

## The Legal Challenges Ahead and the Practical Steps Employers Might Consider in Light of the Federal Trade Commission's Proposal to Ban Non-Competes

January 2023

The Federal Trade Commission grabbed headlines after the new year by proposing a rule that categorically bans most employee non-compete agreements, which are employment provisions that ban workers from working for or starting a competing business within a period of time after leaving a job. The proposed rule, which would displace many states' laws that permit reasonable non-competes, has far-reaching consequences to numerous businesses. Firms have long used them as contractual instruments to avoid losing valuable personnel in whom the business has made training and other investments or who, upon departure, may walk away with intellectual property that could be used by a competitor. The proposed rule could also stymie investment and innovation by weakening an employer's ability to protect their intellectual property and trade secrets. Yet, as forecasted by one dissenting commissioner, the proposed rule faces stiff legal headwinds, which Eimer Stahl lawyers Dan Birk, John Adams, and Jordan Hill analyze in this article. They also suggest practical steps employers might consider beyond non-compete agreements to protect employers' investments in both trade secrets and confidential information.

Read more about the proposed rule and the legal challenges ahead.

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### PRACTICES

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