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Client Alert



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New FCRA Rules Go Into Effect

Concerned about the accuracy of information provided to consumer reporting agencies (CRAs) Congress enacted the Fair and Accurate Credit Transactions Act of 2003 (FACTA) which amended the Fair Credit Reporting Act (FCRA) to, most famously, allow persons to annually request a copy of their credit reports from the three major credit bureaus. However, regulations set to go into effect on July 1, 2010, have some unexpected compliance obligations for some employers.

The regulations require data furnishers to institute reasonable policies and procedures that ensure the accuracy and integrity of furnished information and allow persons to dispute the accuracy of information that is furnished about them to consumer reporting agencies. A CRA under the FCRA is usually a credit bureau, but the definition of CRA in the statute is broad enough to encompass many other types of organizations such as companies that perform background checks or aggregate information about a company's employees to report to the company. The nature of such work requires that employers provide those CRAs with information which in turn can cause any employer to become a "data furnisher" under FCRA and thus incur the new obligations stated in the regulations.

Perhaps most significantly, the regulations require "furnishers" to respond to direct disputes submitted by the consumer contesting the accuracy of furnished information, which in the employment context is most likely a former employee. Furnishing employers are required to investigate certain types of disputes usually consisting of reviewing the information provided for accuracy. The employer must complete and inform the employee of the result of the investigation within 30 days of receiving notice of the dispute. If any inaccurate information is discovered the employer must submit corrected data to any recipient of the inaccurate information.

The new regulations at 16 C.F.R. § 660.1 to 660.4 include an appendix of guidelines that "furnishers" under the regulations must consider in developing their policies and procedures. The regulations further require that the policies and procedures be reviewed and updated from time to time.

Employers who are providing information to CRAs must comply with this regulation. If you have any questions regarding the Fair Credit Reporting Act or your organization's compliance with it contact Tom Scroggins at (205) 633-0227.

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