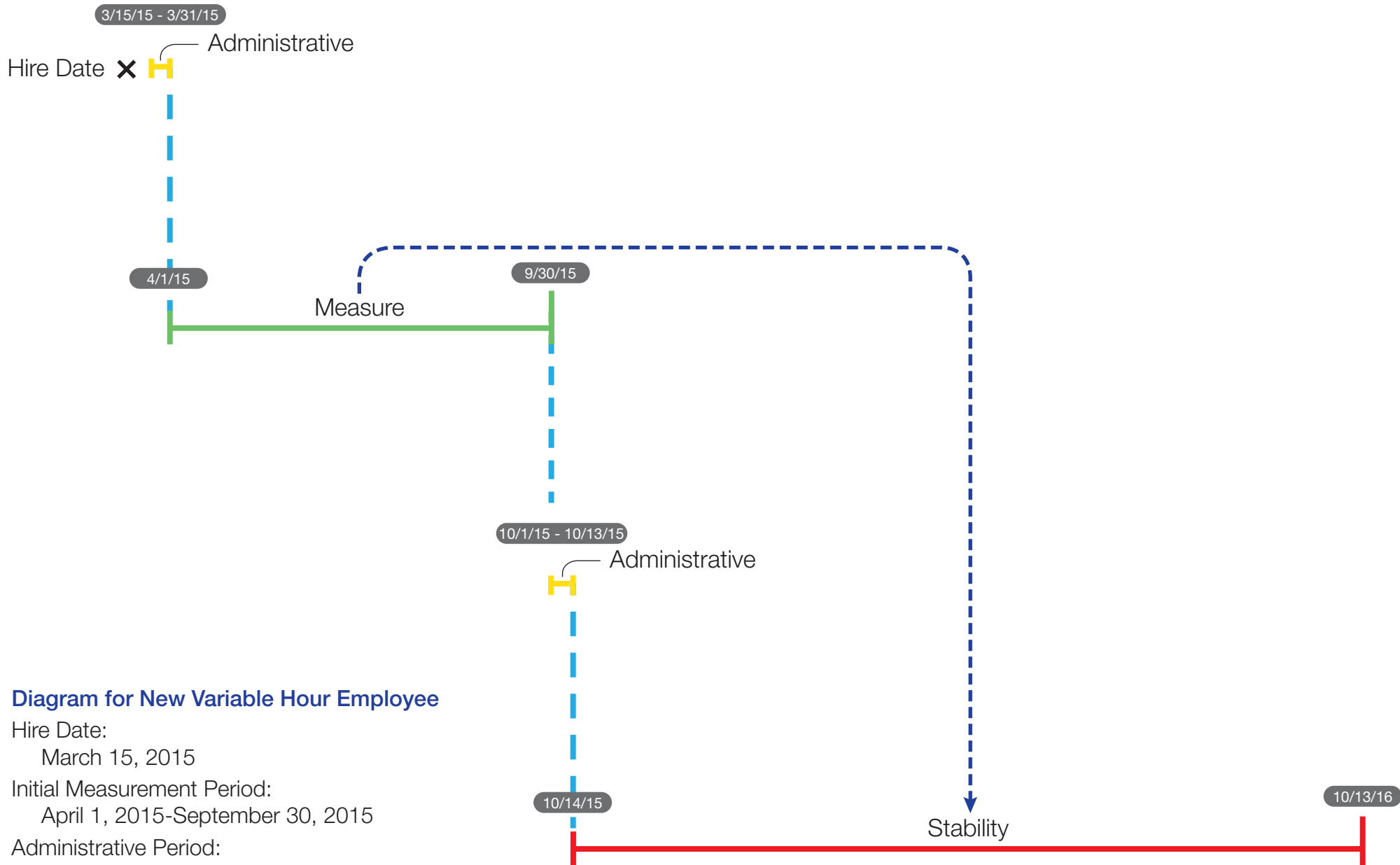
- October 15, 2013-October 14, 2014

Administrative Period:

- October 15, 2013-December 31, 2013

Stability Period:

- January 1, 2014-December 31, 2014



**Diagram for New Variable Hour Employee**

Hire Date:

March 15, 2015

Initial Measurement Period:

