

Press Coverage | August 6, 2024

Regulators Prowl for Financial Firms That Wield NDAs to ‘Muzzle’ Whistleblowers

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Chris Willis, co-leader of Troutman Pepper’s Consumer Financial Services Practice Group, was quoted in the August 6, 2024 *Corporate Counsel* article, [“Regulators Prowl for Financial Firms That Wield NDAs to ‘Muzzle’ Whistleblowers.”](#)

[In a note to clients](#), the law firm Troutman Pepper Hamilton Sanders said that, while the legislation bars employers from taking actions that “discriminate against” whistleblowers, it’s a leap for the agency to interpret the phrase to mean employers crafting NDAs need to enumerate workers’ rights to communicate with regulators or participate in investigations.

“It seems the CFPB is simply attempting to amend the statute through its interpretation,” Troutman Pepper attorneys wrote.

Troutman Pepper partner Chris Willis, one of the contributors to the client note, said the CFPB’s stance encourages employees to take their concerns directly to regulators and law enforcement, undermining companies’ efforts to first conduct a robust internal investigation.

“Financial institutions want to investigate what happened, find out who was involved, when did it happen and why—and they want to know how to fix it so they can prevent it from happening again,” he said. “Then they can report their findings to the agencies that regulate them and provide a clear picture of what happened—the regulators want this clarity, too.”

If financial institutions conducting an internal investigation have to worry that employees they interview will take what they know and hear to government officials, they’ll likely conduct less robust inquiries, Willis said, hindering the search for truth.

The CFPB’s position “gives financial institutions the incentive to restrict the number of people they speak to, because the more people you speak to, the more likely the chance one will pick up the phone and report it to a regulator,” he said.

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