

This website (the "Site") is owned and operated by Bay Area Background Checks "we," or "us"). This Bay Area Background Checks Terms of Use ("Terms," "Agreement") is entered into by and between Bay Area Background Checks and the party ("User," "You," "Company," "Party") procuring services from the Site.

Bay Area Background Checks is a consumer reporting agency ("CRA") and, among other services, Bay Area Background Checks provides consumer reports and investigative consumer reports (collectively, "Screening Reports") as defined by the Fair Credit Reporting Act ("FCRA") and applicable state laws. In utilizing Bay Area Background Checks services, you are considered a "user" of consumer reports and/or investigative consumer reports under the FCRA and applicable state law. Bay Area Background Checks will furnish User with Screening Reports for employment purposes conditioned upon said User's compliance with this Agreement and fulfillment of all of its obligations (including payment) under this Agreement.

PLEASE READ THIS AGREEMENT CAREFULLY. BY ACCESSING, BROWSING, OR USING THE WEBSITE, OR MAKING A PURCHASE FROM US, YOU ACKNOWLEDGE AND AGREE TO COMPLY WITH, WITHOUT LIMITATION, THE FCRA AND OTHER APPLICABLE INTERNATIONAL, FEDERAL, STATE AND LOCAL LAWS, OUR PRIVACY POLICY, AND THESE TERMS.

Account Registration.

To use the Site, you need to create an account ("Account"). To be eligible to create an Account, User must be employed by a legal business entity verifiable by Bay Area Background Checks and are authorized to enter into this agreement with Bay Area Background Checks. When we set up your account, you will be provided login credentials. We reserve the right to terminate any username and password, which we reasonably determine may have been used by an unauthorized third party. For your protection and to protect the privacy of those individuals on whom you seek to obtain Screening Reports, you will be required to authenticate your identity by providing your Login Credentials each time you request access to Screening Reports.

Terms of Purchase.

When you purchase a Screening Report, you agree to pay using a valid payment method as indicated during registration ("Payment Method"), which will be charged at the time of your Purchase. You agree to provide us with accurate payment information and that we may store and use your Payment Method for use in billing future authorized purchases. We may use a third-party processor to process your Purchase, in which case the terms of your Purchase, such as refunds, payments, or customer service ("Third Party Terms"), may be governed by a third party seller. You are responsible for reading and understanding such Third Party Terms prior to making a Purchase. We reserve the right to suspend use of the Site without notice if your Payment Method is declined or is identified by our payment processor or by any Fraud Protection Method as being fraudulent or if you become delinquent in any payment obligation with us.

Fraud Prevention.

We employ active safeguards designed to detect and prevent fraud, as described in more detail in our Privacy Policy ("Fraud Detection Methods"). You consent to our use of any Fraud Protection Methods we determine to be commercially reasonable and to our cooperation with or use of any third party provider of such Fraud Protection Methods. You further agree to fully cooperate with all audits and investigations of our customers and systems. For more information about our privacy practices, including our Fraud Protection Methods, see our Privacy Policy.

Use and Restrictions.

When you make a Purchase, you agree to the following terms:

