

**SCHWARTZ & BALLEN LLP**  
1990 M STREET, N.W. • SUITE 500  
WASHINGTON, DC 20036-3465  
[WWW.SCHWARTZANDBALLEN.COM](http://WWW.SCHWARTZANDBALLEN.COM)

TELEPHONE  
(202) 776-0700

FACSIMILE  
(202) 776-0720

**M E M O R A N D U M**

April 28, 2011

To Our Clients and Friends

Re: State Security Freeze Laws

This memorandum summarizes state legislation which permits consumers to place a security freeze on their credit files.<sup>1</sup> A security freeze generally prohibits consumer reporting agencies (“CRAs”) from releasing a consumer’s credit report or credit score, subject to various exceptions. To date, 48 states and the District of Columbia have enacted legislation addressing security freezes. Most recently, Louisiana and Montana amended their laws. Alabama and Michigan have not enacted security freeze laws.

If you have any questions, please call Gilbert Schwartz, Robert Ballen, Tom Fox or Heidi Wicker at (202) 776-0700.

**ALASKA**

Alaska law (Alaska Stat. §§ 45-48.100 et seq.) provides that a consumer may place a security freeze prohibiting the release of the consumer’s credit report or credit score without the express authorization of the consumer. To place a freeze, a consumer must submit a request by mail or in a form acceptable to the CRA. The CRA must place the freeze within five business days and send written confirmation within 10 business days including a personal identification number (“PIN”) or password to be used in authorizing release of the consumer’s credit report or score. The act took effect July 1, 2009.

A consumer may allow access to his or her consumer report or score for specific periods of time or to specified parties while the freeze is in effect. To allow access to the consumer’s report or score, the consumer must contact the CRA by mail or another method permitted by the CRA and provide proper identification, the PIN or password and information identifying the third party or time period for which the

---

<sup>1</sup> The summaries generally discuss the significant provisions of the state laws.

## SCHWARTZ & BALLEEN LLP

CRA may allow access, as applicable. A freeze must be temporarily lifted or permanently removed within three business days of receiving the request by mail or within 15 minutes of receiving a request to temporarily lift the freeze by telephone or an electronic medium, unless received outside of normal business hours.

Exceptions to the security freeze also include reports provided for:

- credit file monitoring,
- reviewing an account or collecting a financial obligation owing for an account, contract or debt,
- prescreening under the Fair Credit Reporting Act (“FCRA”),
- a CRA’s database consisting of only and used solely for criminal record information, personal loss history information, fraud prevention or detection, tenant screening or employment screening,
- providing a consumer with a copy of his or her credit report or score at the consumer’s request, or
- setting or adjusting insurance rates, adjusting claims or underwriting insurance.

Resellers are not required to place a security freeze on a consumer’s report.

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer’s name, date of birth, Social Security Number (“SSN”) or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

When a summary of rights is required to be provided under section 609 of the FCRA (disclosure by a CRA of the contents of the consumer’s file at the consumer’s request), the law mandates that a specified notice regarding the availability of security freezes also be provided to Alaska consumers.

If a CRA violates the security freeze, the CRA must notify the consumer within five business days after discovering or being notified of the release. The notice must include identification of the information released and the third party who received the information.

A person who negligently fails to comply with the law is liable to the consumer for actual damages, costs and attorney’s fees. In addition, a person who knowingly violates the law is liable for punitive damages of not less than \$100 or more than \$5,000 per violation and other relief the court determines is appropriate, and may be liable in a class action. Consumers may also bring an action for injunctive relief.

## **SCHWARTZ & BALLEN LLP**

A CRA may charge a specified fee to place a freeze or to allow third-party access to the consumer's credit report or score, unless the consumer is a victim of identity theft.

### **ARIZONA**

Arizona law (Ariz. Rev. Stat. §§ 44-1695, 44-1698) provides that a consumer may place a security freeze prohibiting the release of the consumer's credit report without the express authorization of the consumer. To place a freeze, a consumer must submit a request in writing or in a form acceptable to the CRA. The CRA must place the freeze and send written confirmation within ten business days and provide the consumer with a unique PIN or password to be used in authorizing lifting of the freeze. The CRA must also notify the consumer of the procedure to authorize release of the consumer report. The act took effect August 31, 2008.

A consumer may allow access to his or her consumer report for specific periods of time while the freeze is in effect. To temporarily lift or remove the freeze, a consumer must contact the CRA and provide proper identification, the PIN or password and information specifying the period of time for making information available to users, as applicable. The freeze must be lifted within three business days of receiving the consumer's request via mail or fifteen minutes after receiving the consumer's request via telephone, Internet or other electronic contact method in a form acceptable to the CRA, unless received outside of normal business hours.

Exceptions to the security freeze also include reports provided for:

- credit file monitoring,
- reviewing the account or collecting a financial obligation owing for an account, contract, or negotiable instrument,
- prescreening or postscreening under the FCRA,
- providing a consumer with a copy of his or her consumer report or credit score at the consumer's request, or
- setting or adjusting insurance rates or claims or underwriting insurance.

Certain entities are not required to place a security freeze on a consumer's report (e.g., check services, fraud prevention services, deposit account information services or CRAs acting as resellers, any state or federally regulated bank or financial institution for checking, savings and investment accounts).

If a security freeze is in place, a CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former address in the case of an address change.

## **SCHWARTZ & BALLEN LLP**

Violations of the act are considered unlawful practices and are subject to enforcement through private action and by the State Attorney General, which may seek injunctive relief or other remedies. However, such actions cannot be brought for failure to comply with the fifteen-minute requirement for requests to remove or temporarily lift a freeze. A person who is grossly negligent or willfully and maliciously with intent to harm the consumer fails to comply with the law is liable to the consumer for actual damages, punitive damages, attorney fees and costs.

A CRA may charge a fee to place, remove or temporarily lift a freeze, or to issue a replacement PIN or password, unless the consumer is a victim of identity theft and submits a valid police report.

### **ARKANSAS**

Arkansas law (Ark. Code Ann. §§ 4-112-101 et seq.) provides that a consumer may place a security freeze prohibiting the release of the consumer's report or credit score in response to a request to open a new account or to extend credit. To place the freeze, a consumer must send a request by mail, telephone or electronically. The CRA must place the freeze within three business days and within five business days provide the consumer with written confirmation and a PIN or password for authorizing release of the consumer report. The CRA also must notify the consumer of the procedure to authorize release of the consumer report. The act took effect January 1, 2008.

