

The Commencement of the FCRA's Adverse Action Process

Question:

When does the Fair Credit Reporting Act (FCRA)'s adverse action process begin to apply?

Response & Analysis:

The FCRA's adverse action process begins to apply as soon as you receive any information from a consumer reporting agency (CRA) that could be used in an employment decision.

Employers often order consumer reports with several parts or components, such as criminal searches, employment verifications, credit checks or a number of other possible applicant screening services. When an employer orders a consumer report that consists of several components, some of those searches or verifications may return results sooner than others. Some CRAs allow employers to view the results of individual components of the consumer report as they are completed even though the report as a whole is not yet complete.

When a specific part or component of an in-process consumer report is viewed, the FCRA still applies because the information falls within the FCRA's definition of a "consumer report."

Thus, anytime an employer is going to use any information received from a CRA—either in whole or in part—to make an employment decision, the employer must follow all FCRA requirements, including the pre-adverse and adverse action notification processes.

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