- 1) You certify to Bay Area Background Checks that you represent a legal business entity.
- 2) You are responsible for identifying and complying with the FCRA and all applicable State Laws in connection with the procurement and use of Screening Reports. You shall also review the Consumer Financial Protection Bureau (“CFPB”)’s “Notice to Users of Consumer Reports: Obligations of Users under the FCRA” attached as Exhibit A.
- 3) Agree to procure and use Screening Reports only for legally permissible employment purposes in order to evaluate an Applicant consumer for employment, promotion, reassignment or retention as an employee, and for no other purpose.
- 4) You will base all of your hiring decisions and related actions on your policies and procedures, not on Bay Area Background Checks. Bay Area Background Checks cannot offer legal advice. Any information provided by Bay Area Background Checks in the form of consultation, training and sample forms are provided for informational purposes and shall not be construed as legal advice. Bay Area Background Checks advises all employers to consult experienced counsel to ensure compliant procurement and use of Screening Reports in connection with their screening program and Federal and State Laws.
- 5) You further certify that prior to the procurement of a Screening Report for employment purposes: (i) you have made a clear and conspicuous disclosure in writing to the Applicant, in a document that consists solely of the disclosure, that a consumer report may be obtained for employment purposes and (for California Applicants, the disclosure includes the name, address and telephone number of Bay Area Background Checks, the nature and scope of the investigation requested, a summary of the provisions of Ca. Civil Code §1786.22, and otherwise complies with Ca. Civil Code §1786.16); and (ii) the Applicant has authorized in writing your procurement of the Screening Report (and for California Applicants, you have provided the Applicant, by means of a check box, an option by which the Applicant may indicate on their written consent form that the Applicant wishes to receive a copy of any Screening Report that is prepared).
- 6) In using a Screening Report for employment purposes, before taking any adverse action based in whole or in part on the Screening Report, you shall provide to the Applicant to whom the Screening Report relates: (i) a copy of the Screening Report; and (ii) a description in writing of the rights of the Applicant under the FCRA, as prescribed by the Federal Trade Commission under FCRA §609(c)(3) (the “Summary of Consumer Rights”), and any other notices required by applicable law.
- 7) After providing the Applicant with the pre-adverse action disclosure described in the above paragraph, and after you have given the Applicant reasonable time to dispute the information contained in their Screening Report, you will, if intending to take adverse action, send the Applicant a follow-up notification that the Company is taking adverse action (e.g., denying employment or promotion) based in whole or in part on the information contained in the Screening Report. You will again provide (i) a copy of the Screening Report; and (ii) a description in writing of the rights of the Applicant under the FCRA, as prescribed by the Federal Trade Commission under FCRA §609(c)(3) (the “Summary of Consumer Rights”), and any other notices required by applicable law.
- 8) Maintain records as required by law and maintain reasonable and appropriate physical, technical and administrative measures to protect against unauthorized access to and /or misuse of Screening Reports.

9) Agree to provide access to view Screening Reports on the Site only to Company employees, agents, and representatives who agree to comply with Company's obligations under the law and this Agreement.

10) Secure hard copies and electronic files of Screening Reports within your facility so that only authorized personnel can access them.

11) Shred or otherwise permanently destroy all hard copy Screening Reports when no longer needed and when applicable regulation(s) permit destruction, to prevent the unauthorized access to and/or use of applicant/employee data and/or any other personally identifiable information of applicants/employees.

12) Erase and overwrite or scramble electronic files containing Screening Reports and Applicant information when no longer needed and when applicable regulation(s) permit destruction, to prevent the unauthorized access to and/or use of applicant/employee data and/or any other personally identifiable information of applicants/employees.

13) You shall use the Screening Reports solely as an end user. You are prohibited from copying, retransmitting, modifying, disseminating, reselling, broadcasting, circulating, or otherwise distributing, in whole or in part, any Screening Reports furnished by Bay Area Background Checks.

14) If you reside in, or are seeking work in any of the following states, please review these additional notices:

California: You have the right to view your file that a Consumer Reporting Agency holds. By providing proper identification and duplication cost, you may obtain a copy of this information in person at the Consumer Reporting Agency during regular business hours and after providing reasonable notice for your request. Additionally, you can make the same request via mail or request a summary of the file over the phone. The Consumer Reporting Agency can assist you in understanding your file, including coded information. You are allowed to have one additional person accompany you so long as they provide proper identification.

Maine: You have the right to ask and know whether a company ordered a background check on you. You can request the name, address, and telephone number of the nearest Consumer Reporting Agency office. Your request will be processed and sent to you in 5 business days.

Massachusetts: You have the right to obtain a copy of any of your consumer reports that your company has ordered on you by contacting the Consumer Reporting Agency for a free copy.

New York: By submitting a written request, you can learn whether a company has run a background check on you. You are allowed to inspect and order a copy of the report by directly contacting the Consumer Reporting Agency. If you have been convicted of one or more criminal offenses, you can request the company to provide a written statement declaring the reasons for the refusal of hire. This statement must be provided to you within 30 days of your request.

Washington State: After submitting a written request and waiting a reasonable amount of time after receiving the disclosure, you have the right to receive a complete and accurate disclosure of the nature and scope of any "investigative" consumer reports requested by an agency. The Washington Fair Credit Reporting Act requires Consumer Reporting Agencies to provide you a summary of your rights and remedies upon request. Any information requested by a company that deals with credit worthiness, credit standing or capacity is justified in order for employers to evaluate whether you present a risk for theft or dishonest behavior for the job you are being considered for.

