

Federal Trade Commission Approves Complete Ban On Non-Compete Agreements

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Non-compete agreements have long been used as a tool by U.S. companies to protect their legitimate business interests. However, in a recent 3-2 vote, the Federal Trade Commission (FTC) approved a new rule that bans all non-compete agreements in employment contracts. The rule does not go into effect until 120 days after it is published in the *Federal Register*. The new FTC rule contains a very narrow exception for non-compete agreements in effect prior to the rule's effective date for "senior executives." It also contains an exception for non-competes in connection with a sale of a business. The FTC estimates that its new rule could affect up to 18 percent of the U.S. workforce, or about 30 million people.

The FTC's ban has already come under intense scrutiny and is being challenged by various influential business groups. On April 24, 2024, one day after the FTC's vote, the U.S. Chamber of Congress filed a lawsuit in the United States District Court for the Eastern District of Texas arguing that the new regulation is unconstitutional and seeks an injunction to prevent it from going into effect. Regardless of which party prevails, any ruling on the constitutionality of the new rule is likely to be appealed and could eventually be taken up by the U.S. Supreme Court.

Laner Muchin will be closely monitoring this and other legal challenges to the new FTC rule and will provide updates as they become available. In the meantime, if you have any questions regarding existing state and federal laws regarding non-compete agreements, please contact a Laner Muchin attorney.