# SheppardMullin IMMIGRATION UPDATE Mobility | Investment | Compliance

# E-Verify on the fritz likely due to Florida going live on the RIDE Program

Employment Authorized individuals may be receiving inadvertent TNCs and Florida is the newest state to join the Records and Information from DMVs for E-Verify (RIDE) Program.

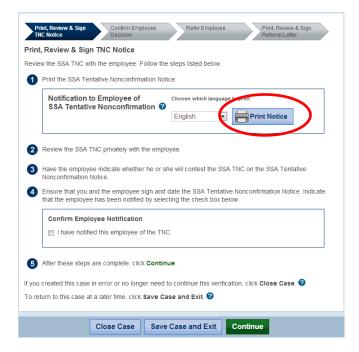
By Dawn Lurie, Partner Immigration Compliance at 202.469.4963

Over the weekend, U.S. Citizenship and Immigration Services (USCIS) installed updates to the E-Verify system. Something seems to have gone awry as our clients, around the country, have reported irregularities with processing E-Verify queries since early yesterday morning. E-Verify is a web-based, voluntary program that compares an employee's Form I-9 information with the Social Security Administration and Department of Homeland Security databases. E-Verify is considered a best practice by the government in terms of immigration compliance and is part of the Immigration and Customs Enforcement's IMAGE program. Over the past four years, the E-Verify program has expanded tremendously and become more intuitive and notably easier for employers to use. E-Verify has refined the speed in which it processes queries and has become infinitely more accurate. The program has benefited from an enormous amount of funding directed at improving the quality of resources available to employees and employers, as well as increasing the frequency and accessibility of training provided by USCIS. Department of Justice's Office of Special Counsel also has stepped up to offer a suite of resources including role-play videos and targeted E-Verify "Do's and Don'ts". While still susceptible to identity theft, the program continues to be upgraded and includes a photomatching component for U.S. Passports, Permanent Resident Cards, and Employment Authorization Cards. The decision to enroll in E-Verify should not be made lightly and includes planning and compliance. While the program is "free" significant resources should be dedicated to its implementation and ongoing monitoring.

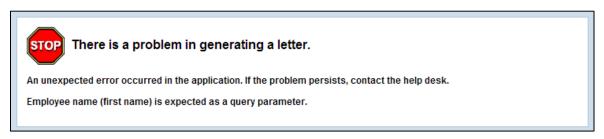
E-Verify also integrates a pilot component to the program using the Records and Information from Department of Motor Vehicle DMVs for E-Verify (RIDE). RIDE improves the accuracy and strengthens the integrity of the E-Verify system by enabling it, for the first time, to compare driver's license data against state records when determining employees' eligibility to work in the United States. Mississippi began using the program in June of 2011. While the pilot stalled for a lengthy period, the USCIS announced today that **Florida** will be the next state to provide the federal government access to its motor vehicle identification database. With this addition, the driver license number placed into the E-Verify system is reviewed for comparison with the number in the issuing authority's records.

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Yesterday's issue seems to stem from the upgrade and will likely be resolved quickly. It appears that the system is still being updated, however, and the installation process is effecting the processing of some employees, resulting in erroneous Social Security Administration Tentative Non-Confirmations (SSA TNC). If an employee receives a SSA TNC, the next step in E-Verify is for the employer to click the "Print Notice" button so the user can review the TNC notice with the employee and the employee can choose whether to contest or not contest the TNC.



However, as a result of the updates to E-Verify, when employers click the "Print Notice" button, E-Verify does not generate the SSA TNC notice, but instead provides the following error message:



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E-Verify representatives have acknowledged the issue and are working to resolve it. E-Verify recommends that employers close the case that received a SSA TNC, selecting the reason that the *data entered is incorrect*.





E-Verify is working on fixing the problem and anticipates that all issues should be resolved by today, December 11, 2012. They further recommend re-entering the employee's data into E-Verify today. It is likely that many of these TNCs will be employment authorized once the system is working properly.

#### For more information on the E-Verify program and immigration compliance, contact Dawn Lurie at 202.469.4963 or Mahsa Aliaskari at 310.228.2280.

The insight and intuitive ability to stay ahead of aggressive enforcement trends is a trademark of Sheppard Mullin's Global Immigration & Compliance attorneys. The importance of working with an experienced team knowledgeable in investigative procedures, policy implementation and the nuances of the law is critical during a reactive situation. Such expertise can also be put to work, proactively, and can save your company time and money. Sheppard Mullin has extensive experience in advising multinational corporations on how to minimize exposure and liability regarding a variety of issues, including Form I-9 and E-Verify employment eligibility verification matters in both the administrative and criminal areas. Offering a multidisciplinary approach and a unique perspective on global compliance planning, we provide immigration counsel with eye towards deterring international corruption and bribery with a representation in Foreign Corrupt Practice Act (FCPA) and Export Administration regulatory matters. Domestically we offer H-1B (Labor Condition Application) audits, and develop overall compliance strategies, compliance programs and we perform internal I-9 compliance inspections. SMRH attorneys have successfully defended businesses involved in large-scale government worksite enforcement actions, I-9 Audits and Department of Labor Wage and Hour investigations. We regularly provide counsel on a variety of compliance-related issues, including penalties for failure to act in accordance with government regulations, IRCA anti-discrimination laws, Office of Special Counsel Investigations, and employers' responsibilities when faced traditional no-match situations as well as more serious workplace identity theft or other alleged misrepresentations made by employees.