6. UNITED STATES ONLY.

By using the Site, you agree and acknowledge that it is hosted in the United States. You are specifically prohibited from attempting to access the Site from a physical location outside of the United States. By using the Site, you consent to the application of the laws of the United States and/or the State of California with respect to any dispute arising from or related to your use of the Site, other than such rules, regulations, case law, and/or international treaties that would result in the application of the laws of a jurisdiction other than the United States or the State of California, and (c) the exclusive jurisdiction of the courts of the United States and the State of California

7. DISCLAIMERS.

DISCLAIMER OF WARRANTIES. Screening Reports and other information in Bay Area Background Checks' databases have been compiled from public records and other proprietary sources for the specific purposes of providing background information and therefore such information is obtained by Bay Area Background Checks, and reported to Company, "AS IS". Neither Bay Area Background Checks nor any of its suppliers represents or warrants that the information from such records is complete or accurate, only that it has been accurately copied from public records. BAY AREA BACKGROUND CHECKS HEREBY DISCLAIMS ALL OTHER REPRESENTATIONS AND WARRANTIES REGARDING THE PERFORMANCE OF THE SERVICE AND THE ACCURACY, CURRENCY, OR COMPLETENESS OF ANY DATA, INFORMATION OR SCREENING REPORT, INCLUDING (WITHOUT LIMITATION) ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT, AND ANY IMPLIED INDEMNITIES.

SHOULD APPLICABLE LAW NOT PERMIT THE FOREGOING EXCLUSION OF EXPRESS OR IMPLIED WARRANTIES, THEN BAY AREA BACKGROUND CHECKS HEREBY GRANTS THE MINIMUM EXPRESS OR IMPLIED WARRANTY REQUIRED BY SUCH APPLICABLE LAW. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM BAY AREA BACKGROUND CHECKS, ITS EMPLOYEES, AGENTS, SUPPLIERS OR ANY OTHER PERSONS SHALL CREATE ANY WARRANTY, REPRESENTATION OR GUARANTEE NOT EXPRESSLY STATED IN THIS SECTION. ADDITIONALLY, BAY AREA BACKGROUND CHECKS DOES NOT MAKE ANY WARRANTIES THAT THE SCREENING REPORTS, THE SITE, OR ANY FEATURES OR FUNCTIONALITY OF THE SITE, WILL BE UNINTERRUPTED, SECURE OR ERROR FREE OR THAT YOUR USE OF THE SITE WILL MEET YOUR EXPECTATIONS, OR THAT THE SITE, CONTENT, OR ANY PORTION THEREOF, IS CORRECT, COMPLETE, ACCURATE, OR RELIABLE. BAY AREA BACKGROUND CHECKS RESERVES THE RIGHT TO CHANGE ANY PART OF THE SITE AT ANYTIME WITHOUT NOTICE.

8. LIMITATION OF LIABILITY.

YOUR USE OF THE SITE IS AT YOUR OWN RISK. NEITHER BAY AREA BACKGROUND CHECKS, ITS AFFILIATES, ANY OF ITS OR THEIR RESPECTIVE OFFICERS, DIRECTORS, NOR ANY THIRD PARTY INVOLVED IN THE CREATION, PRODUCTION, OR DELIVERY OF ANY DATA, INFORMATION OR SCREENING REPORTS WILL BE LIABLE FOR ANY DAMAGES, DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR PUNITIVE, INCLUDING, WITHOUT LIMITATION, LOSS OF DATA, INCOME, PROFIT OR GOODWILL, LOSS OF OR DAMAGE TO PROPERTY AND CLAIMS OF THIRD PARTIES ARISING OUT OF YOUR ACCESS TO OR USE OF THE SITE OR ARISING OUT OF ANY ACTION TAKEN IN RESPONSE TO OR AS A RESULT OF ANY SCREENING REPORT OR OTHER INFORMATION AVAILABLE ON THE SITE, HOWEVER CAUSED, WHETHER BASED ON BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), PROPRIETARY RIGHTS INFRINGEMENT, PRODUCT LIABILITY OR OTHERWISE. THE FOREGOING SHALL APPLY EVEN IF BAY AREA BACKGROUND CHECKS WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IF YOU BECOME DISSATISFIED IN ANY WAY WITH THE SITE, YOUR SOLE AND EXCLUSIVE REMEDY IS TO STOP YOUR USE OF THE SITE. YOU HEREBY WAIVE ANY AND ALL CLAIMS AGAINST BAY AREA

