



## FCRA RESOURCE INFORMATION PACKET

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At First Advantage, we are committed to your success.

An important part of your employment screening program involves compliance with various state and federal laws, which is why we are enclosing information regarding the Fair Credit Reporting Act (15 U.S.C. § 1681 *et seq.*) (FCRA). **While we are happy to provide you with this Resource Information Packet (hereinafter “Packet”) as a resource. It is your responsibility to comply with applicable law and to understand how the FCRA and other applicable laws, regulations, ordinances and guidance pertain to your pre-employment screening program.** You should consult your legal counsel regarding your legal obligations and the sufficiency of an individual’s consent as well as any form(s) and disclosure(s) you use or provide to job applicants and employees.

### INFORMATION INCLUDED IN THE FCRA RESOURCE INFORMATION PACKET

- *IMPORTANT FCRA COMPLIANCE INFORMATION FOR FIRST ADVANTAGE CLIENTS*
- *BACKGROUND DISCLOSURE AND AUTHORIZATION*
- *STATE DISCLOSURE NOTICES*
- *ADVERSE ACTION LETTERS*
- *REQUIRED FEDERAL NOTICES AND INFORMATION*
  - A. *A SUMMARY OF YOUR RIGHTS UNDER THE FAIR CREDIT REPORTING ACT*
  - B. *NOTICE TO USERS OF CONSUMER REPORTS: OBLIGATIONS OF USERS UNDER THE FCRA*
  - C. *DISPOSING OF CONSUMER REPORTING INFORMATION*

**IMPORTANT DISCLAIMER:** The information contained in this Packet is offered only as a courtesy and is not intended, nor should it be construed, as legal advice or counsel. Nothing contained herein should be construed as legal advice or counsel. First Advantage is not a law firm and does not provide legal advice. What is included with this Packet is not intended as a substitute for the legal advice of an attorney knowledgeable with your organization’s hiring and onboarding processes. We encourage you to consult with your legal counsel about your compliance responsibilities under the FCRA and applicable state laws with respect to employment background screening.

We hope you find this information helpful.

As always, thank you for using First Advantage.

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## ***IMPORTANT COMPLIANCE INFORMATION FOR FIRST ADVANTAGE CLIENTS***

Compliance with the FCRA requires that employers, at a minimum, follow the following procedures for background screening for employment purposes:

- A. *Prior* to ordering a background report (i) provide a clear and conspicuous disclosure in a standalone document to the applicant/employee informing them that a background report is being ordered; and (ii) obtain their written authorization.
- B. When considering taking adverse employment action (including, but not limited to, denying employment or a promotion, or terminating employment) you have certain obligations, including:
  - 1. If you intend to take or are considering taking adverse action based on consumer report information (e.g., criminal records, credit history, public record information) provided by First Advantage, you must notify the individual *before* taking such action. Along with the pre-adverse action letter, you *must* provide the individual with a copy of the federal disclosure entitled, A Summary of Your Rights under the Fair Credit Reporting Act and a copy of the consumer report provided by First Advantage. The letter must include First Advantage's contact information and a notice that the applicant/employee may dispute the accuracy or completeness of information in his/her report by contacting you and First Advantage. Although not a federal requirement under the FCRA, some states and local jurisdictions require that employers conduct an individualized assessment when considering criminal history information and this can be done during the pre-adverse action phase.<sup>1</sup> A sample Individualized Assessment Notice is included with this Packet.
  - 2. You must then wait a "reasonable period" of time to allow the applicant/employee to dispute any information in the consumer report. Generally, this period is five (5) business days, although in some states or jurisdictions this period of time may be longer due to Fair Chance Hiring laws or ordinances—also known as Ban the Box.<sup>2</sup>

After the waiting period ends, and if there is no challenge and/or you have completed an individualized assessment as may be required, you may take adverse action against the individual. Compliance with the FCRA requires that applicants/employees be provided with certain information in an adverse action letter, which is further explained in the section in this Packet that address Adverse Action letters.

- C. In addition to longer waiting periods and the requirement to conduct individualized assessments, some states and local jurisdictions (e.g., New York, Philadelphia) also require specific notices be provided to applicants/employees related to the background check. Again, please work with your legal counsel to ensure your compliance with federal and state laws related to background screening.

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<sup>1</sup> Examples include California, New York, Los Angeles, CA and New York City, NY.

<sup>2</sup> Examples of states or jurisdictions with required or longer waiting periods include California, Philadelphia, PA and San Francisco, CA.  
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## BACKGROUND DISCLOSURE AND AUTHORIZATION – Resource Information

The following is resource information that you may want to consider when preparing your disclosure and authorization document(s) for background screening purposes. Prior to ordering a background report, you must (i) provide written notice to the applicant/employee that a background report is being ordered; and (ii) obtain the individual's written authorization. We recommend you consult your legal counsel regarding any questions you may have concerning this information and your compliance with federal and state laws related to background checks for employment purposes.

In addition to compliance with the FCRA, some states and local jurisdictions have additional requirements related to background checks for employment purposes. Some examples of jurisdictions that have additional disclosure requirements include:

- **California Employers:** include a check box allowing the individual to request a copy of any report prepared for background screening purposes. In addition, you must include First Advantage's name, address, and telephone number and provide our website address so that individuals may find information about our privacy practices. And, you must include a separate disclosure explaining individual's rights under state law.
- **Minnesota Employers:** include a check box allowing the individual to request a copy of any report that is prepared.
- **New York Employers:** provide a copy of Article 23-A of the New York Correction Act with the disclosure form if you receive a consumer report that contains criminal conviction information.
- **New York City Employers:** as a general rule it is an unlawful discriminatory practice to request or use for employment purposes an individual's **credit history** pursuant to the Stop Credit Discrimination in Employment Act (SCDEA). Furthermore, employers cannot require individuals to consent to a credit check on their forms, such as on the disclosure and authorization form. Therefore, the templates provided with this Packet do not contain any reference to "credit checks" nor "credit history" to avoid any potential liability both to you and First Advantage. While there are limited exemptions to the general ban on the requesting and use of credit history in New York City, those are beyond the scope of this Packet and you should discuss whether you qualify for such an exemption with your legal counsel. Note that violations of SCDEA may range from \$125,000 up to \$250,000. (*See* N.Y.C. Administrative Code § 8-107(24)).
- **Oklahoma Employers:** include a check box allowing the individual to request a copy of any report that is prepared.

**Instructions for Use:** What follows are templates that may be used for background checks for employment purposes which are based on the FCRA. There are also forms to be used for California residents pursuant to California law. The California specific disclosure and authorization must be used in conjunction with the FCRA disclosure and authorization. These are intended for instructional purposes only and should be reviewed by your legal counsel to ensure compliance with applicable law.

**Option 1:** You will find a stand-alone FCRA Notice Regarding Background Investigation and separately the Authorization by Applicant/Employee to Conduct Background Investigation, which are intended to comply with the FCRA and allow for the ordering and receipt of “consumer reports”<sup>3</sup> pursuant to the FCRA.

- Option 1 includes two separate documents which are intended to be on separate pages, the first being the disclosure and the second the authorization.

**Option 2:** You will find a stand-alone FCRA Notice Regarding Background Investigation and a separate Authorization by Applicant/Employee to Conduct Background Investigation, which are intended to comply with the FCRA and the ordering of “investigative consumer reports.”<sup>4</sup> Investigative consumer reports, under the FCRA, are based on personal interviews with neighbors, friends, or associates of the subject of the report. A common example includes reference checks with prior employers where questions are asked about eligibility for rehire or job performance.

- Option 2 includes two separate documents which are intended to be on separate pages, the first being the disclosure and the second the authorization.

**Option 3:** You will find a California Notice Regarding Background Investigation and Authorization by Applicant/Employee to Conduct Background Investigation, which is intended to comply with California law only and the ordering of “investigative consumer reports” under state law.

**Option 4:** You will find a California Notice Regarding Background Investigation and Authorization by Applicant/Employee to Conduct Background Investigation, which is intended to comply with California law only and the ordering of “credit reports” under state law.

**NOTE:** All footnotes in the templates are for employers’ instructional purposes only.

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<sup>3</sup> “Consumer reports” are defined under the FCRA as any written, oral, or other communication of any information by a consumer reporting agency, such as First Advantage, bearing on an applicant or employee’s credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing that individual’s eligibility for employment purposes. (15 U.S.C. § 1681a(d))

<sup>4</sup> “Investigative consumer reports” are “consumer reports” which touch on a consumer’s character, general reputation, personal characteristics, or mode of living which are obtained through personal interviews with neighbors, friends, or associates of the subject of the report. The difference from “consumer reports” being that these reports are based on personal interviews. Generally, investigative consumer reports are considered to be a type of consumer report. (15 U.S.C. § 1681a(e))



***DISCLAIMER:*** *This document is intended for instructional purposes only and is not intended as legal advice. We recommend you consult with an attorney to review this document to ensure your compliance with the Fair Credit Reporting Act (15 U.S.C. § 1681 et seq.) and applicable state and local law related to background screening for employment purposes.*

**OPTION 1 for Consumer Reports / No Credit History<sup>5</sup>**

**FCRA NOTICE REGARDING BACKGROUND INVESTIGATION**

[Insert Employer Name] (the “Company”) will obtain one or more consumer reports about you for employment purposes. These purposes may include hiring, promotion, retention or reassignment. The reports may contain information about your character, general reputation, personal characteristics, and mode of living. These reports may contain information about you relating to your criminal information or history, social security verification, motor vehicle records (“driving records”), social media, verification of your education or employment history, or other background checks.

**[End of Document]**

**Page 1 of 1**

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<sup>5</sup> **NOTE:** Under the NYC Fair Chance Act, New York City requires employers to essentially bifurcate their background screening process and review all non-criminal history background checks first, make a conditional offer of employment, and only after making a conditional offer, may an employer conduct criminal history background checks. In connection with this requirement, the Fair Chance Act guidance states that employers should omit mention of “criminal history” or “background check” in their disclosure and authorization forms if such are provided to the applicant prior to the extension of the conditional offer. As such, the disclosure and authorization template forms provided in this Packet may not be permissible in New York City if provided prior to extension of a conditional offer.