An identity theft victim may permit access to his credit file for a specified period of time while a freeze is in effect. To temporarily lift or remove the freeze, a consumer must contact the CRA at the point of contact designated by the CRA and provide proper identification, the PIN or password and information regarding the time period for which the report shall be available to users, as applicable. The CRA may permit contact by telephone, fax, the Internet, or other electronic means. The freeze must be lifted or removed within three business days of receiving a request by mail or within 15 minutes of receiving a request by telephone or electronically.

Exceptions to a security freeze include reports provided for:

- credit file monitoring,
- reviewing an account or collecting a financial obligation owing for an account, contract, or negotiable instrument,
- preventing or investigating potential fraud or theft of identity,
- prescreening under the FCRA,
- providing a consumer with a copy of his or her consumer report or credit score at the consumer's request, or

## **SCHWARTZ & BALLEN LLP**

- in connection with the business of insurance.

Certain entities are not required to place a security freeze on a consumer's report (check services or fraud prevention services, deposit account information services or CRAs acting as resellers).

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change. The CRA must also send written notice to the consumer within three days if the CRA grants unauthorized access to the consumer's report while the freeze is in place.

When a summary of rights is required to be provided under section 609 of the FCRA (disclosure by a CRA of the contents of the consumer's file at the consumer's request) the law mandates that a specified notice regarding the availability of security freezes also be provided to Arkansas consumers.

A person who fails to comply with the law is liable for actual damages sustained by the consumer, costs and attorney's fees. A violation of the act is considered an unfair or deceptive act or practice. The State Attorney General is given authority to enforce the law.

A CRA may charge a specified fee to place, remove or lift a freeze, but may not charge a fee for initial placement of a freeze if the person is a victim of identity theft or over 65 years old.

### **CALIFORNIA**

California law (Cal. Civ. Code §§ 1785.11.2 et seq.) provides that a consumer may place a security freeze prohibiting the release of the consumer's credit report or any information from it to a third party without express authorization of the consumer. To place the freeze, a consumer must send a written request to a CRA by certified mail. The CRA must place the freeze within five business days and within 10 business days send written confirmation and a unique PIN or password to the consumer to be used in requesting the freeze be lifted. The CRA also must inform the consumer of the process for placing and temporarily lifting a security freeze. The act took effect January 1, 2003.

A consumer may permit access to his credit file by a specified party or for a period of time while a freeze is in effect. To temporarily lift or remove the freeze, a consumer must provide the CRA with proper identification, the PIN or password and information regarding the party or time period for which the report shall be

## **SCHWARTZ & BALLEN LLP**

available to users, as applicable. The CRA may permit contact by telephone, fax, the Internet, or other electronic means. The freeze must be lifted or removed within three business days of the request.

Exceptions to a security freeze include reports provided for:

- credit file monitoring,
- reviewing an account or collecting a financial obligation owing for an account, contract, or negotiable instrument,
- prescreening under the FCRA, or
- providing a consumer with a copy of his or her consumer report at the consumer's request.

Certain entities are not required to place a security freeze on a consumer's report (check services or fraud prevention services, deposit account information services or CRAs acting as resellers).

Regardless of the freeze, a CRA may disclose public record information obtained from open public records, or the CRA may elect to apply the security freeze to the entire contents of a credit report.

When a summary of rights is required to be provided under California law at the time a CRA discloses the contents of the consumer's file to the consumer at the consumer's request, a notice regarding the availability of security freezes must be provided to California consumers.

A consumer may bring an action for a civil penalty, not to exceed \$2,500, as well as costs and attorneys' fees against persons who knowingly and willfully obtain access to a file or data from a file other than as permitted by the law, or a person who uses data received from a file in a manner contrary to an agreement with all CRA.

A CRA may charge a specified fee to place, remove or temporarily lift a freeze, unless the consumer is a victim of identity theft.

### **COLORADO**

Colorado law (Colo. Rev. Stat. §§ 12-14.3-106.6 et seq.) provides that a consumer may place a security freeze prohibiting the release of the consumer's credit report or information from it without express authorization of the consumer. To place the freeze, a consumer must send a written request to a CRA by certified mail. The CRA must place the freeze within five business days of the request and within 10 business days send written confirmation and a PIN or password to the consumer to be

## SCHWARTZ & BALLEN LLP

used in authorizing release of the consumer report. The CRA also must inform the consumer of the process for placing and temporarily lifting a security freeze. The act took effect July 1, 2006.

A consumer may permit access to his or her consumer report by a specified party or for a period of time while a freeze is in effect. To temporarily lift or to remove the freeze, a consumer must provide the CRA with proper identification, the PIN or password and information regarding the party or time period for which the information shall be available to users, as applicable. The CRA may permit contact by telephone, fax, the Internet, or other electronic means to place a freeze or temporarily lift a freeze. The freeze must be lifted or removed within three business days of the request.

Exceptions to a security freeze also include reports provided for:

- credit file monitoring,
- reviewing the account or collecting a financial obligation owing for an account, contract, debt or negotiable instrument, and costs,
- prescreening under the FCRA,
- providing a consumer with a copy of his or her consumer report at the consumer's request, or
- setting or adjusting insurance rates, adjusting claims or underwriting insurance.

Certain entities are not required to place a security freeze on a consumer's report (check services or fraud prevention services, deposit account information services or CRAs acting as resellers).

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

When a summary of rights is required to be provided under section 609 of the FCRA (regarding disclosure by a CRA of the contents of the consumer's file to the consumer at the consumer's request), a notice regarding the availability of security freezes must be provided to Colorado consumers.

A CRA may charge a specified fee only to remove or temporarily lift a freeze or to place a subsequent freeze after a previous freeze has been removed.

## **SCHWARTZ & BALLEN LLP**

### **CONNECTICUT**

Connecticut law (Conn. Gen. Stat. Ann. § 36a-701a) provides that a consumer may place a security freeze prohibiting the release of the consumer's credit report or any information from it without express authorization of the consumer. To place a freeze, a consumer must send a written request to a CRA by certified mail or an alternative secure method authorized by the CRA. The CRA must place the freeze within five business days and within 10 business days send written confirmation and a PIN or password to the consumer. The CRA also must inform the consumer of the process for placing, removing and temporarily lifting a security freeze. The act took effect January 1, 2006.