BACKGROUND CHECKS, AND ITS AFFILIATES, AGENTS, REPRESENTATIVES AND LICENSORS ARISING OUT OF YOUR USE OF THE SITE. BECAUSE SOME STATES DO NOT ALLOW THE DISCLAIMER OF IMPLIED WARRANTIES OR THE EXCLUSION OR LIMITATION OF CERTAIN TYPES OF DAMAGES, THESE PROVISIONS MAY NOT APPLY TO YOU. IF ANY PORTION OF THIS LIMITATION ON LIABILITY IS FOUND TO BE INVALID OR UNENFORCEABLE FOR ANY REASON, THEN THE AGGREGATE LIABILITY OF BAY AREA BACKGROUND CHECKS AND ITS AFFILIATES SHALL NOT EXCEED THE LESSER OF THE COST OF THE SCREENING REPORT ORDERED OR ONE HUNDRED DOLLARS (\$100.00) THE LIMITATION OF LIABILITY HEREIN IS A FUNDAMENTAL ELEMENT OF THE BASIS OF THE AGREEMENT AND REFLECTS A FAIR ALLOCATION OF RISK. THE WEBSITE WOULD NOT BE PROVIDED WITHOUT SUCH LIMITATIONS AND YOU AGREE THAT THE LIMITATIONS AND EXCLUSIONS OF LIABILITY, DISCLAIMERS AND EXCLUSIVE REMEDIES SPECIFIED HEREIN WILL SURVIVE EVEN IF FOUND TO HAVE FAILED IN THEIR ESSENTIAL PURPOSE.

9. INDEMNITY.

You hereby agree to defend, indemnify and hold harmless Bay Area Background Checks, its owners, parents, subsidiaries, and/or affiliates, and its and their respective officers, directors, employees, agents, successors and assigns, from and against any and all claims, damages, obligations, losses, liabilities, costs or debt, and expenses (including but not limited to attorney's fees) based upon any material breach of this Agreement by Company, including but not limited to: (a) illegal or wrongful use or obtaining of any Screening Report (b) Company's gross negligence or intentional wrongdoing in connection with the use or obtaining of the Screening Report (c) Company's failure to comply with its obligations under the FCRA or other applicable state or local laws.

This defense and indemnification obligation will survive these Terms and your use of the Site.

10. ABILITY TO ACCEPT TERMS OF USE.

You affirm that you are fully able and competent to enter into the terms, conditions, obligations, affirmations, representations, and warranties set forth in these Terms, and to abide by and comply with these Terms.

11. ASSIGNMENT.

These Terms, and any rights and licenses granted hereunder, may not be transferred or assigned by you, but may be assigned by Bay Area Background Checks without restriction.

12. CHANGES TO THESE TERMS.

From time to time, Bay Area Background Checks may revise these Terms. To help you stay current of any changes, Bay Area Background Checks notes the date these Terms were last updated below. Your use of the Site following the posting of any revised Terms shall be deemed acceptance of the revised Terms. Bay Area Background Checks strongly recommends checking these Terms periodically. If, and only if, Bay Area Background Checks makes revisions to these Terms that result in a material lessening of the restrictions on Bay Area Backgrounds Checks use or disclosure of your Personal Information (as defined in our Privacy Policy), Bay Area Background Checks will make a commercially reasonable attempt to obtain your consent before implementing such revisions with respect to such Personal Information.

If you disagree with the provisions of these Terms at any time, your sole remedy is to terminate your use of the Website and inform us of such termination as described in these Terms. Continued use of the Website constitutes your agreement to these Terms as in effect.

13. MISCELLANEOUS.

Bay Area Background Checks failure to enforce any provision of these Terms shall not be deemed a waiver of such provision nor of the right to enforce such provision. If any part of these Terms is determined to be invalid or unenforceable pursuant to applicable law, including, but not limited to, the warranty disclaimers and liability limitations set forth above, then the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision and the remainder of these Terms shall continue in effect. A printed version of these Terms and of any notice given in electronic form shall be admissible in judicial or administrative proceedings based upon or relating to these Terms to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form.