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**OPTION 1**

**AUTHORIZATION BY APPLICANT/EMPLOYEE TO CONDUCT  
BACKGROUND INVESTIGATION**

By signing below, you acknowledge receipt of the document entitled FCRA NOTICE REGARDING BACKGROUND INVESTIGATION and the disclosure entitled A Summary of your Rights Under the Fair Credit Reporting Act and acknowledge that a background check will be conducted by the Company.

I understand that the scope of my authorization is not limited to the present and, if I am hired, will continue throughout the duration of my employment and allow the Company to conduct future screenings for retention, promotion or reassignment, as permitted by law and unless revoked by me in writing.

I hereby authorize the obtaining of consumer reports by the Company at any time after receipt of this authorization. To this end, I authorize any law enforcement agency, administrator, state or federal agency, institution, school or university (public or private), information service bureau, employer, or insurance company to furnish any and all background information requested by First Advantage and/or the Company.



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**OPTION 2 for Investigative Consumer Reports**

**FCRA NOTICE REGARDING BACKGROUND INVESTIGATION**

[Insert Employer Name] (the “Company”) will obtain one or more investigative consumer reports about you for employment purposes. These purposes may include hiring, promotion, retention or reassignment. These reports may contain information about your character, general reputation, personal characteristics, and mode of living. These reports may contain information about you relating to your criminal information or history, verification of your education or employment history, or other background checks. You have the right, upon written request, to request from the Company a disclosure of the nature and scope of the investigation requested for any investigative consumer report.

**[End of Document]**

**Page 1 of 1**



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**OPTION 2**

**AUTHORIZATION BY APPLICANT/EMPLOYEE TO CONDUCT BACKGROUND  
INVESTIGATION**

By signing below, you acknowledge receipt of the document entitled FCRA NOTICE REGARDING BACKGROUND INVESTIGATION and the disclosure entitled A Summary of your Rights Under the Fair Credit Reporting Act and acknowledge that a background check will be conducted by the Company.

I understand that the scope of my authorization is not limited to the present and, if I am hired, will continue throughout the duration of my employment and allow the Company to conduct future screenings for retention, promotion or reassignment, as permitted by law and unless revoked by me in writing.

I hereby authorize the obtaining of investigative consumer reports by the Company at any time after receipt of this authorization. To this end, I authorize any law enforcement agency, administrator, state or federal agency, institution, school or university (public or private), information service bureau, employer, or insurance company to furnish any and all background information requested by First Advantage and/or the Company.





***DISCLAIMER:** This document is intended for instructional purposes only and is not intended as legal advice. We recommend you consult with an attorney to review this document to ensure your compliance with California's Investigative Consumer Reporting Agencies Act (ICRAA) (CA Civil Code § 1786.16) related to background screening for employment purposes.*

**OPTION 3 under California Law for Investigative Consumer Reports / No Credit History**

**CALIFORNIA NOTICE REGARDING BACKGROUND INVESTIGATION**

[Insert Employer Name] (the "Company") will obtain one or more investigative consumer reports, as that term is defined under California law, about you for employment purposes. These purposes may include hiring, promotion, retention or reassignment. The report(s) may contain information about your character, general reputation, personal characteristics, and mode of living.

The nature and scope of the investigation may include information related to criminal information or history, social security verification, motor vehicle records ("driving records"), social media, and verification of your education or employment history, and the reports will be used for a background check for employment purposes.

The investigation will be conducted by First Advantage | P.O. Box 105292, Atlanta, GA 30348 | 1-800-845-6004. Information about First Advantage's privacy practices can be reviewed at: <https://fadv.com/>.<sup>6</sup>

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<sup>6</sup> Pursuant to California law, employers requesting an investigative consumer report must provide job applicants/employees with a summary of their rights under CA Civil Code § 1786.22. This summary document is included in this Packet.



### **AUTHORIZATION FOR INVESTIGATIVE CONSUMER REPORTS**

By signing below, I hereby authorize the obtaining of investigative consumer reports by the Company at any time after receipt of this authorization.

I understand that the scope of my authorization is not limited to the present and, if I am hired, will continue throughout the course of my employment and allow the Company to conduct future screenings for retention, promotion or reassignment, as permitted by law and unless revoked by me in writing.<sup>7</sup>

Check the box if you would like to receive a copy of the investigative consumer report, free of charge, if one is obtained by the Company. ☐

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<sup>7</sup> **NOTE:** We recommend you consult with your legal counsel regarding the permissibility and use of “evergreen consent” language when requesting investigative consumer reports under California’s Investigative Consumer Reporting Agencies Act. (CA Civ. Code § 1786.16(a)(2)) The conservative approach would be to not include “evergreen consent” language in Authorization section and request consent each time a background check is conducted for employment purposes.



***DISCLAIMER:** This document is intended for instructional purposes only and is not intended as legal advice. We recommend you consult with an attorney to review this document and the attached state disclosure to ensure your compliance with California's Consumer Credit Reporting Agencies Act (CCRAA) (CA Civil Code § 1785.1) related to background screening for employment purposes.*

**OPTION 4 under California Law for Credit Reports**

**CALIFORNIA NOTICE REGARDING BACKGROUND INVESTIGATION**

[Insert Employer Name] (the "Company") will obtain a consumer credit report about you for employment purposes, including for hiring, promotion, retention or reassignment.

The investigation will be conducted by First Advantage | P.O. Box 105292, Atlanta, GA 30348 | 1-800-845-6004.



**AUTHORIZATION FOR CREDIT REPORTS**

By signing below, I authorize the Company to procure a consumer credit report concerning me for employment purposes.

I acknowledge receipt of the NOTICE REGARDING BACKGROUND INVESTIGATION AND USE OF CREDIT INFORMATION PURSUANT TO CALIFORNIA LAW and the basis for which the report is being requested has been indicated by the Company on this form.<sup>8</sup>

Check the box if you would like to receive a copy of the consumer credit report, free of charge, if one is obtained by the Company. ☐

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<sup>8</sup> Pursuant to California law, employers requesting a consumer credit report must provide job applicants/employees with a notice identifying the specific basis under subdivision (a) of section 1024.5 of the California Labor Code for use of the report. This notice is included in this Packet.



***DISCLAIMER:*** *These documents are intended for instructional purposes only and are not intended as legal advice. We recommend you consult with an attorney to review these documents to ensure your compliance with state and local consumer reporting laws related to background screening for employment purposes.*

### **STATE DISCLOSURES – BACKGROUND INVESTIGATION**

**The following disclosures are being provided pursuant to state law.**

**CALIFORNIA:** If you are a California resident or applying for employment at a location within California, please check the box if you would like to receive a copy of the investigative consumer report or consumer credit report, free of charge, if one is obtained by the Company.

Check box to receive report ☐

**MINNESOTA and OKLAHOMA:** If you are a resident of Minnesota or Oklahoma, or applying for employment in one of these states, please check the box if you would like to receive a copy of your consumer report, free of charge, if one is obtained by the Company.

Check box to receive report ☐

**MINNESOTA:** If you are a Minnesota resident or applying for employment at a location within Minnesota, you have the right to submit a written request to First Advantage, P.O. Box 105292, Atlanta, GA 30348, 1-800-845-6004, for a complete and accurate disclosure of the nature and scope of any consumer report the Company ordered about you. The consumer reporting agency must provide you with this disclosure within five business days after its receipt of your request or the report was requested by the Company, whichever date is later.

**NEW JERSEY:** If you are a New Jersey resident or applying for employment at a location within New Jersey, by signing below you acknowledge receipt of the New Jersey Fair Credit Reporting Act provisions.

**NEW YORK:** If you are a New York resident or applying for employment at a location within New York, you have the right to inspect and receive a copy of any investigative consumer report requested by the Company by contacting First Advantage | P.O. Box 105292, Atlanta, GA 30348 | 1-800-845-6004.

**NEW YORK:** If you are a New York resident or applying for employment at a location within New York, by signing below you acknowledge receipt of a copy of Article 23-A of the New York Correction Law.

**WASHINGTON:** If you are a Washington resident or applying for employment at a location within Washington, you have the right to request from First Advantage | P.O. Box 105292, Atlanta, GA 30348 | 1-800-845-6004, a written summary of your rights and remedies under the Washington Fair Credit Reporting Act.



***DISCLAIMER:*** *These documents are intended for instructional purposes only and are not intended as legal advice. We recommend you consult with an attorney to review these documents to ensure your compliance with state consumer reporting laws related to background screening for employment purposes.*

***THESE NOTICES SHOULD BE PROVIDED TO STATE RESIDENTS OR WHEN EMPLOYMENT IS LOCATED IN RHODE ISLAND AND VERMONT AND A CREDIT REPORT IS REQUESTED FOR EMPLOYMENT PURPOSES***

### **STATE DISCLOSURES – BACKGROUND INVESTIGATION**

**The following disclosures are being provided pursuant to state law.**

**RHODE ISLAND:** If you are a resident of Rhode Island or applying for employment in a location within Rhode Island, the Company may request a credit report from a consumer reporting agency in connection with your application for employment.

**VERMONT:** If you are a resident of Vermont or applying for employment in a location within Vermont, by signing below you acknowledge receipt of the NOTICE – BACKGROUND INVESTIGATION AND USE OF CREDIT INFORMATION.<sup>9</sup>

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<sup>9</sup> Pursuant to Vermont law, employers requesting a credit report must provide job applicants/employees with a notice identifying the specific basis under 21 V.S.A. § 495i for use of the report. This notice is included in this Packet.



## **NOTICE - BACKGROUND INVESTIGATION PURSUANT TO CALIFORNIA LAW**

**California Residents or Employees** – this summary of the provisions of California Civil Code § 1786.22 is being provided to you pursuant to state law.

Your employer intends to obtain information about you from an investigative consumer reporting agency (ICRA), as defined under California law, for employment purposes.