A consumer may allow access to his or her credit file by a specified party or for a period of time while a freeze is in effect. To temporarily lift or remove the freeze, a consumer must provide the CRA with provide proper identification, the PIN or password, and information regarding the party or time period for which information shall be available to users, if applicable. The CRA may provide procedures for contacting the CRA to lift or remove the freeze, including at a minimum the ability to send a request via e-mail, letter or fax. The freeze must be lifted or removed within three business days of the request.

Exceptions to a security freeze also include reports provided for:

- credit file monitoring,
- reviewing an account or collecting a financial obligation owing for an account, contract, or debt,
- prescreening under the FCRA, or
- a CRA providing a consumer with a copy of the report at the consumer's request.

Certain entities are exempt from the requirement to place a security freeze at a consumer's request (check services or fraud prevention services, deposit account information services or CRAs acting as resellers).

A CRA may charge a specified fee to place, remove, or temporarily lift a freeze.

### **DELAWARE**

Delaware law (Del. Code Ann. tit. 6, § 2203) provides that a consumer may place a security freeze prohibiting release of a consumer's credit report or any information derived from it without the express authorization of the consumer. To place a freeze, a consumer must make a request by mail or through the electronic mail

## SCHWARTZ & BALLEN LLP

method made available by the CRA for requesting a freeze. A CRA must place the freeze and within three business days send written confirmation and provide the consumer with a PIN or password to be used in authorizing lifting or removing the freeze. The act took effect October 1, 2006.

A consumer may allow access to his or her credit report for a specified period of time while a freeze is in place. To temporarily lift or remove the freeze, a consumer must provide proper identification, the PIN or password and information regarding the time period for which the report shall be available to users, if applicable. A CRA must develop procedures involving use of telephone to receive and process requests to temporarily lift a freeze or, upon consent of the consumer in compliance with the E-Sign Act, by using the Internet, e-mail or other electronic media. The freeze must be lifted no later than three business days after receiving a request or, if received by electronic mail or telephone, within 15 minutes of receiving it.

Exceptions to a security freeze also include reports provided for:

- credit file monitoring,
- reviewing an account or collecting a financial obligation owing for an account, contract or debt,
- prescreening under the FCRA,
- providing a consumer with a copy of the report upon the consumer's request, or
- setting or adjusting a rate or underwriting for property and casualty insurance purposes.

Certain entities are exempt from the requirement to place a security freeze at a consumer's request (check services or fraud prevention services, deposit account information services or CRAs acting as resellers).

When a summary of rights is required to be provided under section 609 of the FCRA (regarding disclosure by a CRA of the contents of the consumer's file to the consumer at the consumer's request), a notice regarding the availability of security freezes must be provided to Delaware consumers.

A CRA may charge a specified fee to place a freeze, unless the person is a victim of identity theft.

If a CRA negligently violates the security freeze, the CRA is required to notify affected consumer within five business days, including specificity as to the information released and the third-party recipient. A consumer may institute a civil action for injunctive relief and to recover a civil penalty up to \$1,000 per violation

## **SCHWARTZ & BALLEN LLP**

plus other damages and reasonable expenses, court costs, investigative costs and attorney's fees.

### **DISTRICT OF COLUMBIA**

District of Columbia law (D.C. Code Ann. §§ 28-3861 et seq.) provides that a consumer may place a security freeze prohibiting the release of a consumer's credit report, or any information derived from it, without express authorization of the consumer. To place a freeze, a consumer must send a written request to the CRA by certified mail, the Internet-based method made available by the CRA, or by either telephone or regular mail (as accepted by the CRA). The CRA must place the freeze within three business days after receiving the request and, within five business days of placing the freeze, send a written confirmation and provide the consumer with a PIN or password to be used by the consumer to release or remove the freeze. The act took effect July 1, 2007.

A consumer may allow access to his credit file by a specified party or for a period of time while a freeze is in effect. To temporarily lift the freeze, the consumer must contact the CRA and provide proper identification, the PIN or password, and information specifying the third party or period of time for making information available to users, as applicable. The consumer must send a request in writing to permanently remove a freeze. The CRA must lift or remove the freeze within three business days of the request or, for requests received through the Internet or by telephone, within 15 minutes of the request unless prevented by acts outside the CRA's control.

Exceptions to the security freeze also include reports provided for:

- credit file monitoring,
- reviewing an account or collecting a financial obligation owed for an account, contract or negotiable instrument,
- prescreening under the FCRA,
- setting or adjusting a rate, adjusting a claim, or underwriting for insurance purposes, or
- providing the consumer with a copy of the consumer's report at his or her request.

Certain entities are not required to place a security freeze on a consumer's report (check or fraud prevention services, deposit account information services or CRAs acting as resellers).

When a summary of rights is required to be provided under section 609 of the FCRA (regarding disclosure by a CRA of the contents of the consumer's file to the

## **SCHWARTZ & BALLEN LLP**

consumer at the consumer's request), a specific notice regarding the availability of security freezes must be provided to District of Columbia consumers.

If a CRA violates the security freeze by releasing information without express authorization, the affected consumer may bring a civil action for injunctive relief, actual damages, reasonable attorney's fees and costs, and, in the case of a willful violation, punitive damages. The Attorney General may enforce the act by seeking a temporary or permanent injunction, damages, a civil penalty not to exceed \$1,000 for each violation, and reasonable attorney's fees and costs.

A CRA may charge a specified fee for issuing a PIN unless the consumer is a victim of identity theft.

### **FLORIDA**

Florida law (Fla. Stat. Ann. § 501.005) provides that a consumer may place a security freeze prohibiting release of a consumer's credit report, credit score or any information from the consumer's report without the express authorization of the consumer. To place a freeze, a consumer must send a written request to a CRA by certified mail and include proper identification. The CRA must place the freeze within five business days and within 10 business days send written confirmation and provide the consumer with a PIN or password to be used in authorizing lifting of the freeze. The CRA must inform the consumer of the process for placing, temporarily lifting and removing a security freeze. The act took effect July 1, 2006.

A consumer may allow access to his or her consumer report for a specific period of time while the freeze is in effect. To temporarily lift or remove the freeze, a consumer must contact the CRA and provide proper identification, the PIN or password and information specifying the period of time for making information available to users, as applicable. All CRAs doing business in Florida must make available a secure electronic contact method, which may include telephone, fax, Internet or other secure electronic means by which to receive requests to temporarily lift a freeze. The freeze must be lifted or removed within three business days of the request.