14. TERMINATION.

Bay Area Background Checks may cancel, suspend or block your use of the Site and terminate your Account without notice if there has been a suspected violation of these Terms. Bay Area Background Checks is not responsible or liable for any information that is made unavailable to you as a result of termination of your Account. YOU AGREE THAT BAY AREA BACKGROUND CHECKS WILL NOT BE LIABLE TO YOU OR ANY OTHER PARTY FOR ANY TERMINATION OF YOUR ACCOUNT. Any limitations on liability or other provisions of these Terms that favor Bay Area Background Checks will survive the expiration or termination of these Terms for any reason.

15. NOTICES AND AGREEMENT TO BE BOUND BY ELECTRONIC SIGNATURE.

Your affirmative act of using the Site constitutes your electronic signature to these Terms and your consent to enter into agreements with Bay Area Background Checks electronically. You also agree that Bay Area Background Checks may send any privacy or other notices, in electronic form to the e-mail address that you provided during registration, or by posting on our Website. The delivery of any Notice is effective when sent by Bay Area Background Checks, regardless of whether you read the Notice when you receive it or whether you actually receive the delivery. All contracts completed electronically will be deemed for all legal purposes to be in writing and legally enforceable as a signed writing.

Last Updated April, 2014

Exhibit A

All users of consumer reports must comply with all applicable regulations. Information about applicable regulations currently in effect can be found at the Consumer Financial Protection Bureau's website, www.consumerfinance.gov/learnmore.

NOTICE TO USERS OF CONSUMER REPORTS: OBLIGATIONS OF USERS UNDER THE FCRA

The Fair Credit Reporting Act (FCRA), 15 U.S.C. §1681–1681y, requires that this notice be provided to inform users of consumer reports of their legal obligations. State law may impose additional requirements. The text of the FCRA is set forth in full at the Bureau of Consumer Financial Protection’s website at www.consumerfinance.gov/learnmore. □

At the end of this document is a list of United States Code citations for the FCRA. Other information about user duties is also available at the Bureau’s website. Users must consult the relevant provisions of the FCRA for details about their obligations under the FCRA.

The first section of this summary sets forth the responsibilities imposed by the FCRA on all users of consumer reports. The subsequent sections discuss the duties of users of reports that contain specific types of information, or that are used for certain purposes, and the legal consequences of violations. If you are a furnisher of information to a consumer reporting agency (CRA), you have additional obligations and will receive a separate notice from the CRA describing your duties as a furnisher.

I. OBLIGATIONS OF ALL USERS OF CONSUMER REPORTS

A. Users Must Have a Permissible Purpose

Congress has limited the use of consumer reports to protect consumers’ privacy. All users must have a permissible purpose under the FCRA to obtain a consumer report. Section 604 contains a list of the permissible purposes under the law. These are:

- As ordered by a court or a federal grand jury subpoena. Section 604(a)(1)
- As instructed by the consumer in writing. Section 604(a)(2)
- For the extension of credit as a result of an application from a consumer, or the review or collection of a consumer’s account. Section 604(a)(3)(A)
- For employment purposes, including hiring and promotion decisions, where the consumer has given written permission. Sections 604(a)(3)(B) and 604(b)
- For the underwriting of insurance as a result of an application from a consumer. Section 604(a)(3)(C)
- When there is a legitimate business need, in connection with a business transaction that is initiated by the consumer. Section 604(a)(3)(F)(i)
- To review a consumer’s account to determine whether the consumer continues to meet the terms of the account. Section 604(a)(3)(F)(ii)
- To determine a consumer’s eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider an applicant’s financial responsibility or status. Section 604(a)(3)(D)
- For use by a potential investor or servicer, or current insurer, in a valuation or assessment of the credit or prepayment risks associated with an existing credit obligation. Section 604(a)(3)(E)
- For use by state and local officials in connection with the determination of child support payments, or modifications and enforcement thereof. Sections 604(a)(4) and 604(a)(5)

In addition, creditors and insurers may obtain certain consumer report information for the purpose of making “prescreened” unsolicited offers of credit or insurance. Section 604(c). The particular obligations of users of “prescreened” information are described in Section VII below.

B. Users Must Provide Certifications

Section 604(f) prohibits any person from obtaining a consumer report from a consumer reporting agency (CRA) unless the person has certified to the CRA the permissible purpose(s) for which the report is being obtained and certifies that the report will not be used for any other purpose.