Under California law you are entitled to visually inspect all files maintained about you by an ICRA, such as First Advantage, P.O. Box 105292 Atlanta, GA 30348, 1-800-845-6004, upon request and presentation of proper identification during normal business hours and on reasonable notice as follows:

- **In person.** You may request a copy of your file. The ICRA may charge you for the actual copying costs associated with providing you with a copy of your file.
- **By telephone.** A summary of all information contained in the ICRA's file about you will be provided to you via telephone, if you have made a written request for telephone disclosure, and the toll charge, if any, for the telephone call is prepaid by or charged directly to you.
- **By certified mail.** You may make a written request for copies to be sent to a specified addressee. ICRA's complying with requests for certified mailings shall not be liable for disclosures to third parties caused by mishandling of mail after such mailings leave the ICRA.

"Proper Identification" includes documents such as a valid driver's license, social security account number, military identification card, and credit cards. If an ICRA is unable to reasonably identify you on the basis of these documents, they may require additional information concerning your employment and personal or family history in order to verify your identity.

The ICRA will provide trained personnel to explain any information furnished to you and will provide a written explanation of any coded information contained in files maintained on you. This written explanation will be provided whenever a file is provided to you for visual inspection.

You may be accompanied by one other person of your choosing, who must furnish reasonable identification. An ICRA may require you to furnish a written statement granting permission to the ICRA to discuss your file in such person's presence.



**NOTICE REGARDING BACKGROUND INVESTIGATION AND  
USE OF CREDIT INFORMATION PURSUANT TO CALIFORNIA LAW**

**California Residents or Employees** – this summary of the provisions of California Civil Code section 1785.20.5 is being provided to you pursuant to state law.

Prior to requesting a consumer credit report for employment purposes, the user of the report shall provide written notice to the person involved. The notice shall inform the person that a report will be used, and shall identify the specific basis under subdivision (a) of Section 1024.5 of California's Labor Code for use of the report. The notice shall also inform the person of the source of the report, and shall contain a box that the person may check off to receive a copy of the credit report. If the consumer indicates that he or she wishes to receive a copy of the report, the user shall request that a copy be provided to the person when the user requests its copy from the credit reporting agency. The report to the user and to the subject person shall be provided contemporaneously and at no charge to the subject person.

California Labor Code section 1024.5 is provided below:

(a) An employer or prospective employer shall not use a consumer credit report for employment purposes unless the position of the person for whom the report is sought is any of the following:

- ☐ A managerial position.
- ☐ A position in the state Department of Justice.
- ☐ That of a sworn peace officer or other law enforcement position.
- ☐ A position for which the information contained in the report is required by law to be disclosed or obtained.
- ☐ A position that involves regular access, for any purpose other than the routine solicitation and processing of credit card applications in a retail establishment, to all of the following types of information of any one person:
  - (A) Bank or credit card account information.
  - (B) Social security number.
  - (C) Date of birth.
- ☐ A position in which the person is, or would be, any of the following:
  - (D) A named signatory on the bank or credit card account of the employer.
  - (E) Authorized to transfer money on behalf of the employer.
  - (F) Authorized to enter into financial contracts on behalf of the employer.
- ☐ A position that involves access to confidential or proprietary information, including a formula, pattern, compilation, program, device, method, technique, process or trade secret that (i) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who may obtain economic value from the disclosure or use of the information, and (ii) is the subject of an effort that is reasonable under the circumstances to maintain secrecy of the information.





☐ A position that involves regular access to cash totaling ten thousand dollars (\$10,000) or more of the employer, a customer, or client, during the workday.

(b) This section does not apply to a person or business subject to Sections 6801 to 6809, inclusive, of Title 15 of the United States Code and state and federal statutes or regulations implementing those sections if the person or business is subject to compliance oversight by a state or federal regulatory agency with respect to those laws.

(c) The following definitions apply to this section:

(1) "Consumer credit report" has the same meaning as defined in subdivision (c) of Section 1785.3 of the Civil Code, but does not include a report that (A) verifies income or employment, and (B) does not include credit-related information, such as credit history, credit score, or credit record.

(2) "Managerial position" means an employee covered by the executive exemption set forth in subparagraph (1) of paragraph (A) of Section 1 of Wage Order 4 of the Industrial Welfare Commission (8 Cal. Code Regs. 11040).

## **MUESTRA DEL SUMARIO DE LOS DERECHOS BAJO LA LEY DEL ESTADO DE CALIFORNIA**

Como empleador o como usuario del reporte del consumidor, es su responsabilidad cumplir con todas las leyes Federales, Estatales y Locales que gobiernan esta área. Le recomendamos firmemente que antes de usarlo por favor consulte con un abogado.

### **ESTADO DE CALIFORNIA**

Una muestra de sus derechos bajo las leyes del Estado de California.

Bajo las leyes del Estado de California, usted tiene derecho, presentando previamente la identificación correcta (\*), a que un investigador de la Agencia de Reporte del Consumidor ("CRA") le suministre la información que está en su archivo y esto se hace de la siguiente manera:

1. La inspección visual de su archivo se hace en persona, durante horas hábiles y se debe solicitar, presentando en un período razonable, una notificación previa a su visita. Usted puede venir acompañado de la persona que usted desee, la cual debe presentar identificación personal válida. El CRA puede pedirle por escrito permiso para que el CRA pueda discutir su archivo en presencia de dicho acompañante.
2. Si desea obtener la información del sumario vía telefónica y usted la ha requerido por escrito y acompañada de la identificación correcta, el costo de la llamada estará bajo su responsabilidad, ya sea que esta sea prepagada o que se le cargue a usted directamente.
3. Si usted pide por escrito que le envíen una copia por correo, a la dirección que usted indique, usted debe presentar previamente la identificación correcta y esta le será enviada por correo certificado. Si el CRA accede a dicho requerimiento de envío por correo certificado, el CRA no se hace responsable por la revelación de la información a terceras personas, causado por el mal manejo del correo después de que este haya salido de las instalaciones del CRA.

El CRA no le cobrará más de lo que actualmente se cobra por dar una copia de su archivo personal. El CRA cuenta con personal entrenado para explicar cualquier información que se suministre. El CRA explicará por escrito cualquier información codificada contenida en sus archivos personales.

Si usted elige la inspección visual del archivo bajo la opción 1 arriba mencionada, esta explicación por escrito se proveerá cuando el archivo le sea entregado.

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(\*) El término de IDENTIFICACIÓN CORRECTA, significa generalmente que la identificación suministradase considera suficiente y veraz para reconocer a una persona. Tal información incluye documentos tales como la Licencia de Conducir, Número del Seguro Social, Tarjeta Militar y Tarjetas de Crédito.

Solamente, si el consumidor no se puede identificar correctamente con alguna de las opciones anteriores, entonces el investigador del CRA pedirá información adicional relacionada con su empleo o su historia personal o familiar para verificar su identidad.



**NOTICE REGARDING BACKGROUND INVESTIGATION AND USE OF CREDIT  
INFORMATION PURSUANT TO VERMONT LAW**

**Vermont Residents or Employees** – this summary of the provisions of the 21 V.S.A. § 495i is being provided to you pursuant to state law.

Your employer (the “Company”) intends to obtain a credit report or credit history about you from a credit reporting agency for employment purposes. In doing so it meets one of the following exemptions allowing it to obtain such information related to your employment or position:

- ☐ The information is required by state or federal law or regulation;
- ☐ You seek to be/are employed in a position that involves access to “confidential financial information” (defined as “sensitive financial information of commercial value that a customer or client of the employer gives explicit authorization for the employer to obtain, process, and store and that the employer entrusts only to managers or employees as a necessary function of their job duties”);
- ☐ The Company is a financial institution as defined in 8 V.S.A. § 11101(32) or a credit union as defined in 8 V.S.A § 30101(5);
- ☐ You seek to be/are employed in a position as a law enforcement officer, emergency medical personnel or firefighter as these terms are respectively defined in 20 V.S.A. § 2351a, 24 V.S.A. § 2651(6) and 20 V.S.A. § 3151(3);
- ☐ You seek to be/are employed in a position that requires a financial fiduciary responsibility to the Company or the Company’s clients, including the authority to issue payments, collect debts, transfer money or enter into contracts;
- ☐ You seek to be/are employed in a position that involves access to the Company’s payroll information;
- ☐ The Company can demonstrate that credit information is a valid and reliable predictor of employee performance in your specific position of employment.

An employer that is permitted to obtain a credit report or credit history may not use an employee's or applicant's credit report or history as the sole factor in decisions regarding employment, compensation, or a term, condition, or privilege of employment.



## **NOTICE - BACKGROUND INVESTIGATION PURSUANT TO WASHINGTON STATE LAW**

**Washington State Residents or Employees** – this summary of the provisions of the Washington State Fair Credit Reporting Act (WFCRA) is being provided to you pursuant to state law.

The State of Washington Fair Credit Reporting Act (WFCRA) is designed to promote accuracy, fairness, consumer confidentiality and the proper use of credit data by each consumer reporting agency (CRA) in accordance with the requirements of the WFCRA.

The WFCRA is modeled after, and generally provides the same rights as, the federal Fair Credit Reporting Act (FCRA) (15 U.S.C. § 1681 *et seq.*) The complete text of the WFCRA RCW 19.182 can be obtained from the Washington Code Revisers Office, P. O. Box 40551, Olympia, WA 98504.

One significant distinction between the FCRA and the WFCRA is that in Washington, an employer may not obtain a consumer report that indicates the consumer's credit worthiness, credit standing, or credit capacity, unless (1) the information is substantially job related and the employer's reason(s) for using the information are disclosed in writing, or (2) the information is required by law.

