

CLIENT ALERTS

The Timeline on the FTC's Controversial Ban on Noncompete Agreements Extended through April 2024

Client Alert

5.12.2023

Since January 5, 2023, when the FTC voted to publish a notice of proposed rulemaking to ban non-compete agreements, employers have been on the edge of their seats. Butzel, along with other business and law firms, helped lead the response in opposition to this proposal by providing public comments and joint letters imploring the Commission to defer to the states on this issue.

Last month, following numerous requests from the public, the Commission extended the comment period for an additional thirty days, ending on April 19, 2023. The Commission received nearly 27,000 comments and is now expected to vote on the final version of the proposed rule. That vote, however, will not happen until April 2024, a year from now.

Once, and if, finalized, the rule would not become effective until 60 days after the publication in the Federal Register. And employers would then have a 180-day compliance period, running from the date of publication during which they would be allowed to work toward compliance. Even then, as the sole dissenting Commissioner has noted, protracted litigation challenging the Commission's authority to engage in this ruling making is inevitable.

While implementation of any noncompete ban on the federal level may be far on the horizon, considering Michigan's House Bill No. 4399, placing restrictions on noncompete clauses, it is important for employers to be aware of these potential developments and to review their employment agreements and policies regarding non-compete and non-solicitation agreements. Butzel will continue to monitor this issue and provide updates as they become available.

Related People

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Related Services

Non-Compete & Trade Secret

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If you have any questions or concerns regarding the use of non-compete and/or non-solicitation agreements in your business, please do not hesitate to contact your Butzel attorney for guidance.

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