

PUBLICATION

Read Me My Rights: New FCRA Notices Around the Corner

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Before January 1, 2013, employers must update their Fair Credit Reporting Act (FCRA) notices to reflect modest changes to the mandatory Summary of Rights Form. This form must be included with a "pre-adverse action" notice, as well as with disclosures for "investigative consumer reports" based on personal interviews conducted by consumer reporting agencies. These updates are a consequence of the Consumer Financial Protection Bureau taking over responsibility for enforcing the FCRA from the Federal Trade Commission.

As a reminder, the FCRA requires employers that obtain "consumer reports" (background reports) from consumer reporting agencies to clearly disclose to the applicant/employee that such a report may be obtained and to seek his or her written permission to obtain such a report. Employers seeking to utilize "investigative consumer reports" must likewise disclose intent to obtain such reports and inform applicant/employee of his or her right to request additional information about the "nature and scope" of the investigation.

Employers that wish to take adverse action against the applicant/employee based on such reports must first provide the individual with a "pre-adverse action" notice, a copy of the consumer report and a copy of the FCRA Summary of Rights. Thereafter, an employer that intends to proceed with the adverse action must then provide the individual with a formal "adverse action" notice, which includes additional information governed by statute.

To review this new requirement or seek advice about the scope and implementation of the FCRA, please contact any of our more than 70 Labor & Employment attorneys located in Birmingham, Alabama; Atlanta, Georgia; Baton Rouge, Mandeville and New Orleans, Louisiana; Jackson, Mississippi; Chattanooga, Johnson City, Knoxville, Memphis and Nashville, Tennessee; and Houston, Texas.