



SEPTEMBER 19, 2018

## New Model FCRA Summary of Rights Released To Take Effect on September 21, 2018

In May 2018, Congress passed the Economic Growth, Regulatory Relief and Consumer Protection Act, which amends portions of the Fair Credit Reporting Act ("FCRA"). As a result of the amendments, consumer reporting agencies must include fraud alerts in a consumer's file for one year, rather than for only 90 days under the prior law. The FCRA was also amended to require nation-wide consumer reporting agencies to provide free national security freezes to consumers. A security freeze is intended to protect victims of identity theft and generally stops all access to an individual's credit report.

The amendment also directly impacts employers who require current or prospective employees to undergo background checks. Under the FCRA, employers must obtain written authorization from applicants or employees in order to obtain a consumer report for employment purposes. Employers must also provide these individuals with an informational pamphlet entitled the Summary of Your rights Under the Fair Credit Reporting Act" along with a disclosure form and authorization, whenever a background check is first required. The Summary of Your Rights has been revised to reflect that free national security freezes are available to consumers.

The Consumer Financial Protection Bureau ("CFPB") released the new model "A Summary of Your Rights under the Fair Credit Reporting Act" on September 12, 2018 and can be found at [https://www.consumerfinance.gov/documents/6827/bcfp\\_consumer-rights-summary\\_2018-09.docx](https://www.consumerfinance.gov/documents/6827/bcfp_consumer-rights-summary_2018-09.docx). The CFPB has also issued a statement that use of the current 2012 forms is permitted so long as a summary of the security freeze rights is provided on a separate page in the same transmittal. The model language for a summary relating to the security freeze can be found on page 2 of the new model form.

### Takeaway for Employers

Employers should immediately assess the impact of the new requirements on their businesses and ensure compliance with the notice requirement under the new law. Employers should either modify background check forms to add the supplemental page with information regarding security freezes and the extended initial fraud period or use the new "A Summary of Your Rights under the Fair Credit Reporting Act" form.

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If you have any questions regarding this alert, or any other issue, please do not hesitate to contact us.