C. Users Must Notify Consumers When Adverse Actions Are Taken

The term “adverse action” is defined very broadly by Section 603. “Adverse actions” include all business, credit, and employment actions affecting consumers that can be considered to have a negative impact as defined by Section 603(k) of the FCRA – such as denying or canceling credit or insurance, or denying employment or promotion. No adverse action occurs in a credit transaction where the creditor makes a counteroffer that is accepted by the consumer.

1. Adverse Actions Based on Information Obtained From a CRA

If a user takes any type of adverse action as defined by the FCRA that is based at least in part on information contained in a consumer report, Section 615(a) requires the user to notify the consumer. The notification may be done in writing, orally, or by electronic means. It must include the following:

- The name, address, and telephone number of the CRA (including a toll-free telephone number, if it is a nationwide CRA) that provided the report.
- A statement that the CRA did not make the adverse decision and is not able to explain why the decision was made.
- A statement setting forth the consumer’s right to obtain a free disclosure of the consumer’s file from the CRA if the consumer makes a request within 60 days.
- A statement setting forth the consumer’s right to dispute directly with the CRA the accuracy or completeness of any information provided by the CRA.

2. Adverse Actions Based on Information Obtained From Third Parties Who Are Not Consumer Reporting Agencies

If a person denies (or increases the charge for) credit for personal, family, or household purposes based either wholly or partly upon information from a person other than a CRA, and the information is the type of consumer information covered by the FCRA, Section 615(b)(1) requires that the user clearly and accurately disclose to the consumer his or her right to be told the nature of the information that was relied upon if the consumer makes a written request within 60 days of notification. The user must provide the disclosure within a reasonable period of time following the consumer’s written request.

3. Adverse Actions Based on Information Obtained From Affiliates

If a person takes an adverse action involving insurance, employment, or a credit transaction initiated by the consumer, based on information of the type covered by the FCRA, and this information was obtained from an entity affiliated with the user of the information by common ownership or control, Section 615(b)(2) requires the user to notify the consumer of the adverse action. The notice must inform the consumer that he or she may obtain a disclosure of the nature of the information relied upon by making a written request within 60 days of receiving the adverse action notice. If the consumer makes such a request, the user must disclose the nature of the information not later than 30 days after receiving the request. If consumer report information is shared among affiliates and then used for an adverse action, the user must make an adverse action disclosure as set forth in I.C.1 above.

D. Users Have Obligations When Fraud and Active Duty Military Alerts are in Files

When a consumer has placed a fraud alert, including one relating to identify theft, or an active duty military alert with a nationwide consumer reporting agency as defined in Section 603(p) and resellers, Section 605A(h) imposes limitations on users of reports obtained from the consumer reporting agency in certain circumstances, including the establishment of a new credit plan and the issuance of additional credit cards. For initial fraud alerts and active duty alerts, the user must have reasonable policies and procedures in place to form a belief that the user knows the identity of the applicant or contact the consumer at a telephone number specified by the consumer; in the case of extended fraud alerts, the user must contact the consumer in accordance with the contact information provided in the consumer's alert.

E. Users Have Obligations When Notified of an Address Discrepancy

Section 605(h) requires nationwide CRAs, as defined in Section 603(p), to notify users that request reports when the address for a consumer provided by the user in requesting the report is substantially different from the addresses in the consumer's file. When this occurs, users must comply with regulations specifying the procedures to be followed, which will be issued by the Consumer Financial Protection Bureau and the banking and credit union regulators.

The Consumer Financial Protection Bureau regulations will be available at www.consumerfinance.gov/learnmore.

F. Users Have Obligations When Disposing of Records

Section 628 requires that all users of consumer report information have in place procedures to properly dispose of records containing this information. The Consumer Financial Protection Bureau, the Securities and Exchange Commission, and the banking and credit union regulators have issued regulations covering disposal. The Consumer Financial Protection Bureau regulations may be found at www.consumerfinance.gov/learnmore/.

II. CREDITORS MUST MAKE ADDITIONAL DISCLOSURES

If a person uses a consumer report in connection with an application for, or a grant, extension, or provision of, credit to a consumer on material terms that are materially less favorable than the most favorable terms available to a substantial proportion of consumers from or through that person, based in whole or in part on a consumer report, the person must provide a risk-based pricing notice to the consumer in accordance with regulations prescribed by the Consumer Financial Protection Bureau.

Section 609(g) requires a disclosure by all persons that make or arrange loans secured by residential real property (one to four units) and that use credit scores. These persons must provide credit scores and other information about credit scores to applicants, including the disclosure set forth in Section 609(g)(1)(D) ("Notice to the Home Loan Applicant").

