

# FTC Votes to Effectively Ban Noncompete Agreements

## Publications

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On April 23, 2024, the Federal Trade Commission (FTC) voted 3-2 to issue a final rule that effectively bans most noncompete agreements in the United States. The FTC's rule is scheduled to go into effect 120 days after it is published in the *Federal Register*. It allows for the continuation of noncompete agreements with senior executives, which is a defined term and generally encompasses executives with compensation over approximately \$151,000 and who have a policy-making position that they started before the Effective Date. The rule also contains an important sale of business exception. In particular, in respect to the sale of business exception, the FTC did not include the proposed requirement that the restricted party be "a substantial owner of, or substantial member or substantial partner in, the business entity" to fall under this exception. The FTC's rule purports to supersede any inconsistent state law and requires clear written notice to employees regarding the unenforceability of existing noncompete arrangements. There is much debate regarding the authority for the FTC's action and it is sure to be challenged in the courts. The US Chamber of Commerce, a pro-business group, immediately announced that it will bring claims challenging the rule. "The Chamber will sue the FTC to block this unnecessary and unlawful rule and put other agencies on notice that such overreach will not go unchecked," announced the Chamber's President and CEO Suzanne Clark.

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