

## New Version of Model FCRA Summary of Rights Released; And You Have One Week to Comply

By Kevin D. Holden, Susan M. Corcoran and Richard I. Greenberg

September 14, 2018

A new model “A Summary of Your Rights Under the Fair Credit Reporting Act” disclosure form document was released on September 12, 2018, by the Consumer Financial Protection Bureau (CFPB). Employers and background check companies should begin using the new form by September 21, 2018.

The federal agency responsible for oversight and drafting the model forms required under the Fair Credit Reporting Act (FCRA) issued the revised form in an interim final rule on September 12, 2018.

Employers and background check companies are required to provide the disclosure form to employees and job applicants at certain times under the FCRA. A failure to provide the correct notification can lead to significant exposure, including class action litigation.

### Why the Change?

In May 2018, responding to several, high-profile data breaches, Congress passed the Economic Growth, Regulatory Relief, and Consumer Protection Act. The new law requires credit reporting bureaus, under certain circumstances, to provide consumers fraud alerts and unlimited, free national security freezes and freeze releases. These are intended to make it harder for identity thieves to open accounts in a consumer’s name.

The new legislation also amends the FCRA to exclude from consumer reporting information certain medical debts incurred by veterans. Additionally, it establishes a new dispute process with respect to such medical debt.

Finally, the new law mandates that whenever an employer or background check company is required to provide a copy of the “A Summary of Your Rights Under the Fair Credit Reporting Act” or the “Summary of Consumer Identity Theft Rights” disclosure form, they also must provide a notice regarding these new security freeze rights.

The interim final rule updates the CFPB’s model form (last revised in 2012) and incorporates the new required notices. According the CFPB, the interim rule provides that businesses can use the new model disclosure or a combination of the 2012 disclosure forms along with a summary of the security freeze rights, “so long as a separate page that contains the additional required information is provided in the same transmittal.”

### Next Steps

Employers and background check companies must update their forms prior to September 21, 2018, to avoid any gaps in compliance.

Companies should seek advice from their legal counsel to ensure their forms comply with the new requirement.

Jackson Lewis attorneys are available to assist employers with their compliance efforts.

### Meet the Authors



[Kevin D. Holden](#)

Office Managing Principal and Office  
Litigation Manager  
Richmond 804-212-2888  
Email



[Susan M. Corcoran](#)

Principal  
New York Metro  
White Plains 914-872-6871  
Email



[Richard I. Greenberg](#)

Principal  
New York Metro  
New York City 212-545-4080  
Email

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