The following is a summary of your major rights under the WFCRA:

- **You will be required to provide proper identification before reviewing your consumer file.** Proper identification may include your Social Security number. You may request to review your file at any time. A CRA will make disclosures of your file available to you during normal business hours and on reasonable notice. File disclosures may be done in person or by telephone, if you have made a written request and pay the toll charge, as applicable, or by any other reasonable means. A CRA will provide trained personnel to explain to you any information in your consumer report. Upon request, and proper identification, you may be permitted to bring one additional person with you to review your consumer file. If the CRA provides you with a credit score, the agency will also provide you with an explanation for that credit score.
- **You have a right to know what is in your file.** Upon proper identification, you may request and obtain all the information about you in the CRA's files, although medical information may be withheld, and instead will be disclosed to a health care provider of your choice. Your health care provider may disclose your medical information to you directly. Your file disclosure will include all items of information the CRA maintains about you, including sources of information (except sources acquired solely for use in an investigative report). The file will also identify each person who procured your consumer report for employment purposes during the two-year period preceding your request, or any person who procured your report for any other purpose within the six-months prior to your request. When applicable, a record of inquiries the CRA received identifying you in a credit transaction that was not initiated by you in the six-months prior to your file disclosure request. Each of these records will include the name of the person or trade name of the business that sought your consumer file, and upon your request, their respective addresses.
- **You are entitled to one free consumer report every 12 months, upon request.** In many cases, your file disclosure will be free. You may be charged a limited fee for a second or subsequent report requested by you during a 12 month period. You will also not be charged for:
  - a consumer report if a person has taken adverse action against you because of information in your report;
  - the reinvestigation of information you dispute; or

- corrected reports resulting from the deletion of inaccurate or unverifiable information.
- **You must be told if information in your file has been used against you.** If a person takes an adverse action against you that is based, in whole or in part, on information contained in a consumer report, that person must tell you (usually, through a written notice), and must give you the name, address, and telephone number of the CRA that provided the information.
- **You have a right to dispute incomplete or inaccurate information.** If you identify information in your file that is incomplete or inaccurate, and you notify the CRA directly of the dispute, the CRA will reinvestigate without charge and record the current status of the disputed information before the end of thirty business days, unless your dispute is frivolous. Upon completion of the reinvestigation, within five business days of the CRA's decision, the agency will provide you notice in writing or through another authorized means, of the results of the reinvestigation. If the CRA determines that your dispute is frivolous the agency will inform you of that determination, along with its reasons, and your rights under the WFCRA within five business days.
- **Consumer reporting agencies must correct or delete inaccurate, incomplete, or unverifiable information.** Upon completion of the reinvestigation, if the information you disputed is found to be inaccurate or cannot be verified, the CRA must delete the information and notify you of the correction. Information that has been found to be inaccurate will not be reinserted into your consumer file, unless the furnisher of the information verifies the accuracy and completeness of that information. In such circumstances, you will be notified, within thirty business days that the information is being reinserted into your file. If the reinvestigation does not resolve your dispute, you may file with the CRA a brief statement (that may be limited to 100 words) setting forth the nature of your dispute. The statement will be placed in your consumer file and in any subsequent report containing the information you disputed.
- **You have the right to request that users of your consumer report be notified of any disputed information they previously received within the statutory time frame.** After certain disputed information has been deleted or you have filed a statement of dispute, you may request that the CRA provides notification of that deleted item or item of dispute to any person you designate who has, within two years received your consumer report for employment purposes, or who has within six months received your report for any other purpose, if the furnished report contained the deleted or disputed information.
- **Consumer reporting agencies may not report outdated negative information.** In most cases, a CRA may not report negative information that is more than seven years old, or bankruptcies that are more than ten years old.
- **You have the right to advanced disclosure of any fees.** Any charges for file disclosures or other requested actions to be taken by the CRA must be disclosed to you before the information is provided or the action is taken.
- **Access to your file is limited.** A CRA may provide information about you only to people with a valid need – usually to consider an application with a creditor, insurer, employer, landlord, court or government agency, or in accordance with your written instructions.
- **You must be notified if reports are provided to employers.** A CRA may not give out information about you to employers without your knowledge. A potential employer must make a clear and



conspicuous disclosure in writing to you or obtain your consent before obtaining a report. A current employer may not receive a report unless it has given you written notice that reports may be used for employment purposes.

- **You must be notified in writing if a person seeks an investigative consumer report about you.** An investigative consumer report may include information as to your character, general reputation, personal characteristics, and mode of living. Within a reasonable period of time after receiving such notice, you may request, in writing, a disclosure as to the nature and scope of the investigation requested—which will be delivered to you within five days of your request.
- **You may limit “prescreened” offers of credit and insurance you get based on information in your credit report.** You may elect not to receive unsolicited “prescreened” offers for credit and insurance by using the CRA’s notification system to remove your name and address from the lists these offers are based on. You may opt-out with the nationwide credit bureaus at 1-888-5-OPTOUT (1-888-567-8688).
- **You may place a security freeze on your credit report.** Under certain circumstances, you may request that a security freeze be placed on your credit report to prevent it from being shared with potential creditors or insurance companies when making determinations related to your eligibility for credit.
- **You may be able to block information resulting from identity theft from appearing on your credit report.** If you are a victim of identity theft, certain CRAs must permanently block misinformation resulting from that theft from appearing on your credit report. You must provide the CRA with a copy of a police report as evidence of your claim before it can place the block on your report.
- **You may seek damages from violators.** If a CRA, a user of consumer reports, or a furnisher of information to a CRA violates the WFCRA, and you have a legal basis for a claim under the WFCRA, you may be able to bring a legal action in court to assert your rights under the WFCRA. The applicable statute of limitations is specified in Wash. Stat. § 19.182.120—which is generally two years from the date the cause of action accrued. Consumers who prevail on claims to enforce the WCFRA may obtain actual damages, monetary penalties, reasonable attorneys’ fees, costs, and other relief.

For questions or concerns regarding the WFCRA, please contact:

Office of the Attorney General  
Consumer Protection Division  
800 5th Avenue, Suite 2000  
Seattle, Washington 98104-3188  
Phone 1-800-551-4636 or (206) 464-6684  
Statewide Toll-Free TDD: 800-833-6388

Any complaints by consumers under state law may be directed to:

The Attorney General’s Office via U.S. Mail or Online.

Information and forms related to filing a consumer complaint can be found at:

<http://www.atg.wa.gov/FileAComplaint.aspx>

Additional information about consumer issues can be found at:

<http://www.atg.wa.gov/consumer-issues>



## **NOTICE - BACKGROUND INVESTIGATION PURSUANT TO NEW JERSEY LAW**

**New Jersey Residents or Employees** – this summary of the provisions of the New Jersey Fair Credit Reporting Act (NJFCRA) is being provided to you pursuant to state law (N.J.S.A. § 56:11-28 et seq.)

- Before an employer can obtain a consumer report about you from a consumer reporting agency they must provide you with a clear and conspicuous disclosure in writing that such may be obtained for employment purposes. You must provide written consent to the procurement, for employment purposes, of a consumer report.
- When using a consumer report for employment purposes, before taking adverse action based in whole or in part on the report, an employer must provide you with a copy of the consumer report and a description in writing of your rights under the federal Fair Credit Reporting Act as well as the NJFCRA.
- You must be afforded a reasonable opportunity to dispute, with the consumer reporting agency, any information on which the employer relied upon in your consumer report.
- You can request from a consumer reporting agency all information in your file, upon proper identification. This includes sources of information and identification of each person who procured a consumer report for employment purposes during the two-year period preceding your request. These requests must be made during normal business hours and on reasonable notice. It can be done in person or by telephone, if you have made a written request and pay the toll charge. A consumer reporting agency must provide trained personnel to explain to you any information in the consumer report.
- You can dispute inaccurate information with the consumer reporting agency. If you dispute the completeness or accuracy of any of the information in your file, the consumer reporting agency must reinvestigate free of charge during a 30-day period. A consumer reporting agency must provide written notice to you of the results of the reinvestigation not later than five business days after completion of the reinvestigation.
- If, after a reinvestigation, any information disputed by you is found to be inaccurate or incomplete or cannot be verified, the consumer reporting agency must promptly delete that item of information from your file or modify that item of information, as appropriate, based on the results of the reinvestigation.
- You can seek damages for noncompliance under the NJFCRA.





## **NOTICE – BACKGROUND INVESTIGATION PURSUANT TO NEW YORK LAW**

**New York Residents or Employees** – this summary of the provisions of the New York Correction Law is being provided to you pursuant to state law.

### **Article 23-A Licensure and Employment of Persons Previously Convicted of One or More Criminal Offenses**

#### **§ 750. Definitions**

For the purposes of this article, the following terms shall have the following meanings:

- (1) “Public agency” means the state or any local subdivision thereof, or any state or local department, agency, board or commission.
- (2) “Private employer” means any person, company, corporation, labor organization or association which employs ten or more persons.
- (3) “Direct relationship” means that the nature of criminal conduct for which the person was convicted has a direct bearing on his fitness or ability to perform one or more of the duties or responsibilities necessarily related to the license, opportunity, or job in question.
- (4) “License” means any certificate, license, permit or grant of permission required by the laws of this state, its political subdivisions or instrumentalities as a condition for the lawful practice of any occupation, employment, trade, vocation, business, or profession. Provided, however, that “license” shall not, for the purposes of this article, include any license or permit to own, possess, carry, or fire any explosive, pistol, handgun, rifle, shotgun, or other firearm.
- (5) “Employment” means any occupation, vocation or employment, or any form of vocational or educational training. Provided, however, that “employment” shall not, for the purposes of this article, include membership in any law enforcement agency.

#### **§ 751. Applicability**

The provisions of this article shall apply to any application by any person for a license or employment at any public or private employer, who has previously been convicted of one or more criminal offenses in this state or in any other jurisdiction, and to any license or employment held by any person whose conviction of one or more criminal offenses in this state or in any other jurisdiction preceded such employment or granting of a license, except where a mandatory forfeiture, disability or bar to employment is imposed by law, and has not been removed by an executive pardon, certificate of relief from disabilities or certificate of good conduct. Nothing in this article shall be construed to affect any right an employer may have with respect to an intentional misrepresentation in connection with an application for employment made by a prospective employee or previously made by a current employee.