Exceptions to the security freeze also include reports provided for:

- credit file monitoring,
- reviewing an account or collecting a financial obligation owed for an account, contract or negotiable instrument,
- prescreening under the FCRA,
- setting or adjusting a rate, adjusting a claim, or underwriting for insurance purposes,

## **SCHWARTZ & BALLEN LLP**

- providing the consumer with a copy of the consumer's report at his or her request, or
- a CRA's database consisting of only and used solely for criminal record information, personal loss history information, fraud prevention or detection, tenant screening or employment screening.

Certain entities are not required to place a security freeze on a consumer's report (check services, fraud prevention services, deposit account information services or CRAs acting as resellers).

When a summary of rights is required to be provided under section 609 of the FCRA (regarding disclosure by a CRA of the contents of the consumer's file to the consumer at the consumer's request), a notice regarding the availability of security freezes must be provided to Florida consumers. Nationwide CRAs also must provide a toll-free number the consumer can use to communicate with the CRA.

If a security freeze is in place, a CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

A consumer is permitted to bring a civil action for violations of the law. A person who willfully fails to comply with this law is liable to a consumer for actual damages of not less than \$100 and not more than \$1,000, costs and attorneys' fees. A person who obtains a report under false pretenses or without a permissible purpose is liable to the consumer for actual damages of not less than \$100 and not more than \$1,000, whichever is greater. Punitive damages may be assessed for willful violations. A person who negligently fails to comply with the law is liable to the consumer for actual damages of not less than \$100 and not more than \$1,000.

A CRA may charge a specified fee to place, remove or temporarily lift a security freeze, except no fee may be charged to persons age 65 or older for the initial placement or removal of a security freeze, or to victims of identity theft who submit a law enforcement report or complaint.

### **GEORGIA**

Georgia law (Ga. Code Ann. §§ 10.1.913-15) provides that a consumer may place a security freeze prohibiting the release of the consumer's credit score or credit report or any information from it for a purpose relating to the extension of credit without the consumer's express authorization. To place a freeze, the consumer must send a written request by certified mail or use the Internet based method or toll-free number provided by the CRA. The CRA must place the freeze within three business

## SCHWARTZ & BALLEN LLP

days and within 10 business days provide the consumer with written confirmation and a PIN or password to be used in authorizing release of the consumer's report. The law took effect August 1, 2008.

A consumer may permit access to his or her credit report for a specific period of time while a freeze is in effect. To temporarily lift the freeze, the consumer must contact the CRA through the contact method established by the CRA and provide proper identification, the PIN or password and information regarding the time period for which the report should be available to users. Freezes must be lifted or removed within three business days of the request, or for requests to temporarily lift a freeze via telephone or Internet, within 15 minutes unless received outside of normal business hours.

Exceptions to a security freeze also include reports provided for:

- credit file monitoring,
- reviewing an account or collecting a financial obligation owing for an account, contract or debt,
- prescreening under the FCRA,
- any depository institution for checking, savings and investment accounts,
- providing a consumer with a copy of his or her credit report or score at the consumer's request, or
- insurance purposes, including setting or adjusting insurance rates, adjusting claims or underwriting insurance.

Certain entities are not required to place a security freeze on a consumer's report (check services, fraud prevention services, deposit account information services, CRAs acting as resellers, or a CRA's database used for criminal record information, fraud prevention or detection, personal claim loss history information or employment, tenant or individual background screening).

If a security freeze is in place, a CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

When a summary of rights is required to be provided under section 609 of the FCRA (regarding disclosure by a CRA of the contents of the consumer's file to the consumer at the consumer's request), a specified notice regarding the availability of security freezes must be provided to Georgia consumers.

A CRA may charge a specified fee to place, remove or temporarily lift a security freeze, except no fee may be charged to persons age 65 or older for the

## SCHWARTZ & BALLEN LLP

placement of a security freeze and no fee may be charged to victims of identity theft who submit a law enforcement report or complaint.

Violators of this law are subject to the state fair business practices act and may be fined no more than \$100 for a violation concerning a specific consumer.

### HAWAII

Hawaii law (Haw. Rev. Stat. Ann. §§ 489P-2 et seq.) provides that a consumer may place a security freeze prohibiting the release of the consumer's credit report or any information from it without the prior express authorization of the consumer. A consumer must send a written request to a CRA by certified mail to place a freeze. A consumer that is a victim of identity theft may place a freeze by making a request in writing via certified mail with a valid copy of a law enforcement report or complaint. The CRA must place the freeze within five business days of the request, and within 10 business days send written confirmation and provide the consumer with a unique PIN or password to be used in authorizing temporary lifting of the freeze. The CRA also must inform the consumer of the process for placing and temporarily lifting a security freeze. The act took effect January 1, 2007.

A consumer may allow access to his or her credit file by a specified party or for a period of time while a freeze is in effect. To temporarily lift or remove the freeze, a consumer must provide the CRA with proper identification, the PIN or password, and information regarding the party or time period for which information shall be available to users, if applicable. The CRA may permit contact by telephone, fax, the Internet or other electronic means. The freeze must be lifted or removed within three business days of the victim's request.

Exceptions to a security freeze also include reports provided for:

- credit file monitoring,
- reviewing an account or collecting a financial obligation owed for an account, contract or debt or extending credit to a consumer with a prior or existing account, contract or debtor-creditor relationship,
- prescreening under the FCRA,
- providing the consumer with a copy of his or her consumer report at the consumer's request, or
- setting or adjusting a rate, adjusting a claim or underwriting for insurance purposes.

Certain entities are not required to place a security freeze on a consumer's report (check services, fraud prevention services, deposit account information services, CRAs acting as resellers).

## **SCHWARTZ & BALLEN LLP**

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

A person who violates this law is subject to a penalty of not more than \$2,500 per violation and is liable to the injured party for actual damages and attorneys' fees. The State Attorney General or Executive Director of the Office of Consumer Protection are authorized to bring actions to enforce this law.

A CRA may not charge victims of identity theft a fee for placing, lifting or removing a security freeze. Other consumers may be charged a specified fee.

### **IDAHO**

Idaho law (Idaho Code §§ 28-52-102 et seq.) provides that consumers may place a security freeze prohibiting the release of the consumer's credit report without prior authorization of the consumer. A consumer must send a written request to a CRA by certified mail to place a freeze. The CRA must place the freeze within three business days of the request, and within five business days send written confirmation and provide the consumer with a unique PIN or password to be used in requesting the freeze be removed or lifted. The act took effect July 1, 2008.

