

FTC's Proposed Rule Banning Noncompetes

Understand the groundbreaking implications for employers and employees

On January 5, 2023, the Federal Trade Commission announced a groundbreaking proposed rule, which would ban employee noncompetes. The proposed rule, if enacted, will completely change the landscape on restrictive covenants and trade secret protection. Not only would employers be unable to use or enforce noncompetes, they would be required to take steps to rescind existing noncompetes and notify employees that they are no longer enforceable. The proposed rule, which President Biden urged the FTC to adopt, purports to preempt all state law on noncompetes, including centuries of case law and significant recent state legislative efforts.

Employers and employees need to be aware of and begin to plan for the possible adoption of the proposed rule (or a revised version thereof). Interested parties should also take advantage of the 60-day period to comment to the FTC on the proposed rule. This fast-track program is designed to assist lawyers in advising their clients in planning for compliance.

Agenda

- Brief History of the Proposed Rule
- Precise Requirements of the Proposed Rule, Including the Potentially Extensive Notice Requirements
- Potential Impact of the Proposed Rule on Companies and Workers
- Impact on Other Restrictive Covenants, Such as Non-Solicitation and Confidentiality Provisions
- Consequences for Failure to Comply with the Proposed Rule
- Strategies for Protecting Trade Secrets in the Absence of Noncompetes
- Potential Legal Challenges
- The FTC's Comment Process and Ways to Communicate Your Perspective to the FTC

Faculty

C. Max Perlman, Esq., *Gunderson Dettmer, Boston*, Chair

Russell Beck, Esq., *Beck Reed Riden, Boston*

Larissa C. Bergin, Esq., *Jones Day, Washington, DC*

Erik W. Weibust, Esq., *Epstein Becker Green, Boston*

Dates & Location

Register at www.mcle.org

LIVE WEBCAST

Wednesday, January 25, 2023

9:30 am–10:30 am

Program Number: 2230281WBC

REBROADCAST

Thursday, February 9, 2023

12:00 noon–1:00 pm

Program Number: 2230281RBC

REBROADCAST

Friday, February 17, 2023

1:00 pm–2:00 pm

Program Number: 2230281RB1

ON DEMAND WEBCAST

View after Friday, February 17, 2023

Program Number: 2230281WBA

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Materials

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