**§ 752. Unfair discrimination against persons previously convicted of one or more criminal offenses prohibited**

No application for any license or employment, and no employment or license held by an individual, to which the provisions of this article are applicable, shall be denied or acted upon adversely by reason of the individual's having been previously convicted of one or more criminal offenses, or by reason of a finding of lack of "good moral character" when such finding is based upon the fact that the individual has previously been convicted of one or more criminal offenses, unless:

- (1) there is a direct relationship between one or more of the previous criminal offenses and the specific license or employment sought or held by the individual; or
- (2) the issuance or continuation of the license or the granting or continuation of the employment would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public.

**§ 753. Factors to be considered concerning a previous criminal conviction; presumption**

1. In making a determination pursuant to section seven hundred fifty-two of this chapter, the public agency or private employer shall consider the following factors:

- (a) The public policy of this state, as expressed in this act, to encourage the licensure and employment of persons previously convicted of one or more criminal offenses.
- (b) The specific duties and responsibilities necessarily related to the license or employment sought or held by the person.
- (c) The bearing, if any, the criminal offense or offenses for which the person was previously convicted will have on his fitness or ability to perform one or more such duties or responsibilities.
- (d) The time which has elapsed since the occurrence of the criminal offense or offenses.
- (e) The age of the person at the time of occurrence of the criminal offense or offenses.
- (f) The seriousness of the offense or offenses.
- (g) Any information produced by the person, or produced on his behalf, in regard to his rehabilitation and good conduct.
- (h) The legitimate interest of the public agency or private employer in protecting property, and the safety and welfare of specific individuals or the general public.

2. In making a determination pursuant to section seven hundred fifty-two of this chapter, the public agency or private employer shall also give consideration to a certificate of relief from disabilities or a certificate of good conduct issued to the applicant, which certificate shall create a presumption of rehabilitation in regard to the offense or offenses specified therein.

**§ 754. Written statement upon denial of license or employment**

At the request of any person previously convicted of one or more criminal offenses who has been denied a license or employment, a public agency or private employer shall provide, within thirty days of a request, a written statement setting forth the reasons for such denial.

**§ 755. Enforcement**

1. In relation to actions by public agencies, the provisions of this article shall be enforceable by a proceeding brought pursuant to article seventy-eight of the civil practice law and rules.
2. In relation to actions by private employers, the provisions of this article shall be enforceable by the division of human rights pursuant to the powers and procedures set forth in article fifteen of the executive law, and, concurrently, by the New York city commission on human rights.



## ***ADVERSE ACTION LETTERS – Resource Information***

The following is resource information that you may want to consider when preparing your adverse action notices for background screening purposes. The term “adverse action” refers to any denial of employment or any other decision for employment purposes that adversely affects any current or prospective employee.<sup>10</sup>

When considering taking adverse employment action (including, but not limited to, terminating employment, or denying employment or promotion), based in whole or in part on a consumer report, the FCRA has specific requirements employers must follow, including:

### *Pre-Adverse Action*

If you intend to take adverse action based on consumer report information (e.g., criminal records, credit history, public record information) provided by First Advantage, you must first notify the individual. With the pre-adverse action letter, the employer must provide the individual with a copy of the federal disclosure entitled A Summary of Your Rights under the Fair Credit Reporting Act and a copy of the consumer report provided by First Advantage. We recommend that the letter include First Advantage’s contact information and a notice that the applicant/employee may dispute the accuracy or completeness of information in his/her report with First Advantage.

### *Waiting Period*

Employers must then wait a “reasonable period” of time to allow the applicant/employee to dispute any information in the report. A best practice is to wait at least five (5) business days. However, some states and local jurisdictions require a longer waiting period and you should consult with your legal counsel about such requirements.

### *Adverse Action*

After the waiting period ends, and if the job applicant or employee has not advised you of any discrepancies or otherwise explained the information, you may take adverse action with respect to employment. The FCRA requires that employers provide individuals who are the subject of such adverse action, which is based in whole or in part on information in the consumer report, to provide them with an adverse action letter. This letter must include specific language, such as (i) First Advantage’s name, toll-free phone number, and address; (ii) a statement that First Advantage “did not make the decision to take the adverse action and is unable to provide the consumer the specific reasons why the adverse action was taken”; (iii) a statement that the consumer “has a right to obtain a free copy of a consumer report about them from First Advantage within 60 days of receipt of the adverse action letter”; and (iv) a statement that the consumer may “dispute with First Advantage the accuracy or completeness of any information in the consumer report”.<sup>11</sup>

**IMPORTANT:** States and local jurisdictions may have Fair Chance Hiring laws and ordinances—sometimes referred to as Ban the Box—which may require additional steps be taken by employers when considering criminal history information for employment screening purposes. These additional steps may include (i) individualized assessments; (ii) longer waiting periods; and (iii)

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<sup>10</sup> 15 U.S.C. § 1681a(k)(1)(B)(ii).

<sup>11</sup> 15 U.S.C. § 1681m(a).



additional disclosures to individuals who are the subject of a criminal history background check. Examples of states include California, and of local jurisdictions include Los Angeles, New York City, Philadelphia, and San Francisco.

Sample adverse action templates are provided on the following pages. These templates address the adverse action process as required pursuant to the FCRA. They **do not** incorporate state or local requirements which may be in place related to Fair Chance Hiring laws and ordinances. We recommend you consult your legal counsel regarding any questions you may have concerning this information and your compliance with federal and state law related to background checks for employment purposes.

**Thank you for your assistance in ensuring your organization is in compliance with the FCRA. Please contact our Client Services department if you have any questions.**



***DISCLAIMER:** This document is intended for instructional purposes only and is not intended as legal advice. We recommend you consult with an attorney to review this document to ensure your compliance with the Fair Credit Reporting Act (15 U.S.C. § 1681 et seq.) and applicable state and local laws related to background screening for employment purposes.*

**PRE-ADVERSE ACTION NOTIFICATION**

Date: \_\_\_\_\_

Applicant Name

Address 1

Address 2

City, State, Zip

Dear \_\_\_\_\_:

A decision is currently pending concerning your application for employment with our company. Enclosed is a copy of the consumer report we obtained in conjunction with your application for employment, as well as a copy of the federal notice, "A Summary of Your Rights under the Fair Credit Reporting Act," which describes your rights under the law.

We may take adverse action related to your employment with us based on information in the enclosed consumer report and we ask that you carefully review it. If there are any errors or incomplete information in the consumer report, please let us know within five (5) business days of the date of receipt of this letter.

The consumer report was provided by First Advantage and you may dispute the accuracy or completeness of information in your consumer report directly with First Advantage:

First Advantage  
P.O. Box 105292  
Atlanta, GA 30348  
(800) 845-6004

Regards,

Company Name

Company Contact Name

Attached:      A copy of your background investigation report  
                    A Summary of Your Rights under the Fair Credit Reporting Act



***DISCLAIMER:** This document is intended for instructional purposes only and is not intended as legal advice. We recommend you consult with an attorney to review this document to ensure your compliance with the Fair Credit Reporting Act (15 U.S.C. § 1681 et seq.) and applicable state and local laws related to background screening for employment purposes.*

**ADVERSE ACTION NOTIFICATION**

Date: \_\_\_\_\_

Applicant Name

Address 1

Address 2

City, State, Zip

Dear \_\_\_\_\_:

We regret to inform you that we are unable to consider you further for an employment opportunity with our company. This decision was made, in whole or in part, on information we received in the consumer report you authorized from First Advantage, our employment screening vendor. First Advantage played no part in our decision to take the adverse action and is unable to provide you with the specific reasons why the adverse action was taken.

In accordance with the Fair Credit Reporting Act (FCRA) (15 U.S.C. § 1681 *et seq.*), you have previously received a copy of this report and a copy of the federal notice, "A Summary of Your Rights Under the Fair Credit Reporting Act."

Pursuant to the Fair Credit Reporting Act, you are entitled to obtain an additional free copy of your consumer report by contacting First Advantage within sixty (60) days of receipt of this letter. You also have the right to dispute the accuracy or completeness of any information in the consumer report provided by First Advantage by contacting them at:

First Advantage  
Attn: Consumer Center  
P.O. Box 105292  
Atlanta, GA 30348  
(800) 845-6004

Thank you for your interest in employment with our company.

Regards,

Company Name

Company Contact Name



**DISCLAIMER:** *This document is intended for instructional purposes only and is not intended as legal advice. We recommend you consult with an attorney to review this document to ensure your compliance with state and local laws related to background screening for employment purposes.*

**SAMPLE INDIVIDUALIZED ASSESSMENT LANGUAGE<sup>12</sup>**

Date: \_\_\_\_\_

Applicant Name  
Address 1  
Address 2  
City, State, Zip

Dear \_\_\_\_\_:

On [insert date] you authorized [insert company name] to conduct a background investigation and obtain a report(s) about you from First Advantage. This letter is being provided to you to advise you that we may take adverse employment action against you based on information contained in the report(s) provided by First Advantage.

Prior to us taking any adverse employment action based on information contained in the report we will conduct an **individualized assessment** during which time we will consider factors such as (i) the nature and gravity of any offenses in your criminal history; (ii) the length of time since the offense and completion of any sentence; (iii) your age at the time of the offense and any evidence of rehabilitation; and (iv) the nature and duties of the job for which you have applied. Please contact us within 10 business days<sup>13</sup> of receipt of this letter to set up an individualized assessment meeting.

The potentially disqualifying conviction(s) that is/are the basis for our preliminary decision to potentially rescind our offer is/are: [Insert disqualifying conviction(s)].

Regards,

Name  
Title  
Contact Information

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<sup>12</sup> This template may be used as part of the pre-adverse action process under the FCRA as well as to address fair chance hiring laws / ban the box ordinances in: Austin, TX, Baltimore, MD, California (including San Francisco), Connecticut, Hawaii, Kansas City, MO, Louisiana, Minnesota (where license required for occupation), Montgomery County, MD, New York (including Buffalo, New York City, Rochester, Suffolk County, Westchester County), Oregon (including Portland), Philadelphia, PA, Prince George's County, MD, Seattle, WA, St. Louis, MO, Vermont, and Washington, DC. **DISCLAIMER:** this template is intended to be general in nature and may not address all state and local requirements (e.g., Illinois requires consideration of additional factors, and Los Angeles, CA provides a suggested template form). For more information about individualized assessments users should consult the Equal Employment Opportunity Commission's (EEOC) enforcement guidance on the use of arrest and conviction records in employment decisions (Number 915.002, Date 04/25/2012) that provides guidance on conducting individualized statements as well as review local ordinances. Users should consult with their own attorney about these requirements. The list of states, counties and cities is effective as of January 2022 and it may not cover all jurisdictions with applicable ordinances.