A consumer may allow access to his or her consumer report by a specified party or for a period of time while the freeze is in effect. To temporarily lift a freeze, the consumer must contact the CRA and provide proper identification, the PIN or password, and information specifying the third party or time period for making information available to users, as applicable. The CRA must lift the freeze within three business days of the request or, if received via electronic contact method (e.g., fax, Internet, or other electronic means), within 15 minutes of the request, unless received outside of normal business hours.

Exceptions to the security freeze also include reports provided for:

- credit file monitoring,
- reviewing an account or collecting a financial obligation,
- prescreening under the FCRA,
- providing the consumer with a copy of his or her consumer report or credit score at the consumer's request, or
- insurance purposes.

## **SCHWARTZ & BALLEN LLP**

Certain entities are not required to place a security freeze on a consumer's report (check services, fraud prevention services, deposit account information services or CRAs acting as resellers).

If a security freeze is in place, a CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

A CRA may charge a specified fee for placing and temporarily lifting a security freeze or reissuing a PIN or password, unless the consumer is a victim of identity theft and submits a copy of a valid law enforcement report or complaint.

The State Attorney General is authorized to enforce the act's provisions.

### **ILLINOIS**

Illinois law (815 Ill. Comp. Stat. Ann. 505/2MM) provides that consumers may place a security freeze prohibiting the release of the consumer's credit report or information from it without prior express authorization of the consumer. A consumer must send a written request to a CRA by certified mail. The CRA must place the freeze within five business days of the request and within 10 business days must send written confirmation and provide the consumer with a unique PIN or password to be used in requesting the freeze be removed or lifted. The CRA also must inform the consumer of the process for placing and temporarily lifting a security freeze. The act took effect January 1, 2006.

A consumer may allow access to his credit file by a specified party or for a period of time while a freeze is in effect. To temporarily lift or remove the freeze, a consumer must provide the CRA with proper identification, the PIN or password, and information regarding the party or time period for which information shall be available to users, if applicable. The CRA may permit contact by telephone, fax, the Internet, or other electronic means and postal mail. The freeze must be lifted or removed within three business days of the consumer's request.

Exceptions to a security freeze also include reports provided for:

- credit file monitoring or a similar service,
- reviewing an account or collecting a financial obligation owing for an account, contract, or negotiable instrument,
- prescreening under the FCRA,
- providing the consumer with a copy of his or her consumer report or credit score at the consumer's request, or

## **SCHWARTZ & BALLEN LLP**

- insurance underwriting.

Certain entities are not required to place a security freeze on a consumer's report (check services or fraud prevention services, deposit account information services or CRAs acting as resellers).

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

A person who violates the law is deemed to commit an unlawful practice under Illinois law.

A CRA may charge a specified fee to place, remove or temporarily lift a freeze, unless the consumer is a victim of identity theft, and no fee may be charged to persons 65 years of age or older to place or remove a freeze.

### **INDIANA**

Indiana law (Ind. Code Ann. § 24-5-24-4 et seq.) provides that a consumer may place a security freeze prohibiting the release of the consumer's credit report (including credit score) without the consumer's authorization. To place the freeze, the consumer must send a written request by mail or by a secure electronic mail connection which must be provided by the CRA. The CRA must place the freeze within five business days of the request. The CRA must issue a written confirmation that the security freeze has been placed on the report as well as a PIN or password within 10 business days of the request. The act took effect September 1, 2007.

The consumer may request to release the consumer report to specified third parties or to temporarily lift the freeze for a specified period. The consumer must provide sufficient information to identify the consumer and a unique PIN or password provided by the CRA in the written confirmation. If the request is made in writing, the CRA must comply within three business days of the request.

The CRA must release a consumer report or temporarily lift a freeze within 15 minutes of receiving a request by telephone, Internet, or other electronic media provided by the CRA. The Act provides certain exceptions to the 15 minute deadline when the consumer has not given sufficient information or if compliance is impossible.

Exceptions to a security freeze include reports provided for:

## SCHWARTZ & BALLEN LLP

- credit file monitoring,
- reviewing an account or collecting a financial obligation owing for an account, contract, or negotiable instrument,
- law enforcement,
- prescreening under the FCRA,
- providing a consumer with a copy of his or her consumer report or credit score at the consumer's request, or
- for insurance purposes.

Certain entities are not required to place a security freeze on a consumer's report, including check services or fraud prevention services, deposit account information services, or CRAs acting as resellers of information.

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

When a summary of rights is required to be provided under section 609 of the FCRA (disclosure by a CRA of the contents of the consumer's file at the consumer's request), the law mandates that a specified notice regarding the availability of security freezes also be provided to Indiana consumers.

A consumer may bring an action for a civil penalty, not to exceed \$6,000, as well as punitive damages, costs, and reasonable attorney fees against persons who knowingly or intentionally fail to comply with any requirement imposed under this chapter. The State Attorney General may bring an action to recover from a person on behalf of the state for a civil penalty for not more than \$2,500 for violations concerning one consumer or not more than \$100,000 for related violations concerning more than one consumer.

A CRA may not charge a fee to release a consumer report, or place, remove, or lift a freeze.

### IOWA

Iowa law (Iowa Code §§ 714G.1 et seq.) provides that consumers may place a security freeze prohibiting the release of the consumer's credit report or score. A consumer must send a written request to a CRA by certified mail. The CRA must place the freeze within five business days of the request, and within 10 business days send written confirmation and provide the consumer with a unique PIN or password to be used in requesting the freeze be removed or lifted. The act took effect July 1, 2008.

## SCHWARTZ & BALLEN LLP

A consumer may allow access to his credit file for a specified period of time while a freeze is in effect. To temporarily lift or remove the freeze, a consumer must provide the CRA with proper identification, the PIN or password, and information regarding the time period for which information shall be available to users, if applicable. The CRA may permit contact by telephone, fax, the Internet, or other electronic media. The freeze must be lifted or removed within three business days of the consumer's request, or within 15 minutes after receiving a request via fax, Internet or other electronic contact method or telephone, during normal business hours.

Exceptions to a security freeze include reports provided for:

- credit file monitoring,
- reviewing an account or collecting a financial obligation owing for an account, contract, or debt, or extending credit,
- prescreening under the FCRA,
- providing a consumer with a copy of his or her consumer report or credit score at the consumer's request, or
- insurance purposes.

