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## FTC's New Non-Compete Ban and Impact On M&A

The Federal Trade Commission recently announced a ban on the vast majority of non-compete restrictions on workers. The rule will go into effect 120 days after publication in the Federal Register (subject to legal challenges as discussed below). Upon effectiveness, all existing non-competes with workers are unenforceable (except for existing non-competes with “executive employees”) and all new worker non-competes are prohibited. More information may be found at the following links [here](#) and [here](#) authored by Amy Epstein Gluck (Chair of Employment Group) and Eric B. Meyer, two of Pierson Ferdinand LLP's employment and labor partners.

The ban is currently being challenged by several organizations in court and it is unclear whether the rule, in its current form, will be enforced. Given that, M&A participants should be prepared for contingencies. While the ban generally will not apply to non-competes with sellers of a company or business (by equity or asset sale, merger or similar transaction), buyers will need to consider this new shift in employment law as it relates to non-selling, key employees that are needed to be retained post-closing. Buyers will also need to consider how this will impact the business post-acquisition, as non-competes in place may not be enforceable and relied upon to protect the acquired business. Note that the FTC's rule is not currently intended to trump state laws regarding non-competes. If a state's law is more restrictive with respect to worker non-competes, that state's law will continue to govern.

Should you have any questions on the new ban and its impact on M&A and other corporate matters, please do not hesitate to contact us.

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