<sup>13</sup> 10 business days is based on the longest waiting period, meaning that some jurisdictions may allow a shorter period of time.

***FEDERAL NOTICES AND INFORMATION – Resource Information***

- **A Summary of Your Rights Under the Fair Credit Reporting Act, issued by the Consumer Financial Protection Bureau (CFPB)<sup>14</sup>**

This document **MUST BE PROVIDED** to any applicant or employee **BEFORE YOU TAKE ADVERSE ACTION AGAINST THEM** based in whole or in part on a consumer report (i.e., background check). It must be provided with a copy of the consumer report.

- **Notice to Users of Consumer Reports: Obligations of Users Under the FCRA<sup>15</sup>**

This notice details employers' obligations under the FCRA and is issued by the CFPB.

- **Disposing of Consumer Report Information<sup>16</sup>**

This guidance document issued by the Federal Trade Commission (FTC) provides information on how to comply with the federal regulations regarding disposal of consumer information in the consumer reports you receive from First Advantage. Federal law requires that employers who maintain or otherwise possess consumer information for a business purpose must properly dispose of such information by taking reasonable measures to protect against unauthorized access to or use of the information in connection with its disposal.

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<sup>14</sup> Model forms are found in Appendix K to Regulation V on the CFPB's website at <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/code-federal-regulations/>.

<sup>15</sup> This notice can be found in Appendix N to Regulation V on the CFPB's website at <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/code-federal-regulations/>.

<sup>16</sup> 16 C.F.R. Part 682.





*Para información en español, visite [www.consumerfinance.gov/learnmore](http://www.consumerfinance.gov/learnmore) o escribe a la Consumer Financial Protection Bureau, 1700 G Street N.W., Washington, DC 20552.*

## **A Summary of Your Rights Under the Fair Credit Reporting Act**

The federal Fair Credit Reporting Act (FCRA) promotes the accuracy, fairness, and privacy of information in the files of consumer reporting agencies. There are many types of consumer reporting agencies, including credit bureaus and specialty agencies (such as agencies that sell information about check writing histories, medical records, and rental history records). Here is a summary of your major rights under FCRA. **For more information, including information about additional rights, go to [www.consumerfinance.gov/learnmore](http://www.consumerfinance.gov/learnmore) or write to: Consumer Financial Protection Bureau, 1700 G Street N.W., Washington, DC 20552.**

- **You must be told if information in your file has been used against you.** Anyone who uses a credit report or another type of consumer report to deny your application for credit, insurance, or employment – or to take another adverse action against you – must tell you, and must give you the name, address, and phone number of the agency that provided the information.
- **You have the right to know what is in your file.** You may request and obtain all the information about you in the files of a consumer reporting agency (your “file disclosure”). You will be required to provide proper identification, which may include your Social Security number. In many cases, the disclosure will be free. You are entitled to a free file disclosure if:
  - a person has taken adverse action against you because of information in your credit report;
  - you are the victim of identity theft and place a fraud alert in your file;
  - your file contains inaccurate information as a result of fraud;
  - you are on public assistance;
  - you are unemployed but expect to apply for employment within 60 days.

In addition, all consumers are entitled to one free disclosure every 12 months upon request from each nationwide credit bureau and from nationwide specialty consumer reporting agencies. See [www.consumerfinance.gov/learnmore](http://www.consumerfinance.gov/learnmore) for additional information.

- **You have the right to ask for a credit score.** Credit scores are numerical summaries of your credit-worthiness based on information from credit bureaus. You may request a credit score from consumer reporting agencies that create scores or distribute scores used in residential real property loans, but you will have to pay for it. In some mortgage transactions, you will receive credit score information for free from the mortgage lender.

- **You have the right to dispute incomplete or inaccurate information.** If you identify information in your file that is incomplete or inaccurate, and report it to the consumer reporting agency, the agency must investigate unless your dispute is frivolous. See [www.consumerfinance.gov/learnmore](http://www.consumerfinance.gov/learnmore) for an explanation of dispute procedures.
- **Consumer reporting agencies must correct or delete inaccurate, incomplete, or unverifiable information.** Inaccurate, incomplete, or unverifiable information must be removed or corrected, usually within 30 days. However, a consumer reporting agency may continue to report information it has verified as accurate.
- **Consumer reporting agencies may not report outdated negative information.** In most cases, a consumer reporting agency may not report negative information that is more than seven years old, or bankruptcies that are more than 10 years old.
- **Access to your file is limited.** A consumer reporting agency may provide information about you only to people with a valid need – usually to consider an application with a creditor, insurer, employer, landlord, or other business. The FCRA specifies those with a valid need for access.
- **You must give your consent for reports to be provided to employers.** A consumer reporting agency may not give out information about you to your employer, or a potential employer, without your written consent given to the employer. Written consent generally is not required in the trucking industry. For more information, go to [www.consumerfinance.gov/learnmore](http://www.consumerfinance.gov/learnmore).
- **You may limit “prescreened” offers of credit and insurance you get based on information in your credit report.** Unsolicited “prescreened” offers for credit and insurance must include a toll-free phone number you can call if you choose to remove your name and address from the lists these offers are based on. You may opt out with the nationwide credit bureaus at 1-888-5-OPTOUT (1-888-567-8688).
- The following FCRA right applies with respect to nationwide consumer reporting agencies:

#### **CONSUMERS HAVE THE RIGHT TO OBTAIN A SECURITY FREEZE**

**You have a right to place a “security freeze” on your credit report, which will prohibit a consumer reporting agency from releasing information in your credit report without your express authorization.** The security freeze is designed to prevent credit, loans, and services from being approved in your name without your consent.

However, you should be aware that using a security freeze to take control over who gets access to the personal and financial information in your credit report may delay, interfere with, or prohibit the timely approval of any subsequent request or application you make regarding a new loan, credit, mortgage, or any other account involving the extension of credit.

2

As an alternative to a security freeze, you have the right to place an initial or extended fraud alert on your credit file at no cost. An initial fraud alert is a 1-year alert that is placed on a consumer's credit file. Upon seeing a fraud alert display on a consumer's credit file, a business is required to take steps to verify the consumer's identity before extending new credit. If you are a victim of identity theft, you are entitled to an extended fraud alert, which is a fraud alert lasting 7 years.

A security freeze does not apply to a person or entity, or its affiliates, or collection agencies acting on behalf of the person or entity, with which you have an existing account that requests information in your credit report for the purposes of reviewing or collecting the account. Reviewing the account includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements.

- **You may seek damages from violators.** If a consumer reporting agency, or, in some cases, a user of consumer reports or a furnisher of information to a consumer reporting agency violates the FCRA, you may be able to sue in state or federal court.
- **Identity theft victims and active duty military personnel have additional rights.** For more information, visit [www.consumerfinance.gov/learnmore](http://www.consumerfinance.gov/learnmore).

**States may enforce the FCRA, and many states have their own consumer reporting laws. In some cases, you may have more rights under state law. For more information, contact your state or local consumer protection agency or your state Attorney General. For information about your federal rights, contact:**

3

TYPE OF BUSINESS:	CONTACT:
<p>1.a. Banks, savings associations, and credit unions with total assets of over \$10 billion and their affiliates</p> <p>b. Such affiliates that are not banks, savings associations, or credit unions also should list, in addition to the CFPB:</p>	<p>a. Consumer Financial Protection Bureau 1700 G Street, N.W. Washington, DC 20552</p> <p>b. Federal Trade Commission Consumer Response Center 600 Pennsylvania Avenue, N.W. Washington, DC 20580 (877) 382-4357</p>
<p>2. To the extent not included in item 1 above:</p> <p>a. National banks, federal savings associations, and federal branches and federal agencies of foreign banks</p> <p>b. State member banks, branches and agencies of foreign banks (other than federal branches, federal agencies, and Insured State Branches of Foreign Banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act.</p> <p>c. Nonmember Insured Banks, Insured State Branches of Foreign Banks, and insured state savings associations</p> <p>d. Federal Credit Unions</p>	<p>a. Office of the Comptroller of the Currency Customer Assistance Group 1301 McKinney Street, Suite 3450 Houston, TX 77010-9050</p> <p>b. Federal Reserve Consumer Help Center P.O. Box 1200 Minneapolis, MN 55480</p> <p>c. FDIC Consumer Response Center 1100 Walnut Street, Box #11 Kansas City, MO 64106</p> <p>d. National Credit Union Administration Office of Consumer Financial Protection (OCFP) Division of Consumer Compliance Policy and Outreach 1775 Duke Street Alexandria, VA 22314</p>
<p>3. Air carriers</p>	<p>Asst. General Counsel for Aviation Enforcement &amp; Proceedings Aviation Consumer Protection Division Department of Transportation 1200 New Jersey Avenue, S.E. Washington, DC 20590</p>
<p>4. Creditors Subject to the Surface Transportation Board</p>	<p>Office of Proceedings, Surface Transportation Board Department of Transportation 395 E Street, S.W. Washington, DC 20423</p>
<p>5. Creditors Subject to the Packers and Stockyards Act, 1921</p>	<p>Nearest Packers and Stockyards Administration area supervisor</p>
<p>6. Small Business Investment Companies</p>	<p>Associate Deputy Administrator for Capital Access United States Small Business Administration 409 Third Street, S.W., Suite 8200 Washington, DC 20416</p>
<p>7. Brokers and Dealers</p>	<p>Securities and Exchange Commission 100 F Street, N.E. Washington, DC 20549</p>
<p>8. Federal Land Banks, Federal Land Bank Associations, Federal Intermediate Credit Banks, and Production Credit Associations</p>	<p>Farm Credit Administration 1501 Farm Credit Drive McLean, VA 22102-5090</p>
<p>9. Retailers, Finance Companies, and All Other Creditors Not Listed Above</p>	<p>Federal Trade Commission Consumer Response Center 600 Pennsylvania Avenue, N.W. Washington, DC 20580 (877) 382-4357</p>



All users of consumer reports must comply with all applicable regulations. Information about applicable regulations currently in effect can be found at the Consumer Financial Protection Bureau's website at [www.consumerfinance.gov/learnmore](http://www.consumerfinance.gov/learnmore).