III. OBLIGATIONS OF USERS WHEN CONSUMER REPORTS ARE OBTAINED FOR EMPLOYMENT PURPOSES

A. Employment Other Than in the Trucking Industry

If the information from a CRA is used for employment purposes, the user has specific duties, which are set forth in Section 604(b) of the FCRA. The user must:

- Make a clear and conspicuous written disclosure to the consumer before the report is obtained, in a document that consists solely of the disclosure, that a consumer report may be obtained.
- Obtain from the consumer prior written authorization. Authorization to access reports during the term of employment may be obtained at the time of employment.
- Certify to the CRA that the above steps have been followed, that the information being obtained will not be used in violation of any federal or state equal opportunity law or regulation, and that, if any adverse action is to be taken based on the consumer report, a copy of the report and a summary of the consumer's rights will be provided to the consumer.
- Before taking an adverse action, the user must provide a copy of the report to the consumer as well as the summary of consumer's rights (The user should receive this summary from the CRA.) A Section 615(a) adverse action notice should be sent after the adverse action is taken.

An adverse action notice also is required in employment situations if credit information (other than transactions and experience data) obtained from an affiliate is used to deny employment. Section 615(b)(2).

The procedures for investigative consumer reports and employee misconduct investigations are set forth below.

B. Employment in the Trucking Industry

Special rules apply for truck drivers where the only interaction between the consumer and the potential employer is by mail, telephone, or computer. In this case, the consumer may provide consent orally or electronically, and an adverse action may be made orally, in writing, or electronically. The consumer may obtain a copy of any report relied upon by the trucking company by contacting the company.

IV. OBLIGATIONS WHEN INVESTIGATIVE CONSUMER REPORTS ARE USED

Investigative consumer reports are a special type of consumer report in which information about a consumer's character, general reputation, personal characteristics, and mode of living is obtained through personal interviews by an entity or person that is a consumer reporting agency. Consumers who are the subjects of such reports are given special rights under the FCRA. If a user intends to obtain an investigative consumer report, Section 606 requires the following:

- The user must disclose to the consumer that an investigative consumer report may be obtained. This must be done in a written disclosure that is mailed, or otherwise delivered, to the consumer at some time before or not later than three days after the date on which the report was first requested. The disclosure must include a statement informing the consumer of his or her right to request additional disclosures of the nature and scope of the investigation as described below, and the summary of consumer rights required by Section 609 of the FCRA. (The summary of consumer rights will be provided by the CRA that conducts the investigation.)
- The user must certify to the CRA that the disclosures set forth above have been made and that the user will make the disclosure described below.
- Upon the written request of a consumer made within a reasonable period of time after the disclosures required above, the user must make a complete disclosure of the nature and scope of the investigation. This must be made in a written statement that is mailed or otherwise delivered, to the

consumer no later than five days after the date on which the request was received from the consumer or the report was first requested, whichever is later in time.

V. SPECIAL PROCEDURES FOR EMPLOYEE INVESTIGATIONS

Section 603(x) provides special procedures for investigations of suspected misconduct by an employee or for compliance with Federal, state or local laws and regulations or the rules of a self-regulatory organization, and compliance with written policies of the employer. These investigations are not treated as consumer reports so long as the employer or its agent complies with the procedures set forth in Section 603(x), and a summary describing the nature and scope of the inquiry is made to the employee if an adverse action is taken based on the investigation.

VI. OBLIGATIONS OF USERS OF MEDICAL INFORMATION

Section 604(g) limits the use of medical information obtained from consumer reporting agencies (other than payment information that appears in a coded form that does not identify the medical provider). If the information is to be used for an insurance transaction, the consumer must give consent to the user of the report or the information must be coded. If the report is to be used for employment purposes – or in connection with a credit transaction (except as provided in regulations issued by the banking and credit union regulators) – the consumer must provide specific written consent and the medical information must be relevant. Any user who receives medical information shall not disclose the information to any other person (except where necessary to carry out the purpose for which the information was disclosed, or a permitted by statute, regulation, or order).