Certain entities are not required to place a security freeze on a consumer's report (check or fraud prevention services, deposit account information services, or CRAs acting as resellers of information).

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

A CRA may charge a specified fee to place, remove, temporarily lift a fee or for reissuance of a PIN or password. Victims of identity theft that provide a valid police report may not be charged a fee for placing, temporarily lifting or removing a freeze.

The State Attorney General may enforce the law, including by issuing subpoenas, adopting rules, seeking injunctions or civil penalties, attorney's fees and costs. The Attorney General may also seek the greater of \$500 or actual damages for each consumer injured by the violations.

## SCHWARTZ & BALLEN LLP

### KANSAS

Kansas law (Kan. Stat. Ann. §§ 50-723 et seq.) provides that a consumer may place a security freeze prohibiting the release of the consumer's credit report or credit score relating to the extension of credit. To place a freeze, a consumer must send a request to a CRA by regular or certified mail, telephone or secure website. The CRA must place the freeze within five business days of the request, and within 10 days send written confirmation and provide the consumer with a PIN or password for lifting the freeze. The CRA must inform the consumer of the process for placing, removing and temporarily lifting a security freeze. The act took effect January 1, 2007.

A consumer may allow access to his credit file for a specified period of time while a freeze is in effect. To temporarily lift or remove the freeze, a consumer must provide the CRA with clear and proper identification, the PIN or password and information regarding the time period for making information available to users, as applicable. The CRA may permit contact by telephone, fax, the Internet, or other electronic means to temporarily lift the freeze. The freeze must be lifted or removed within three business days of the request if received by mail, or within 15 minutes if received electronically.

Exceptions to the security freeze also include reports provided for:

- credit file monitoring,
- reviewing an account or collecting a financial obligation owing for an account, contract, or negotiable instrument,
- prescreening under the FCRA,
- providing a copy of the consumer's consumer report to the consumer at the consumer's request,
- acting as a reseller, providing check services, fraud prevention services or deposit account information services, or
- setting or adjusting insurance rates, adjusting claims or underwriting insurance.

Certain entities are not required to place a security freeze on a consumer's report, including financial institutions, check services or fraud prevention services, deposit account information services, CRAs acting as resellers, or databases of adverse information used for permissible purposes under the FCRA.

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

## **SCHWARTZ & BALLEN LLP**

A person who willfully fails to comply with requirements of the law is liable to the affected consumer for actual damages or damages no less than \$100 and no more than \$1,000, punitive damages, costs and attorney's fees. A person who negligently fails to comply with the law is liable to the affected consumer for actual damages, costs and attorney's fees.

A CRA may charge a fee to place, remove or temporarily lift a freeze, except for victims of identity theft.

### **KENTUCKY**

Kentucky law (Ky. Rev. Stat. Ann. §§ 367.363 et seq.) provides that a consumer may place a security freeze prohibiting the release of the consumer's credit report or credit score relating to the extension of credit without express authorization of the consumer. To place a freeze, a consumer must send a written request to a CRA by certified mail including clear and proper identification. The CRA must place the freeze and provide the consumer with a PIN or password for lifting the freeze within 10 business days of receiving the request. The CRA must also inform the consumer of the process for placing, removing and temporarily lifting a security freeze. The security freeze remains in place for seven years, unless removed by the consumer. The act took effect July 12, 2006.

A consumer may allow access to his credit file for a specified period of time while a freeze is in effect. To temporarily lift or remove the freeze, a consumer must contact the CRA and provide clear and proper identification, the PIN or password assigned to him and information regarding the time period for making information available to users, as applicable. The CRA may permit contact by telephone, fax, the Internet, or other electronic means to temporarily lift the freeze. The freeze must be lifted or removed within three business days of the request.

Exceptions to the security freeze also include reports provided for:

- reviewing an account or collecting a financial obligation owing for an account, contract, or negotiable instrument,
- prescreening under the FCRA,
- providing a consumer with a copy of the consumer's own report,
- CRAs acting as a reseller,
- providing check services, fraud prevention services or deposit account information services, or
- setting or adjusting a rate or underwriting.

## **SCHWARTZ & BALLEN LLP**

Certain entities are not required to place a security freeze on a consumer's report, including financial institutions and insurers, check services or fraud prevention services companies, deposit account information services, CRAs acting as resellers, or databases of adverse information used for permissible purposes under the FCRA.

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address.

A person who willfully fails to comply with requirements of the law is liable to the affected consumer for actual damages or liquidated damages of no less than \$100 and no more than \$1,000, punitive damages, costs and attorney's fees. A person who negligently fails to comply with the requirements is liable to the affected consumer for actual damages and costs and attorney's fees.

A CRA may charge a specified fee to place, remove or temporarily lift a freeze, unless the consumer is an identity theft victim.

### **LOUISIANA**

Louisiana law (La. Rev. Stat. Ann. § 9:3571.1) provides that a consumer may place a security freeze prohibiting the release of the consumer's credit report or credit score without express authorization of the consumer. To place a freeze, a consumer must send a written request to a CRA by mail including clear and proper identification, or contact the CRA by telephone or through a secure website. The CRA must place the freeze within 5 business days if the request is received by mail, or within 24 hours if received by telephone or secure website. The CRA must provide the consumer by mail with a PIN or password to be used in requesting the freeze be lifted within 5 business days of the request. The CRA must also provide notification of the process for placing, removing and temporarily lifting a security freeze.

A consumer may allow access to his credit file for a specified period of time while a freeze is in effect. To temporarily lift or remove the freeze, a consumer must provide the CRA with clear and proper identification, the PIN or password and information regarding the time period for making information available to users, as applicable. The CRA may permit contact by telephone, fax, the Internet, or other electronic means to temporarily lift the freeze. The freeze must be lifted or removed within three business days of the request if received by mail, or within 24 hours if received by telephone or secure website.

Exceptions to the security freeze also include reports provided for:

## SCHWARTZ & BALLEN LLP

- reviewing an account or collecting an obligation owing for an account, contract or negotiable instrument,
- prescreening under the FCRA,
- CRAs providing a consumer with a copy of the consumer's own report,
- CRAs acting as resellers, or
- providing check services, fraud prevention services or deposit account information services.

Certain entities are not required to place a security freeze, including banks, check services or fraud prevention services, deposit account information services, CRAs acting as resellers, or any database or file consisting of information adverse to the consumer used for permissible purposes under the FCRA.