## **NOTICE TO USERS OF CONSUMER REPORTS: OBLIGATION OF USERS UNDER THE FCRA**

The Fair Credit Reporting Act (FCRA), 15 U.S.C. §1681-1681y, requires that this notice be provided to inform users of consumer reports of their legal obligations. State law may impose additional requirements. The text of the FCRA is set forth in full at the Consumer Financial Protection Bureau's (CFPB) website at [www.consumerfinance.gov/learnmore](http://www.consumerfinance.gov/learnmore). At the end of this document is a list of United States Code citations for the FCRA. Other information about user duties is also available at the CFPB's website. **Users must consult the relevant provisions of the FCRA for details about their obligations under the FCRA.**

The first section of this summary sets forth the responsibilities imposed by the FCRA on all users of consumer reports. The subsequent sections discuss the duties of users of reports that contain specific types of information, or that are used for certain purposes, and the legal consequences of violations. If you are a furnisher of information to a consumer reporting agency (CRA), you have additional obligations and will receive a separate notice from the CRA describing your duties as a furnisher.

### **I. OBLIGATIONS OF ALL USERS OF CONSUMER REPORTS**

#### **A. Users Must Have a Permissible Purpose**

Congress has limited the use of consumer reports to protect consumers' privacy. All users must have a permissible purpose under the FCRA to obtain a consumer report. Section 604 contains a list of the permissible purposes under the law. These are:

- As ordered by a court or a federal grand jury subpoena. Section 604(a)(1)
- As instructed by the consumer in writing. Section 604(a)(2)
- For the extension of credit as a result of an application from a consumer, or the review or collection of a consumer's account. Section 604(a)(3)(A)
- For employment purposes, including hiring and promotion decisions, where the consumer has given written permission. Sections 604(a)(3)(B) and 604(b)
- For the underwriting of insurance as a result of an application from a consumer. Section 604(a)(3)(C)
- When there is a legitimate business need, in connection with a business transaction that is initiated by the consumer. Section 604(a)(3)(F)(i)
- To review a consumer's account to determine whether the



consumer continues to meet the terms of the account. Section 604(a)(3)(F)(ii)

- To determine a consumer’s eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider an applicant’s financial responsibility or status. Section 604(a)(3)(D)
- For use by a potential investor or servicer, or current insurer, in a valuation or assessment of the creditor prepayment risks associated with an existing credit obligation. Section 604(a)(3)(E)
- For use by state and local officials in connection with the determination of child support payments, or modifications and enforcement thereof. Sections 604(a)(4) and 604(a)(5)

In addition, creditors and insurers may obtain certain consumer report information for the purpose of making “prescreened” unsolicited offers of credit or insurance. Section 604(c). The particular obligations of users of “prescreened” information are described in Section VII below.

## **B. Users Must Provide Certifications**

Section 604(f) prohibits any person from obtaining a consumer report from a consumer reporting agency (CRA) unless the person has certified to the CRA the permissible purpose(s) for which the report is being obtained and certifies that the report will not be used for any other purpose.

## **C. Users Must Notify Consumers When Adverse Actions Are Taken**

The term “adverse action” is defined very broadly by Section 603. “Adverse actions” include all business, credit, and employment actions affecting consumers that can be considered to have a negative impact as defined by Section 603(k) of the FCRA – such as denying or canceling credit or insurance, or denying employment or promotion. No adverse action occurs in a credit transaction where the creditor makes a counter offer that is accepted by the consumer.

### **1. Adverse Actions Based on Information Obtained From a CRA**

If a user takes any type of adverse action as defined by the FCRA that is based at least in part on information contained in a consumer report, Section 615(a) requires the user to notify the consumer. The notification may be done in writing, orally, or by electronic means. It must include the following:

- The name, address, and telephone number of the CRA (including a toll-free telephone number, if it is a nationwide CRA) that provided the report.
- A statement that the CRA did not make the adverse decision and is not able to explain why the decision was made.
- A statement setting forth the consumer’s right to obtain a free disclosure of the consumer’s file from the CRA if the consumer makes a request within 60 days.
- A statement setting forth the consumer’s right to dispute directly with the



CRA the accuracy or completeness of any information provided by the CRA.

## **2. Adverse Actions Based on Information Obtained From Third Parties Who Are Not Consumer Reporting Agencies**

If a person denies (or increases the charge for) credit for personal, family, or household purposes based either wholly or partly upon information from a person other than a CRA, and the information is the type of consumer information covered by the FCRA, Section 615(b)(1) requires that the user clearly and accurately disclose to the consumer his or her right to be told the nature of the information that was relied upon if the consumer makes a written request within 60 days of notification. The user must provide the disclosure within a reasonable period of time following the consumer's written request.

## **3. Adverse Actions Based on Information Obtained From Affiliates**

If a person takes an adverse action involving insurance, employment, or a credit transaction initiated by the consumer, based on information of the type covered by the FCRA, and this information was obtained from an entity affiliated with the user of the information by common ownership or control, Section 615(b)(2) requires the user to notify the consumer of the adverse action. The notice must inform the consumer that he or she may obtain a disclosure of the nature of the information relied upon by making a written request within 60 days of receiving the adverse action notice. If the consumer makes such a request, the user must disclose the nature of the information not later than 30 days after receiving the request. If consumer report information is shared among affiliates and then used for an adverse action, the user must make an adverse action disclosure as set forth in I.C.1 above.

## **D. Users Have Obligations When Fraud and Active Duty Military Alerts are in Files**

When a consumer has placed a fraud alert, including one relating to identity theft, or an active duty military alert with a nationwide consumer reporting agency as defined in Section 603(p) and resellers, Section 605A(h) imposes limitations on users of reports obtained from the consumer reporting agency in certain circumstances, including the establishment of a new credit plan and the issuance of additional credit cards. For initial fraud alerts and active duty alerts, the user must have reasonable policies and procedures in place to form a belief that the user knows the identity of the applicant or contact the consumer at a telephone number specified by the consumer; in the case of extended fraud alerts, the user must contact the consumer in accordance with the contact information provided in the consumer's alert.

## **E. Users Have Obligations When Notified of an Address Discrepancy**

Section 605(h) requires nationwide CRAs, as defined in Section 603(p), to notify users that request reports when the address for a consumer provided by the user in requesting the report is substantially different from the addresses in the consumer's file. When this occurs, users must comply with regulations specifying the procedures to be followed. Federal regulations are available at [www.consumerfinance.gov/learnmore](http://www.consumerfinance.gov/learnmore).

## **F. Users Have Obligations When Disposing of Records**





Section 628 requires that all users of consumer report information have in place procedures to properly dispose of records containing this information. Federal regulations have been issued that cover disposal.

## **II. CREDITORS MUST MAKE ADDITIONAL DISCLOSURES**

If a person uses a consumer report in connection with an application for, or a grant, extension, or provision of, credit to a consumer on material terms that are materially less favorable than the most favorable terms available to a substantial proportion of consumers from or through that person, based in whole or in part on a consumer report, the person must provide a risk-based pricing notice to the consumer in accordance with regulations prescribed by the CFPB.

Section 609(g) requires a disclosure by all persons that make or arrange loans secured by residential real property (one to four units) and that use credit scores. These persons must provide credit scores and other information about credit scores to applicants, including the disclosure set forth in Section 609(g)(1)(D) ("Notice to the Home Loan Applicant").

## **III. OBLIGATIONS OF USERS WHEN CONSUMER REPORTS ARE OBTAINED FOR EMPLOYMENT PURPOSES**

### **A. Employment Other Than in the Trucking Industry**

If the information from a CRA is used for employment purposes, the user has specific duties, which are set forth in Section 604(b) of the FCRA. The user must:

- Make a clear and conspicuous written disclosure to the consumer before the report is obtained, in a document that consists solely of the disclosure, that a consumer report may be obtained.
- Obtain from the consumer prior written authorization. Authorization to access reports during the term of employment may be obtained at the time of employment.
- Certify to the CRA that the above steps have been followed, that the information being obtained will not be used in violation of any federal or state equal opportunity law or regulation, and that, if any adverse action is to be taken based on the consumer report, a copy of the report and a summary of the consumer's rights will be provided to the consumer.
- **Before** taking an adverse action, the user must provide a copy of the report to the consumer as well as the summary of consumer's rights (The user should receive this summary from the CRA.) A Section 615(a) adverse action notice should be sent after the adverse action is taken.

An adverse action notice also is required in employment situations if credit information (other than transactions and experience data) obtained from an affiliate is used to deny employment. Section 615(b)(2).

The procedures for investigative consumer reports and employee misconduct investigations are set forth below.



**B. Employment in the Trucking Industry**

Special rules apply for truck drivers where the only interaction between the consumer and the potential employer is by mail, telephone, or computer. In this case, the consumer may provide consent orally or electronically, and an adverse action may be made orally, in writing, or electronically. The consumer may obtain a copy of any report relied upon by the trucking company by contacting the company.

**IV. OBLIGATIONS WHEN INVESTIGATIVE CONSUMER REPORTS ARE USED**

Investigative consumer reports are a special type of consumer report in which information about a consumer's character, general reputation, personal characteristics, and mode of living is obtained through personal interviews by an entity or person that is a consumer reporting agency. Consumers who are the subjects of such reports are given special rights under the FCRA. If a user intends to obtain an investigative consumer report, Section 606 requires the following:

- The user must disclose to the consumer that an investigative consumer report may be obtained. This must be done in a written disclosure that is mailed, or otherwise delivered, to the consumer at some time before or not later than three days after the date on which the report was first requested. The disclosure must include a statement informing the consumer of his or her right to request additional disclosures of the nature and scope of the investigation as described below, and the summary of consumer rights required by Section 609 of the FCRA. (The summary of consumer rights will be provided by the CRA that conducts the investigation.)
- The user must certify to the CRA that the disclosures set forth above have been made and that the user will make the disclosure described below.
- Upon the written request of a consumer made within a reasonable period of time after the disclosures required above, the user must make a complete disclosure of the nature and scope of the investigation. This must be made in a written statement that is mailed or otherwise delivered, to the consumer no later than five days after the date on which the request was received from the consumer or the report was first requested, whichever is later in time.

