

**KEEP YOUR BUSINESS INFORMATION SAFE: THE NEW ACT ON BUSINESS SECRETS WILL HELP YOU**

The efforts undertaken internationally to ensure that the competitiveness of companies and research organizations that are based on know-how and undisclosed business information (business secrets) are adequately protected have a long standing. At first, these efforts were reflected in the Agreement on Trade-Related Aspects of Intellectual Property Rights (Annex 1C of the Convention Establishing the World Trade Organization, Uruguay Round of 1994, commonly referred to as "TRIPS Agreement"). This Agreement contains, among others, provisions relating to the protection of business secrets against their illicit obtaining, use or disclosure by third parties, which constitute common international standards.

Subsequently, and within the European Union, it was not until 2016, when the existing national divergences in the protection of business secrets led to the approval of Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016, relating to the protection of undisclosed know-how and business information (trade secrets) against unlawful obtaining, use and disclosure, in order to harmonize the legislation of the Member States in order to establish remedial measures throughout the internal market in case of appropriation of business secrets.

Thus, and in order to incorporate the aforementioned Directive into our legal system and fulfilling the mandate of its transposition, this Act on Business Secrets has been published in the Official State Gazette (BOE) of February 21<sup>st</sup>, which seeks, through its articles, to improve the effectiveness of the legal protection of business secrets against misappropriation throughout the internal market. With this Act, the regulation of Act 3/1991, of January 10, on Unfair Competition, and specifically Article 13, is completed from a substantive and procedural perspective, notwithstanding that the most serious infractions in this matter, they continue to be protected by the Criminal Code through the types of crime contemplated in articles 278 and 279 of said legal body.

Throughout this Circular we will analyze the most relevant developments introduced by the Act on Business Secrets in order that the holders of a business secret may be aware of the new regulations that protect them and that without delay, will come into force on March 21<sup>th</sup>, date on which the twenty days of its publication in the BOE will be fulfilled.