VII. OBLIGATIONS OF USERS OF “PRESCREENED” LISTS

The FCRA permits creditors and insurers to obtain limited consumer report information for use in connection with unsolicited offers of credit or insurance under certain circumstances. Sections 603(1), 604(c), 604(e), and 614(d). This practice is known as “prescreening” and typically involves obtaining a list of consumers from a CRA who meet certain pre-established criteria. If any person intends to use prescreened lists, that person must (1) before the offer is made, establish the criteria that will be relied upon to make the offer and grant credit or insurance, and (2) maintain such criteria on file for a three-year period beginning on the date on which the offer is made to each consumer. In addition, any user must provide with each written solicitation a clear and conspicuous statement that:

- Information contained in a consumer’s CRA file was used in connection with the transaction.
- The consumer received the offer because he or she satisfied the criteria for credit worthiness or insurability used to screen for the offer.
- Credit or insurance may not be extended if, after the consumer responds, it is determined that the consumer does not meet the criteria used for screening or any applicable criteria bearing on credit worthiness or insurability, or the consumer does not furnish required collateral.
- The consumer may prohibit the use of information in his or her file in connection with future prescreened offers of credit or insurance by contacting the notification system established by the CRA that provided the report. The statement must include the address and toll-free telephone number of the appropriate notification system.

In addition, the Consumer Financial Protection Bureau has established the format, type size, and manner of the disclosure required by Section 615(d), with which users must comply. The regulation is 12 CFR 1022.54.

VIII. OBLIGATIONS OF RESELLERS

A. Disclosure and Certification Requirements

Section 607(e) requires any person who obtains a consumer report for resale to take the following steps:

- Disclose the identity of the end-user to the source CRA.
- Identify to the source CRA each permissible purpose for which the report will be furnished to the end-user.
- Establish and follow reasonable procedures to ensure that reports are resold only for permissible purposes, including procedures to obtain:
 1. the identify of all end-users;
 2. certifications from all users of each purpose for which reports will be used; and
 3. certifications that reports will not be used for any purpose other than the purpose(s) specified to the reseller. Resellers must make reasonable efforts to verify this information before selling the report.

B. Reinvestigations by Resellers

Under Section 611(f), if a consumer disputes the accuracy or completeness of information in a report prepared by a reseller, the reseller must determine whether this is a result of an action or omission on its part and, if so, correct or delete the information. If not, the reseller must send the dispute to the source CRA for reinvestigation. When any CRA notifies the reseller of the results of an investigation, the reseller must immediately convey the information to the consumer.

C. Fraud Alerts and Resellers

Section 605A(f) requires resellers who receive fraud alerts or active duty alerts from another consumer reporting agency to include these in their reports.

IX. LIABILITY FOR VIOLATIONS OF THE FCRA

Failure to comply with the FCRA can result in state government or federal government enforcement actions, as well as private lawsuits. Sections 616, 617, and 621. In addition, any person who knowingly and willfully obtains a consumer report under false pretenses may face criminal prosecution. Section 619.

The Consumer Financial Protection Bureau website, www.consumerfinance.gov/learnmore, has more information about the FCRA.

Citations for FCRA sections in the U.S. Code, 15 U.S.C. § 1618 et seq.:

Section 603	15 U.S.C. 1681
Section 604	15 U.S.C. 1681a
Section 605	15 U.S.C. 1681b

Section 605A	15 U.S.C. 1681c
Section 605B	15 U.S.C. 1681c-1
Section 606	15 U.S.C. 1681c-2
Section 607	15 U.S.C. 1681d
Section 608	15 U.S.C. 1681e
Section 609	15 U.S.C. 1681f
Section 610	15 U.S.C. 1681g
Section 611	15 U.S.C. 1681h
Section 612	15 U.S.C. 1681i
Section 613	15 U.S.C. 1681j
Section 614	15 U.S.C. 1681k
Section 615	15 U.S.C. 1681l
Section 616	15 U.S.C. 1681m
Section 617	15 U.S.C. 1681n
Section 618	15 U.S.C. 1681o
Section 619	15 U.S.C. 1681p
Section 620	15 U.S.C. 1681q
Section 621	15 U.S.C. 1681r
Section 622	15 U.S.C. 1681s
Section 623	15 U.S.C. 1681s-1
Section 624	15 U.S.C. 1681s-2
Section 625	15 U.S.C. 1681t
Section 626	15 U.S.C. 1681u
Section 627	15 U.S.C. 1681v
Section 628	15 U.S.C. 1681w
Section 629	15 U.S.C. 1681x
	15 U.S.C. 1681y