

January 15, 2013

## Employers Should Use Revised FCRA Disclosure for Employees and Job Applicants

Employers who use consumer reports as part of their decision-making process in the hiring, promotion or firing of employees should note the [attached](#) "A Summary of Your Rights under the Fair Credit Reporting Act" issued by the CFPB. The attached is part of rulemaking promulgated by the CFPB to reflect its assumption of rulemaking and enforcement authority under FCRA.

An employer must obtain written permission from an employee or job applicant before obtaining any consumer report with respect to the relevant employment decision. In addition, before obtaining an investigative consumer report (a report containing information gathered from personal interviews regarding character, reputation, lifestyle or personal characteristics), the employer must provide to the employee or applicant the "Summary of Your Rights," together with a written disclosure on the types of information to be obtained from the investigative report, the sources of the information, and the right of the employee or applicant to request further disclosure of the nature and scope of the investigation. Finally, before taking adverse action based on information contained in a consumer report, regardless of whether it is an investigative consumer report, the employer must provide to the affected employee or applicant the "Summary of Your Rights," as well as a copy of the relevant consumer report.

Employers using the original version of the Summary issued by the CFPB in December 2011 may continue to use that version, rather than the updated attached Summary, until issuance by the CFPB of a complete restatement of its Fair Credit Reporting Act regulations, which is anticipated later this year. Employers, however, should consider using the new version of the Summary as soon as practicable.

For more information about CFPB rules and regulations, please visit <http://www.cfpaguide.com/>, a website with weekly updates produced by the Sutherland Consumer Financial Services Team.



*If you have any questions about this Legal Alert, please contact any of the contributing attorneys listed below or the Sutherland attorney with whom you regularly work.*

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