

NLRB Delays Implementation of Workplace Posting Requirement

The National Labor Relations Board (the “Board”) announced this week that the implementation of its new workplace posting requirement will be delayed. As we advised you in an earlier Client Alert, in August the Board issued a rule requiring almost all private employers to post notices in their workplaces informing employees of their rights under the *National Labor Relations Act* (the “Act”), including their rights to form and join unions, to bargain over their wages, hours and other conditions of employment, and to take collective action to improve their working conditions. Originally, employers were required to post the notice as of November 14, 2011. That date has now been pushed back to January 31, 2012.

The Board’s announcement indicated that the implementation date was postponed “in order to allow for enhanced education and outreach to employers, particularly those who operate small and medium sized businesses,” apparently in the wake of “uncertainty about which businesses fall under the Board’s jurisdiction.” However, there also have been legal and legislative challenges to the notice requirement, which seek not only to delay, but to entirely prevent, the rule’s implementation. In early September, the National Association of Manufacturers filed a Complaint against the Board in the U.S. District Court for the District of Columbia, alleging that the Board overstepped its statutory authority by promulgating the rule. Additionally, two bills have been introduced in the U.S. House of Representatives that would prevent implementation of the rule, if passed. The *Employee Workplace Freedom Act* and the *Employer Free Choice Act*, both of which explicitly seek to overturn the rule, are currently in Committee and have not yet been subject to a House vote.

We will keep you apprised of developments regarding this matter. For more information on this notice requirement, or on employee rights and employer obligations under the *National Labor Relations Act* more generally, contact an attorney in Ropes & Gray’s [Labor and Employment](#) department.