

Jack-of-all-Reads

A newsletter for multi-hat-wearing C-suite leaders and their key constituents.



Focus on Employment Law, DEI and Benefits

Our newsletter, *Jack-of-all-Reads*, shares the latest and greatest insights in a brief read on a monthly basis. Please let us know of any comments or questions – we welcome and appreciate your continued partnership.

Industry Insights:

1. **Future of Non-Competes...Unknown.** In January of 2023, the FTC announced the proposed Non-Compete Clause Rule, which could eliminate the ability for employers to leverage non-competes going forward as well as potentially void existing ones. The final rule is likely to be issued next spring. In the meantime, many employers are starting to review existing contracts and create a go-forward strategy to prepare for what may be outcome.

- **Some Outstanding Questions Remain....** Including:
 - How will this affect NDAs and non-solicits?
 - Will there be salary thresholds?
 - Will garden leave be impacted?
 - Will they apply retroactively or go-forward only?
 - Will this change the way employers approach investing in their people?
- **Spotlight on NY State.** In June of this year NY proposed legislation to potentially ban non-competes. The proposal is wider-reaching than the bans in place in other states such as ND, CA and OK. There were no carve-outs set forth (wage thresholds, etc.) and the law will apply to future agreements only. If passed, there is potential for this to take effect quickly, potentially as early as January 2024.

In the Majority

Nearly half of employers across the US have some employees subject to non-compete agreements. This percentage is even higher within the finance industry with including about 58% of firms surveyed. ¹

2. **Straight from the Supreme Court: Affirmative Action.** The recent 6-3 decision held that Harvard and UNC violated part of the 14th amendment in their admissions processes. While this was based on Title VI which does not apply to private employers, it could serve as a catalyst to challenge corporate policies as well. What should private companies be considering at this point?

- **Demonstrating DEI Progress.** Collecting and using diversity data (including racial data) remains critical to assess the need for DEI programs and assess the success or failure of those programs. All data should be aggregated to preserve anonymity and companies should stay away from quotas that may inadvertently lead to preferential treatment based on protected classes. A data driven approach ensures that companies deliver measurable impact through their DEI programming.
- **Expanding the Applicant Pool.** Firms are permitted to use racial data to inform recruitment efforts and diversify candidate pools; ensuring diverse states of applicants have been considered before an offer can be extended. Employers are encouraged to engage with differing sources, as personal networks can be subject to bias. Additionally, consider assessing other ways to expand the pool. As an example, skills-based hiring considers skills to screen candidates rather than eliminating applicants because of their educational background. Reviewing job-descriptions to eliminate bias-prone language and assessing the necessary skills for the role are also helpful in expanding the pool of applicants for each role.

Across the Pond.

In contrast to policies in the US, the UK government enforces positive action in the workplace. A protected characteristic can be used as a tie breaker when deciding between equally qualified candidates.

3. **Talent & Benefits: Current Snapshot.** Managers work to keep pace with their largest peers to offer standard benefits. We spoke to our internal team as well as industry peers and clients to learn about some of the new benefits that are currently top of mind.

- **Family Planning Policies.** Have become increasingly important to employees and prevalent across industries. Many organizations are now offering family planning benefits for all types of families and include support for endeavors such as egg freezing, IVF, adoption related travel, and others.
 - Of note, companies such as Starbucks, Target, and Amazon offer IVF benefits for part time employees, boasting some of the highest rated benefits in the US.
- **Leaves of Absence.** There has been increasing conversation across the industry on best practices for various leaves including parental leave, sabbatical leave and caregiver leave. One of the key outstanding challenges at this stage is not just structuring these properly, but also encouraging employees to take them and provide cultural support. A few specific insights include:
 - **Parental Leave** – Current best practice is shifting towards providing equal leave for all parents to increase equality and flexibility of time. This could potentially contribute to decreasing gender pay gaps and increasing home labor balance longer term.
 - **Sabbatical Leave** – Becoming more widespread and accepted given efforts to support employees' mental and physical health. They are also an attractive retention tool and a way to provide additional non-compensation related rewards for employees.
 - **Caregiver Leave** – New York State's updates to their family leave policy went into effect earlier this year, expanding coverage to include siblings. Of note, some accounting firms are offering paid family care leave for eligible employees.
- **Gender Transitioning Policies.** These policies cover education on respecting the privacy of the individual going through a transition, communicating with co-workers, name and gender changes, as well as leave benefits and medical care. They are starting to become more commonly implemented. One of the law firms we work with closely just formulated their first draft and are actively pushing this initiative forward.

Please reach out to your Jefferies contact for more information on any of the topics above.

Spotlight on Content and Events:



Jefferies celebrated Disability Pride Month with JEFAbilities, Jefferies' Employee Resource Group for differently abled or neurodiverse employees and those that are caregivers. Founded in October 2021, JEFAbilities has been committed to building a more welcoming and inclusive firm for our employee-partners because we know that our differences make us a stronger team. Check out what a few of our founding JEFAbilities members, including multiple members of the Jefferies Prime team, have said about the group's impact so far: [Watch Here](#)



[Hedge Fund Halftime](#) and [Global Secondary Market Review Reports and Webinar](#).

We are more than halfway through 2023, which is another year full of surprises, questions and challenges. We will dive into performance, asset flows and what managers may look for during 2H23, as well as host a discussion with our Private Capital Advisory team to walk through their recent Global Secondary Market Review. [Click here to register for the webinar](#)

Interesting Service Provider Reads: Highlighting Topical Content from Industry Leaders

Eisner Amper – [AI's Influence on Cybersecurity – Friend or Foe?](#)

Sidley Austin – [New York's Imminent Non-Compete Ban](#)

Schulte Roth & Zabel – [New York on the Brink of Banning Non-Competes](#)

Seward and Kissel – ["An Ounce of Prevention"...How to Reduce the Risk of Litigation and Enforcement Proceedings](#)

Jefferies Prime Services Contacts:

Mark Aldoroty

Head of Jefferies Prime Services

maldoroty@jefferies.com

Erin Shea

Head of Business Consulting

eshea@jefferies.com

Barsam Lakani

Head of Sales for Prime Services

blakani@jefferies.com

Leor Shapiro

Head of Capital Intelligence

lshapiro@jefferies.com

Shannon Murphy

Head of Strategic Content

shannon.murphy@jefferies.com

Paul Covelto

Global Head of Outsourced Trading

pcovelto@jefferies.com

1. Noncompete agreements: Ubiquitous, harmful to wages and to competition, and part of a growing trend of employers requiring workers to sign away their rights. (n.d.). Economic Policy Institute. <https://www.epi.org/publication/noncompete-agreements/>

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