

COMPLIANCE UPDATE

WHAT EMPLOYERS NEED TO KNOW ABOUT THE NEW ADDRESS DISCREPANCY RULES

Note: The following information is presented as general education information and is not intended to be legal advice, either expressed or implied. Consultation with legal counsel is recommended for all employment law matters.

Recently, there has been much debate regarding new regulations that go into effect November 1, 2008, and their application to users of consumer reports from background screening companies. The purpose of this communication is to address how you may be affected by these new rules which have been adopted as part of the Fair and Accurate Transactions Act (FACT Act).

The intent of these new regulations is to identify those who may be victims of identity theft. The regulations have requirements for dealing with “Address Discrepancies” on consumer reports and a special set of rules for financial institutions and creditors known as the “Red Flag Rules”. **These new requirements become effective on November 1st, 2008.**

In an attempt to combat identity theft, Congress, as part of the FACT Act, required “nationwide” consumer credit reporting agencies (such as TransUnion, Equifax and Experian as defined by Section 603(p) of the Fair Credit Reporting Act) to notify a requestor of a consumer report when there is an address discrepancy, if the address in the nationwide CRA’s files are “**substantially different**” from the address provided to the CRA by the requestor. For example, a message may appear on a Consumer Credit Report, a PEER Report or an ID Report (TRUSST Social Security Trace) that notes that the “Input Address is Different than Address on File”. If such a message is received, then you must take an action to verify the address beginning on November 1st, 2008.

Please note that **Acxiom Information Security Services**, as a specialty consumer reporting agency and reseller of information from nationwide credit bureaus, is not required to produce any specific notice, but **will deliver the notification to you** as provided to Acxiom by any nationwide consumer credit reporting agency.

These new Address Discrepancy Rules require a user to develop and implement a verification process in the event that they receive a notice of address discrepancy. This policy would enable the user to form a reasonable belief whether the consumer report relates to the consumer about whom it was requested. If the user cannot form a reasonable belief that the report relates to the applicant/consumer, the report may not be used.

In the event a user receives notice from a nationwide consumer reporting agency that the address the user provided is “substantially different” from the address in the nationwide Consumer Reporting Agency’s files, the user must then take reasonable steps to enable the user to form a reasonable belief that the consumer report actually relates to the applicant/consumer about whom the user has requested the consumer report.

Axiom recommends the following processes to be implemented as part of your verification policy:

- Verify the address information in the consumer report with the applicant/consumer;
- Compare the address information in the consumer report with information maintained in your own records, such as employment applications, driver’s license, change of address notifications or other retained documentation;
- Compare the address information in the consumer report with information you obtained from third party sources;
- If the client is required to have a “Customer Information Program” pursuant to the USA PATRIOT Act [31 U.S.C. §5318(1) and 31 C.F.R.§103.121], it should compare the information in the consumer report provided by the consumer reporting agency with information it has obtained and uses to verify the applicant/consumer’s identity.

Additional rules referred to as the “Red Flag Rules” will also apply to “financial institutions” and “creditors” with “covered accounts”. Please note that the definition of “creditor” is broad and extends to any company that provides goods or services **without demanding any payment up front**. These additional rules can be reviewed on the FTC website at www.ftc.gov/bcp/edu/pubs/business/alerts/alt050.shtm.