April 1, 2015-September 30, 2015

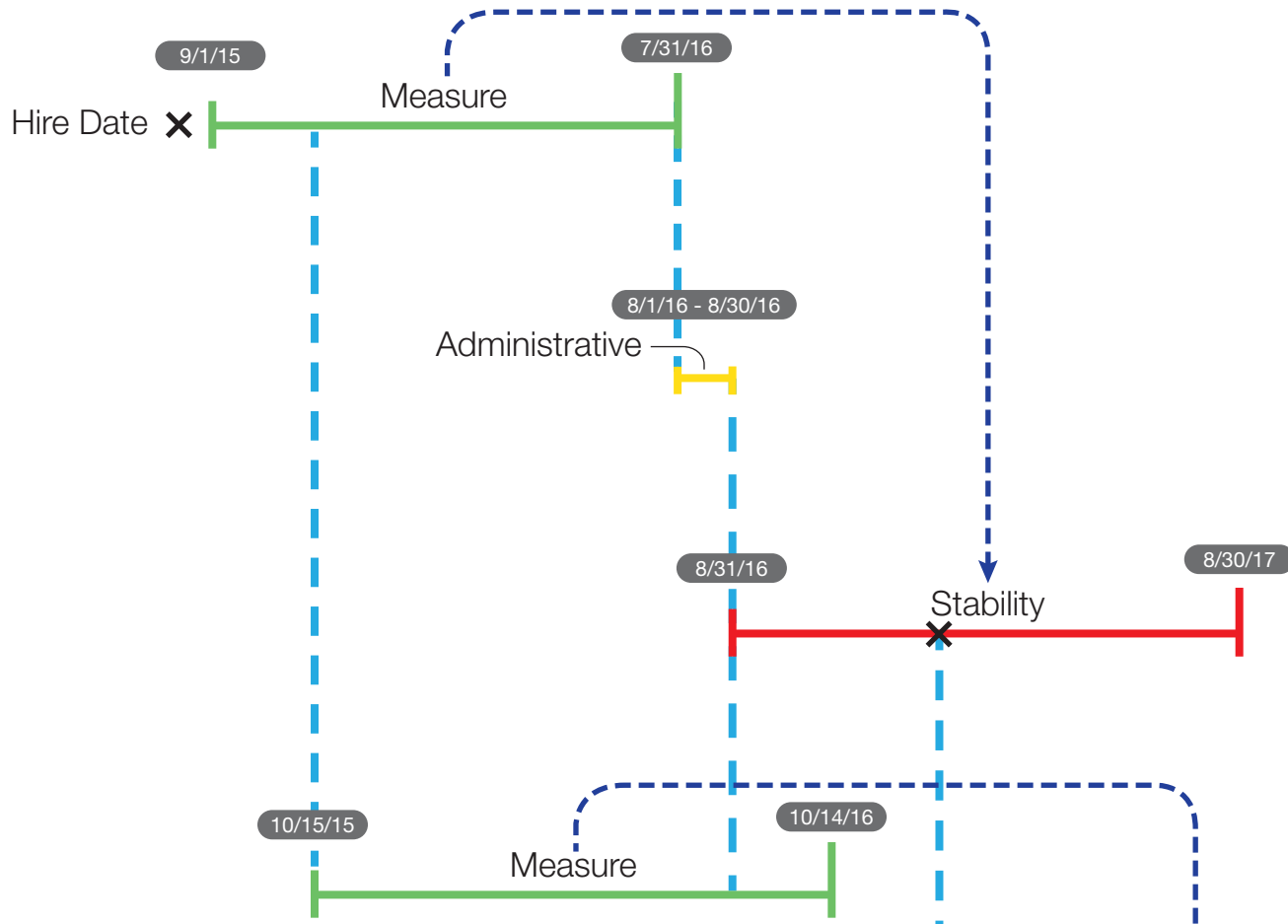
Administrative Period:

March 15, 2015-March 31, 2015

October 1, 2015-October 13, 2015

Stability Period:

October 14, 2015-October 15, 2015



**Diagram for Transition to Ongoing Employee**

Initial Measurement Period:  
September 1, 2015-July 31, 2016

Administrative Period:  
August 1, 2016-August 30, 2016

Stability Period:  
August 31, 2016-August 30, 2017

Standard Measurement Period:  
October 15, 2015-October 14, 2016

Administrative Period:  
October 15, 2016-December 31, 2016

Stability Period:  
January 1, 2017-December 31, 2017