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

A consumer may bring an action for actual damages, attorneys' fees and costs for intentional or negligent violations.

A CRA may charge a specified fee to place or temporarily lift a freeze. A CRA may not charge a fee to revoke a freeze and may not charge identity theft victims or a consumer who is 62 years of age or older.

### MAINE

Maine law (Me. Rev. Stat. Ann. tit. 10, §§ 1313-C—1313-E) provides that a consumer may place a security freeze prohibiting the release of the consumer's credit report or any information from it to a third party without express authorization of the consumer. To place a freeze, a consumer must send a written request to a CRA by certified mail. The CRA must place the freeze within five business days and within 10 business days send written confirmation and provide the consumer with a PIN or password to be used in lifting the freeze. The CRA must inform the consumer of the process for placing and temporarily lifting a security freeze. The act took effect February 1, 2006.

A consumer may permit access to his credit file by a specified party or for a period of time while a freeze is in effect. To temporarily lift or remove the freeze, a consumer must provide the CRA with proper identification, the PIN or password and information regarding the third parties or time period for which the report is to be available to users, as applicable. The CRA may permit contact by telephone, fax, the

## **SCHWARTZ & BALLEN LLP**

Internet, or other electronic means to temporarily lift a freeze. The freeze must be lifted or removed within three business days of the request.

Exceptions to the security freeze also include reports provided for:

- credit file monitoring,
- reviewing an account or collecting a financial obligation owing for an account, contract or debt,
- prescreening under the FCRA, or
- providing a consumer with a copy of the consumer's report at his or her request.

Certain entities are not required to place a security freeze on a consumer's report (check services or fraud prevention services, deposit account information services and CRAs acting as resellers).

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

Affected consumers may bring actions for willful and knowing violations for actual damages and treble damages, as well as attorneys' fees and costs. A person who negligently violates the law is liable to the consumer for actual damages and additional damages as the court permits, but no less than \$100 per violation, attorneys' fees and costs. A person who knowingly and intentionally obtains information on a consumer from a CRA under false pretenses is subject to a fine of up to \$5,000 and imprisonment for up to one year. Violators may also be subject to administrative actions by the State Attorney General and civil penalties of up to \$5,000 for knowing violations.

A CRA may charge a specified fee to place, remove or lift a freeze, unless the consumer is an identity theft victim and provides a copy of a law enforcement report or complaint.

### **MARYLAND**

Maryland law (Md. Code Ann., Com. § 14-1212.1) provides that a consumer may place a security freeze prohibiting the release of the consumer's report or any information derived from it without express authorization of the consumer. To place the freeze, a consumer may send a written request to a CRA via certified mail, through a secure electronic mail or other secure electronic connection, if made available by the CRA, or by telephone. The CRA must send written confirmation and

## SCHWARTZ & BALLEN LLP

provide the consumer with a PIN or password to be used to authorize the release of the freeze within five business days of placing the freeze. The CRA must place the freeze within three business days of receiving the request. The CRA also must provide information regarding the process of placing and temporarily lifting a security freeze. The act took effect January 1, 2008.

A consumer may allow access to his credit file by a specified party or for a period of time while a freeze is in effect. To temporarily lift or remove the freeze, a consumer must provide the CRA with proper identification, the PIN or password, and information regarding the third party or time period for making information available to users, as applicable. The CRA may permit contact by mail, facsimile, telephone, secure electronic mail, or secure connection on the CRA's website. The freeze must be lifted within three business days after receiving the request or within 15 minutes if a request to temporarily lift a freeze is made by telephone, electronic mail, or secure connection on the CRA's website.

Exceptions to the security freeze also include reports provided for:

- credit file monitoring,
- reviewing an account or collecting a financial obligation owing for an account, contract, or debt instrument,
- prescreening under the FCRA,
- providing a consumer with a copy of his or her consumer report at the consumer's request, or
- insurance purposes.

Certain entities are not required to place a security freeze on a consumer's report (check or fraud prevention services, deposit account information services, a CRA for its database or file that consists entirely of information concerning criminal record information, tenant screening, employment screening, fraud prevention or detection, or personal loss history information or CRAs acting as resellers).

Any time a summary of rights is required to be provided under section 609 of the FCRA (disclosure by a CRA of the contents of the consumer's file to the consumer at the consumer's request), the law mandates that a specified notice regarding the availability of security freezes be provided to Maryland consumers.

A CRA may charge a specified fee to place, remove or temporarily lift a freeze, unless the consumer is a victim of identity theft.

## SCHWARTZ & BALLEN LLP

### MASSACHUSETTS

Massachusetts law (Mass. Gen. Laws Ann. ch. 93, §§ 56, 62A) provides that a consumer may place a security freeze prohibiting the release of the consumer's credit report or any information from it, without express authorization of the consumer. To place the freeze, a consumer must send a written request to a CRA via certified, overnight, or regular mail, or by a method otherwise permitted by regulation. The CRA must place the freeze within three business days after receiving the request and within five business days must send written confirmation and provide the consumer with a PIN or password, or both, to be used to lift or remove the freeze. The CRA also must provide information regarding the process of placing, temporarily lifting or removing a security freeze. The act took effect October 31, 2007.

A consumer may allow access to his credit file by a specified party or for a period of time while a freeze is in effect. To temporarily lift or remove the freeze, a consumer must provide the CRA with proper identification, the PIN or password, and information regarding the third party or time period for making information available to users, as applicable. The CRA must process the request without unreasonable delay and within three business days after receiving the request.

Exceptions to the security freeze also include reports provided for:

- credit file monitoring,
- reviewing an account or collecting a financial obligation owing for an account, contract, or negotiable instrument,
- prescreening under the FCRA,
- to provide a consumer with a copy of the consumer's report at his or her request, or
- insurance purposes.

Certain entities are not required to place a security freeze on a consumer's report (check or fraud prevention services, deposit account information services, or CRAs acting as resellers).

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

Any time a summary of rights is required to be provided under section 609 of the FCRA (disclosure by a CRA of the contents of the consumer's file to the

## SCHWARTZ & BALLEN LLP

consumer at the consumer's request), the law mandates that a specified notice regarding the availability of security freezes be provided to Massachusetts consumers.

A CRA may charge a specified fee to place, remove or temporarily lift a freeze, unless the consumer is a victim of identity theft.