**V. SPECIAL PROCEDURES FOR EMPLOYEE INVESTIGATIONS**

Section 603(x) provides special procedures for investigations of suspected misconduct by an employee or for compliance with Federal, state or local laws and regulations or the rules of a self-regulatory organization, and compliance with written policies of the employer. These investigations are not treated as consumer reports so long as the employer or its agent complies with the procedures set forth in Section 603(x), and a summary describing the nature and scope of the inquiry is made to the employee if an adverse action is taken based on the investigation.

**VI. OBLIGATIONS OF USERS OF MEDICAL INFORMATION**

Section 604(g) limits the use of medical information obtained from consumer reporting agencies (other than payment information that appears in a coded form that does not identify the medical provider). If the information is to be used for an

insurance transaction, the consumer must give consent to the user of the report or the information must be coded. If the report is to be used for employment purposes – or in connection with a credit transaction (except as provided in federal regulations) – the consumer must provide specific written consent and the medical information must be relevant. Any user who receives medical information shall not disclose the information to any other person (except where necessary to carry out the purpose for which the information was disclosed, or a permitted by statute, regulation, or order).

## **VII. OBLIGATIONS OF USERS OF “PRESCREENED” LISTS**

The FCRA permits creditors and insurers to obtain limited consumer report information for use in connection with unsolicited offers of creditor insurance under certain circumstances. Sections 603(1), 604(c), 604(e), and 615(d). This practice is known as “prescreening” and typically involves obtaining from a CRA a list of consumers who meet certain pre-established criteria. If any person intends to use prescreened lists, that person must (1) before the offer is made, establish the criteria that will be relied upon to make the offer and grant credit or insurance, and (2) maintain such criteria on file for a three-year period beginning on the date on which the offer is made to each consumer. In addition, any user must provide with each written solicitation a clear and conspicuous statement that:

- Information contained in a consumer’s CRA file was used in connection with the transaction.
- The consumer received the offer because he or she satisfied the criteria for credit worthiness or insurability used to screen for the offer.
- Credit or insurance may not be extended if, after the consumer responds, it is determined that the consumer does not meet the criteria used for screening or any applicable criteria bearing on credit worthiness or insurability, or the consumer does not furnish required collateral.
- The consumer may prohibit the use of information in his or her file in connection with future prescreened offers of credit or insurance by contacting the notification system established by the CRA that provided the report. The statement must include the address and toll-free telephone number of the appropriate notification system.

In addition, the CFPB has established the format, type size, and manner of the disclosure required by Section 615(d), with which users must comply. The regulation is 12 CFR 1022.54.

## **VIII. OBLIGATIONS OF RESELLERS**

### **A. Disclosure and Certification Requirements**

Section 607(e) requires any person who obtains a consumer report for resale to take the following steps:

- Disclose the identity of the end-user to the source CRA.
- Identify to the source CRA each permissible purpose for which the report will be furnished to the end-user.
- Establish and follow reasonable procedures to ensure that reports are resold only for permissible purposes, including procedures to obtain:
  - (1) the identity of all end-users;



- (2) certifications from all users of each purpose for which reports will be used; and
- (3) certifications that reports will not be used for any purpose other than the purpose(s) specified to the reseller. Resellers must make reasonable efforts to verify this information before selling the report.

#### **B. Reinvestigations by Resellers**

Under Section 611(f), if a consumer disputes the accuracy or completeness of information in a report prepared by a reseller, the reseller must determine whether this is a result of an action or omission on its part and, if so, correct or delete the information. If not, the reseller must send the dispute to the source CRA for reinvestigation. When any CRA notifies the reseller of the results of an investigation, the reseller must immediately convey the information to the consumer.

#### **C. Fraud Alerts and Resellers**

Section 605A(f) requires resellers who receive fraud alerts or active duty alerts from another consumer reporting agency to include these in their reports.

### **IX. LIABILITY FOR VIOLATIONS OF THE FCRA**

Failure to comply with the FCRA can result in state government or federal government enforcement actions, as well as private lawsuits. Sections 616, 617, and 621. In addition, any person who knowingly and willfully obtains a consumer report under false pretenses may face criminal prosecution. Section 619.

**The CFPB's website, [www.consumerfinance.gov/learnmore](http://www.consumerfinance.gov/learnmore), has more information about the FCRA, including publications for businesses and the full text of the FCRA.**

#### **Citations for FCRA sections in the U.S. Code, 15 U.S.C. § 1618 et seq.:**

Section 602	15 U.S.C. 1681	Section 615	15 U.S.C. 1681m
Section 603	15 U.S.C. 1681a	Section 616	15 U.S.C. 1681n
Section 604	15 U.S.C. 1681b	Section 617	15 U.S.C. 1681o
Section 605	15 U.S.C. 1681c	Section 618	15 U.S.C. 1681p
Section 605A	15 U.S.C. 1681cA	Section 619	15 U.S.C. 1681q
Section 605B	15 U.S.C. 1681cB	Section 620	15 U.S.C. 1681r
Section 606	15 U.S.C. 1681d	Section 621	15 U.S.C. 1681s
Section 607	15 U.S.C. 1681e	Section 622	15 U.S.C. 1681s-1
Section 608	15 U.S.C. 1681f	Section 623	15 U.S.C. 1681s-2
Section 609	15 U.S.C. 1681g	Section 624	15 U.S.C. 1681t
Section 610	15 U.S.C. 1681h	Section 625	15 U.S.C. 1681u
Section 611	15 U.S.C. 1681i	Section 626	15 U.S.C. 1681v
Section 612	15 U.S.C. 1681j	Section 627	15 U.S.C. 1681w
Section 613	15 U.S.C. 1681k	Section 628	15 U.S.C. 1681x
Section 614	15 U.S.C. 1681l	Section 629	15 U.S.C. 1681y

## **Disposing of Consumer Report Information? Rule Tells How**

Once your business is finished with sensitive information derived from consumer reports, what happens to it then? Under the Disposal Rule, your company must take steps to dispose of it securely.

In an effort to protect the privacy of consumer information and reduce the risk of fraud and identity theft, a federal rule requires businesses to take appropriate measures to dispose of sensitive information derived from consumer reports.

Any business or individual who uses a consumer report for a business purpose is subject to the requirements of the Disposal Rule. The Rule requires the proper disposal of information in consumer reports and records to protect against “unauthorized access to or use of the information.” The Federal Trade Commission, the nation’s consumer protection agency, enforces the Disposal Rule.

According to the FTC, the standard for the proper disposal of information derived from a consumer report is flexible, and allows the organizations and individuals covered by the Rule to determine what measures are reasonable based on the sensitivity of the information, the costs and benefits of different disposal methods, and changes in technology.

Although the Disposal Rule applies to consumer reports and the information derived from consumer reports, the FTC encourages those who dispose of any records containing a consumer’s personal or financial information to take similar protective measures.

## **Who must comply?**

The Disposal Rule applies to people and both large and small organizations that use consumer reports. Among those who must comply with the Rule are:

- Consumer reporting companies
- Lenders
- Insurers
- Employers
- Landlords
- Government agencies
- Mortgage brokers
- Automobile dealers
- Attorneys or private investigators
- Debt collectors
- Individuals who obtain a credit report on prospective nannies, contractors, or tenants
- Entities that maintain information in consumer reports as part of their role as service providers to other organizations covered by the Rule

## **What information does the Disposal Rule cover?**

The Disposal Rule applies to consumer reports or information derived from consumer reports. The Fair Credit Reporting Act defines the term consumer report to include information obtained from a consumer reporting company that is used – or expected to be used – in establishing a consumer's eligibility for credit, employment, or insurance, among other purposes. Credit reports and credit scores are consumer reports. So are reports businesses or individuals receive with information relating to employment background, check writing history, insurance claims, residential or tenant history, or medical history.

## **What is "proper" disposal?**

The Disposal Rule requires disposal practices that are reasonable and appropriate to prevent the unauthorized access to – or use of – information in a consumer report. For example, reasonable measures for disposing of consumer report information could include establishing and complying with policies to:

- burn, pulverize, or shred papers containing consumer report information so that the information cannot be read or reconstructed;
- destroy or erase electronic files or media containing consumer report information so that the information cannot be read or reconstructed;
- conduct due diligence and hire a document destruction contractor to dispose of material specifically identified as consumer report information consistent with the Rule. Due diligence could include:
  - reviewing an independent audit of a disposal company's operations and/or its compliance with the Rule;
  - obtaining information about the disposal company from several references;
  - requiring that the disposal company be certified by a recognized trade association;
  - reviewing and evaluating the disposal company's information security policies or procedures.

The FTC says that financial institutions that are subject to both the Disposal Rule and the Gramm-Leach-Bliley (GLB) Safeguards Rule should incorporate practices dealing with the proper disposal of consumer information into the information security program that the Safeguards Rule requires ([ftc.gov/privacy/privacyinitiatives/safeguards.html](https://www.ftc.gov/privacy/privacyinitiatives/safeguards.html)).

The Fair and Accurate Credit Transactions Act, which was enacted in 2003, directed the FTC, the Federal Reserve Board, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, the National Credit Union Administration, and the Securities and Exchange Commission to adopt comparable and consistent rules regarding the disposal of sensitive consumer report information. The FTC's Disposal Rule became effective June 1, 2005. It was published in the Federal Register on November 24, 2004 [69 Fed. Reg. 68,690], and is available at [ftc.gov/os/2004/11/041118disposalfrn.pdf](https://www.ftc.gov/os/2004/11/041118disposalfrn.pdf).