Intangible Assets – ASC 350
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Noncompetition (or Noncompete) Agreements

Companies may add noncompete agreements to employment contracts for key employees as part of business deals. These agreements prevent former owners or key staff from competing with the new business.

Noncompete agreements usually have a finite life, require amortization and are subject to impairment. While common noncompete agreements are facing increased restrictions, including a ban in California, a recent but currently unenforced Federal Trade Commission (FTC) rule aims to ban most new noncompete agreements nationwide.

In April 2024, the FTC issued a final rule prohibiting employers from enforcing specific existing noncompete arrangements and other similar provisions or clauses. The rule also prohibits employers from entering into specific new noncompete arrangements. Under the FTC's new rule, existing noncompete agreements for most workers will no longer be enforceable after the rule's effective date.

Existing noncompete contracts for senior executives, who represent less than 0.75% of workers, can remain in force under the FTC's final rule. Still, employers are banned from entering into or attempting to enforce any new noncompete agreements, even if they involve senior executives. Employers notify workers, other than senior executives, who are bound by an existing noncompete that they will not enforce noncompete agreements against them.

Companies must assess the useful life of any finite-lived intangible assets related to noncompete agreements each reporting period. If circumstances indicate these assets may not be recoverable, review them for impairment in accordance with ASC 360-10.

Federal courts blocked the FTC's rule banning most noncompete agreements. Two courts issued injunctions before September 4, 2024, preventing enforcement. The FTC has appealed. Companies should monitor developments.