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IA Compliance: Master Emerging Challenges

Sept. 16, 2019 | Philadelphia, PA

UPCOMING WEBINARS

Conquering Current Compliance Challenges

Sept. 11, 2019 | 2:00 - 2:30 PM EST

RECORDED WEBINARS

Conquering Current Compliance Challenges

Recorded: August 14, 2019

HANDBOOKS

Private Equity Enforcement Lessons Learned: Compliance Guidance for the PE Business Model

Includes: Best Practices, Key Regulatory Issues and Compliance Tips

The SEC Examinations Priorities Handbook (2019 Edition)

Includes: Best Practices, Document Request Letters and OCIE Risk Alerts

The Adviser's Guide to SEC Advertising and Marketing Rules

Includes: 23 Best Practices, 5 Peer-tested tools and 15 No Action Letters

Search IA Watch



Bringing to the forefront what you need to know about background checks

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Comments?

Two cases within one week involving different regulators espouse the value of checking out staff and prospective employees. OCIE's [latest risk alert](#) suggests firms conduct background checks ([IA Watch](#), July 23, 2019), and [FINRA](#) has issued a huge fine against a broker that bumbled the task (see related story).

There's more to know than simply hiring a background check vendor – although below you'll find some firms recommended by your peers. "If you do it wrong, you could be faced with a lawsuit," says [Jennifer Mora](#), senior counsel with [Seyfarth Shaw](#) in Los Angeles. They tend to be class-action lawsuits that result in payments "in the millions of dollars," she adds.

Most lawsuits claim a violation of the *Fair Credit Reporting Act*. It has a low bar of liability. The risk principally stems from employers that include "extraneous text" in their disclosures that they do background checks. Superfluous language could include legal waivers or notice that the employer may share the results with a third party.

The law is clear, says Mora. The disclosure that you do background checks must be a standalone document and include a separate document in which the applicant consents in writing to the background check, she states.

Avoid these errors

Other mistakes firms make when contracting for background checks is using questionable vendors and failing to understand exactly what they're buying. Some vendors may use a national database to search for criminal convictions. "That has holes in it," says Mora. About 10 states don't permit the reporting of criminal convictions older than seven years.

Another complication is state laws vary, and the movement to "ban the box" is gaining momentum. The movement seeks to outlaw a box on employment applications for the applicant to check if she's had a prior criminal conviction, continues Mora.

She suggests you find a vendor that can educate you on the laws and to look for one with experience serving the financial services industry.

You could directly ask an applicant "have you ever been convicted of a crime?" However, several states ban that question until a conditional offer of employment has been issued. In these cases, the employer could withdraw the offer only if the crime was related to the job, e.g., a bank clerk who stole money in the past.

Background check vendors

1. [BackgroundChecks](#)
2. [Back Track Reports](#) (212-620-9700)
3. [Business Information Group](#) (800-369-2612)
4. [Corra Group](#) (310-524-9800)
5. [Data Facts](#) (901-685-7599)
6. [First Advantage](#) (844-718-0087)
7. [Goodhire](#) (855-465-0854)
8. [Hire Right](#) (866-521-6995)
9. [InstantCheckMate](#) (800-222-8985)
10. [Lexis Nexis](#) (888-285-3947)
11. [Sterling BackCheck](#) (800-899-2272)
12. [Whelan and Whelan](#) (800-983-0379)
13. [World-Check One](#) (800-427-7570)

Don't forget searching FINRA's *BrokerCheck*.

Pixelfit/Background Checks/Getty Images Plus

The information contained herein was current as of the publication date.

Indexed by: Compliance Best Practices | Supervision | Background Checks |

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Yes No