

THE NATIONAL LAW REVIEW

Mark Your Calendars: New FCRA Summary of Rights Notice Requirements Go into Effect September 21, 2018

Thursday, September 20, 2018

Things are changing in FCRAland.

The Economic Growth, Regulatory Relief, and Consumer Protection Act (“Act”) (full text [here](#)) has added a new section the Fair Credit Reporting Act (“FCRA”), section 605A(i), which goes into effect **tomorrow, September 21, 2018**.

Among other things, section 605A(i) requires nationwide consumer reporting agencies to provide “national security freezes” free of charge to consumers. Pursuant to the new section 605A(i)(5), entities must include notice of the consumer’s right to a free credit freeze whenever a consumer is required to receive a summary of rights pursuant to FCRA section 609.

Overall, the disclosure requirements under section 609 are extensive (check them out [right here](#)) and if we included them all in this post, you might vow to never visit FRCALand.com again. We don’t want that, and with all of the fantastic posts we have in store for you, you don’t want that either. So, in the interests of brevity (and continued readership), here is what you should know about the new disclosure:

The Summary of Rights (collectively, “Summaries”) mandated by Section 609 include:

(1) The Summary of Consumer Rights to Obtain and Dispute Information in Consumer Reports and to Obtain Credit Scores. This includes, among other things, the right to obtain a copy of a consumer report, the circumstances and frequency in which a consumer is entitled to receive a free consumer report, the consumer’s right to dispute information in the consumer’s credit file, and the right to obtain a credit score; and

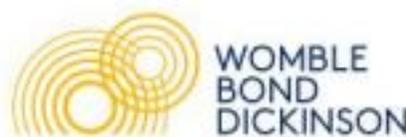
(2) The Summary of Consumer Identity Theft Rights. This includes rights of consumers to correct fraud or identity theft issues in their credit files.

See 15 U.S.C. 1681g(c)(1)(A), (d)(1), (d)(2).

Pursuant to the FCRA, the Bureau of Consumer Financial Protection (“CFPB”) is required to prepare a model of each of the Summaries for consumer credit reporting agencies to utilize when making disclosures. The models are found in Appendix I and Appendix K of the FCRA, and can be accessed online at the Government Publishing Office, Electronic Code of Federal Regulations (“e-CFR”) or by clicking [here](#).

The last model forms were published on November 14, 2012 and do not incorporate the changes. If you visit these sites, check at the bottom of the page to make sure you are using the updated version published on or about September 21, 2018. As of today, September 20, 2018, the 2012 version is still up on the site.

If you work for an entity that is required to give the Summaries and you are wondering how to incorporate the



Article By
[Nadia Adams](#)
[Womble Bond Dickinson \(US\) LLP](#)

[Consumer Protection](#)
[Financial Institutions & Banking](#)
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change, you can use CFPB's model forms when they come out (or get a preview of the forms by reviewing 12 CFR Part 1022, Docket No. CFPB-2018-0025, RIN 3170-AA82).

Otherwise, the CFPB recognizes that some entities may have already prepared for the change – since the Act became law nearly 120 days ago – by revising their existing Summaries to include the newly required notice, and that the notice might be in a different location than the CFPB's long-awaited model form. If an entity's form is the same as the CFPB's but the section 605A(1)(5) disclosure is in a different location on the form, the CFPB will consider the form “substantially similar” and compliant with the FCRA. *Id.*

Likewise, forms that deviate in other ways from the model but that are still substantially similar to the CFPB's model form, will also constitute compliance with the FCRA provisions. *Id.*

The CFPB also recognized that some entities might find it less burdensome to include the section 605A(i)(5) notice on a separate page in the same transmittal as the form the entity is currently using (the CFPB model published on November 14, 2012 or a form substantially similar to it). Thus, the CFPB will regard the 2012 form (or something substantially similar) along with a separate page containing the new disclosure (confirming to the CFPB's new model form) as compliant. *Id.*

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