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Rev Up the Shredder: Companies Must Properly Dispose of Personal Information

Starting on June 1, 2005, taking out the trash will have a whole new meaning for employers and businesses. That is the day that the Federal Trade Commission's new rule regarding the proper disposal of confidential consumer information goes into effect. The regulation was drafted pursuant to the Fair and Accurate Credit Transactions Act of 2003 (FACTA), and requires covered entities to take "reasonable measures" to keep "consumer information" out of the hands of those who are not authorized to see or use it. The law includes consumer information (or a compilation) in paper, electronic or other forms, but only if it is a consumer report or derived from a consumer report, as those terms are defined by the Fair Credit Reporting Act.

The new regulation addresses the destruction of consumer information obtained about current employees, former employees, job applicants, customers and vendors through credit checks, background checks, or other business investigations, **but only if the information is in the form of a consumer report or is derived from a consumer report.** All information covered by the regulation must be disposed of in a way that reduces the chance it will be stolen by an identity thief.

"Reasonable measures" will differ depending on a company's size, capabilities, and the amount of sensitive personal information it generates or obtains. However, even the smallest company should review the way it disposes of such items as reports of background checks for rejected job applicants or credit reports for potential customers. At the very least, businesses should consider shredding such information before throwing it away, particularly if the garbage sits in an accessible area (such as a common trash room) for a period of time before being taken away. It also is important to audit disposal practices to make sure that

nothing is overlooked. This includes reviewing not only procedures for destroying paper records, but also the way electronic information is disposed of, either by erasing or otherwise destroying computer disks or actually erasing information from computer hard drives or storage files when it is no longer needed.

If you have questions about proper disposal procedures for your company, contact your Seyfarth Shaw attorney.



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