

**CLIENT ALERT:
FTC RULE BANNING NON-COMPETE CLAUSES**

April 30, 2024

After finding that State-by-State approaches have been insufficient in addressing “the tendency of non-competes to harm competitive conditions in labor, product, and service markets,” on April 23, 2024, the Federal Trade Commission (the “FTC”) issued its final Non-Compete Clause Rule (“the final rule”) banning virtually all non-compete clauses (“non-competes”) between employers and their employees. The new rule takes effect 120 days after the rule is published in the Federal Register. We anticipate that this will mean that the new rule will need to be followed in late August 2024.

As a result, employers will be banned from entering into or attempting to enforce new non-competes with *any* employee, Non-competes that were entered into prior to the final rule taking effect are unenforceable, except those with senior executives. A senior executive is defined as an employee earning more than \$151,164 annually who is in a policy-making position. In the limited case when a business is sold, a non-compete may be legal.

In the limited cases where non-competes are legal, Maine employers will need to tailor the non-compete to comply with Maine law to the extent that Maine law provides additional protections for employees.

When the rule takes effect, employers must notify all workers with existing non-competes that their non-compete is no longer enforceable. The final rule includes model language that satisfies this notice requirement.

Not surprisingly, the U.S. Chamber of Commerce filed a lawsuit challenging the final rule and seeks an injunction that would stop it from taking effect. We will be closely following this litigation. If you have any questions, please contact Peter Lowe at plowe@brannlaw.com.