

Office of Policy  
Planning

January 23, 2023

**MEMORANDUM**

**FROM:** Shannon Lane

**TO:** April Tabor

**SUBJECT:** Summary of Interview of Elizabeth Wilkins by The Capitol Forum

**EXECUTIVE SUMMARY:**

On January 11, 2023, Elizabeth Wilkins, Director of the Office of Policy Planning, was interviewed by Teddy Downey from The Capitol Forum on a conference call open to the public about the Federal Trade Commission's ("FTC") proposed Non-Complete Clause Rule, 88 Fed. Reg. 3482 (Jan. 19, 2023) ("Proposed Rule").<sup>1</sup> After Mr. Downey conducted the interview, he read questions from unnamed callers. Questions were submitted via editorial@thecapitolforum.com. The podcast featuring the interview can be found on The Capitol Forum's website.<sup>2</sup> This memorandum is to be placed on the public record pursuant to 16 C.F.R. § 1.26(b)(5) and the Notice of Proposed Rulemaking, under which summaries or transcripts of oral communications respecting the merits of the proposed rulemaking from any outside party to any Commissioner or Commissioner advisor are to be placed in the public record. This executive summary does not summarize the entire interview, but rather focuses on information concerning the Proposed Rule that is not already included in the rulemaking record.

Mr. Downey asked what monopoly or economic problem the proposed rule was addressing. Ms. Wilkins highlighted a recent report from the Treasury Department finding that buyers of labor have monopsony power over workers, which is depressing wages in the American workforce by as much as 20 percent, and said that the Proposed Rule would reduce such monopsony power.<sup>3</sup> Ms. Wilkins stated that the Proposed Rule would be a significant boost for small businesses trying to enter the market and pointed to recent FTC enforcement actions against two glass container manufacturers whose non-competes acted as a barrier to entry for potential competitors. She noted that both workers and consumers would benefit from another company offering a potentially cheaper, better product or more employment

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<sup>1</sup> In attendance on the conference call from the FTC was Shannon Lane. Other attendees were unnamed members of the public.

<sup>2</sup> The Capitol Forum, (Jan. 20, 2023), available at

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