# State Rules Register Alert
### May 29, 2015

## New York City:
## Restriction on Use of Credit Reports

On May 6, 2015 the Mayor of New York City, Bill de Blasio, signed Enactment: 2015/037, banning the use of credit reports by some employers. This ordinance will go into effect on or about September 3, 2015. The ordinance contains numerous and complicated exceptions, some of which require a familiarity with the functions of New York City government. Here are the exceptions to the prohibition:

1. Employers, or agents thereof, that are required by state or federal law or regulation to obtain a credit report.
2. Self-regulatory organizations under §3(a)(26) of the Security Exchange Act of 1934.
3. Peace officers:
    o   as defined in subdivisions 33 & 35 of section 1.20 of criminal procedure law;
    o    position with law enforcement;
    o    position with investigative function at the city Department of Investigation
4. Those governmental appointed positions in New York City that have a "high degree of public trust" as defined by commission.
5. Positions required to be bonded under local, state or federal law.
6. Positions requiring a security clearance under any state or federal law.
7. Non-clerical, position having access to: trade secrets1, intelligence information2 or national security information3. These terms are defined: trade secrets relate to private employees (does not include access to customer/mailing lists); the latter two relate more to governmental positions but will cover some private employer positions.
8. An employee having signatory authority over third party funds or assets of $10,000 or more.
9. An employee having authority to enter into financial agreements on behalf of the employer for over $10,000.
10. Positions that allow employee to modify digital security systems.
11. Persons required by §12.110 of the New York City code to provide disclosures relating to conflicts of interest.

 Some of these exceptions are very technical and specific to a limited number of positions. CRAs doing business in New York City, especially with New York City will need to consult with local counsel to be able to identify positions that are exempt from this city ordinance.
**Definitions:**
The term**"trade secrets"** means information that: (a) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; (b) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy; and (c) can reasonably be said to be the end product of significant innovation. The term "trade secrets" does not include general proprietary company information such as handbooks and policies. The term "regular access to trade secrets" does not include access to or the use of client, customer or mailing lists.

The term**"intelligence information"** means records and data compiled for the purpose of criminal investigation or counterterrorism, including records and data relating to the order or security of a correctional facility, reports of informants, investigators or other persons, or from any type of surveillance associated with an identifiable individual, or investigation or analysis of potential terrorist threats.

The term**"national security information"** means any knowledge relating to the national defense or foreign relations of the United States, regardless of its physical form or characteristics, that is owned by, produced by or for, or is under the control of the United States government and is defined as such by the United States government and its agencies and departments.

A copy of the law (Int 0261-2014) may be viewed at:
http://legistar.council.nyc.gov/Legislation.aspx

Best Wishes,
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