### MINNESOTA

Minnesota law (Minn. Stat. Ann. §§ 13C.016 et seq.) provides that a consumer may place a security freeze prohibiting the release of the consumer's credit report or any information from it, in connection with the extension of credit or opening a new account, without express authorization of the consumer. To place the freeze, a consumer must send a written request to a CRA via certified mail, by telephone providing certain personal identification specified by the CRA or directly to the CRA through a secure electronic mail connection if made available by the CRA. The CRA must place the freeze within three business days and within 10 business days send written confirmation and provide the consumer with a PIN or password to be used to authorize lifting of the freeze. The CRA also must provide information regarding the process of placing and temporarily lifting a security freeze. The act took effect August 1, 2006.

A consumer may allow access to his credit file by a specified party or for a period of time while a freeze is in effect. To temporarily lift or remove the freeze, a consumer must provide the CRA with proper identification, the PIN or password, and information regarding the third party or time period for making information available to users, as applicable. The CRA may permit contact by telephone, fax, the Internet, or other electronic means, with the goal of processing the request within 15 minutes of the request. Otherwise, the freeze must be lifted or removed within three business days of the request.

Exceptions to the security freeze also include reports provided for:

- credit file monitoring,
- reviewing an account or collecting a financial obligation owing for an account, contract, or negotiable instrument,
- prescreening under the FCRA, or
- a CRA to provide a consumer with a copy of the consumer's report at his or her request.

Certain entities are not required to place a security freeze on a consumer's report, (check services, fraud prevention services, deposit account information services, or CRAs acting as resellers).

## **SCHWARTZ & BALLEN LLP**

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

The State Attorney General or county attorney is authorized to enforce the law and seek injunctive relief or civil penalties of not more than \$25,000. A consumer may also bring a civil action to recover damages, costs and attorneys' fees and obtain equitable relief.

A CRA may charge a specified fee to place, remove or temporarily lift a freeze, unless the consumer is a victim of identity theft.

### **MISSISSIPPI**

Mississippi law (Miss. Code Ann. §§ 75-24-201 et seq.) provides that a victim of identity theft may place a security freeze prohibiting the release of the consumer's credit report or any information derived from it relating to the extension of credit without the express authorization of the consumer. To place a security freeze, the consumer must send a written request to a CRA via certified mail and a copy of a valid police report, investigative report, or complaint which the consumer has filed with a law enforcement agency regarding the unlawful use of the personal information of the consumer by another person. The CRA must place the freeze within five business days after receiving the request and within 10 business days must send a written confirmation and provide the consumer with a PIN or password to be used to authorize a removal or temporary lifting of the freeze. The act took effect July 1, 2007.

On written request, the CRA must provide the consumer with information regarding the process of placing, removing and temporarily lifting a freeze. A consumer may remove or temporarily lift the freeze for a specified period of time or parties. To temporarily lift or remove the freeze, a consumer must provide the CRA, in writing or by telephone, with proper identification and the PIN or password. The CRA may also develop procedures involving the use of a telephone, fax machine, the Internet or other electronic medium to receive and process a request to temporarily lift or remove the freeze. The CRA must lift or remove the freeze three business days after receiving the request.

Exceptions to the security freeze include reports provided for:

- credit file monitoring,
- reviewing an account or collecting a financial obligation owing for an account, contract, or negotiable instrument,

## **SCHWARTZ & BALLEN LLP**

- prescreening under the FCRA,
- providing a consumer with a copy of his or her consumer report or credit score at the consumer's request,
- CRAs acting as resellers, check or fraud prevention services or deposit account information services, or
- insurance purposes.

Certain entities are not required to place a security freeze on a consumer's report (check or fraud prevention services or deposit account information services.)

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

A CRA may charge a specified fee to place a security freeze, but may not impose a fee to temporarily lift or remove the freeze.

### **MISSOURI**

Missouri law (Mo. Ann. Stat. § 407.1380 et seq.) provides that a consumer may place a security freeze prohibiting the release of the consumer's credit report or credit score relating to the extension of credit without the express authorization of the consumer. To place the freeze, a consumer may make a written request to a CRA by regular mail or by other reliable means, such as Internet, telephone, facsimile, or other electronic means provided by the CRA. The CRA must place the freeze within five business days. The CRA must send written confirmation of the security freeze within ten business days of placing the freeze and provide the consumer with a PIN or password to be used to release the consumer's credit report and instructions explaining how to place, temporarily lift or remove a freeze or allow access to the consumer's report for a specific requestor or period of time. The act took effect August 28, 2008.

A consumer may allow access to his credit file for a specific requestor or period of time while a freeze is in effect. To temporarily lift a freeze, a consumer must provide the CRA with proper identification, the PIN or password, and information regarding the time period for which the freeze shall be lifted. The consumer may contact the CRA via regular mail or the CRA may permit contact by Internet, telephone, facsimile, or other electronic means. Requests to temporarily lift a freeze received via electronic means must be effected within 15 minutes of receiving the request during normal business hours or, if a request is not received during business hours, within 15 minutes of the start of the next business day.

## **SCHWARTZ & BALLEN LLP**

Requests to temporarily lift a freeze made via mail or requests to permanently lift a freeze must be effected within three days of receiving such request.

Exceptions to a security freeze also include reports provided for:

- credit file monitoring or similar service to which consumer has subscribed,
- reviewing an account or collecting a financial obligation owing for a debt or account contract,
- prescreening under the FCRA,
- providing a consumer with a copy of his or her consumer report at the consumer's request, or
- setting or adjusting an insurance rate, underwriting, adjusting a claim or servicing a policy for insurance purposes.

Resellers of credit information are not required to place a security freeze on a consumer's report.

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former address in the case of an address change.

Any time a summary of rights is required to be provided under section 609 of the FCRA (disclosure by a CRA of the contents of the consumer's file to the consumer at the consumer's request), the law mandates that a specified notice regarding the availability of security freezes be provided to Missouri consumers.

CRA's that knowingly violate the law are liable to the consumer for actual damages, costs and fees, and attorney's fees. Injunctive relief may also be obtained.

A CRA may charge a specified fee to place or temporarily lift a security freeze, but may not impose a fee on victims of identity theft who submit an incident report.

### **MONTANA**

Montana law (Mont. Code Ann. §§ 30-14-1726 et seq.) provides that a consumer, a parent or guardian in the case of a minor or incapacitated person, or a conservator in the case of a protected person, may place a security freeze prohibiting the release of the consumer's credit report or credit score without express authorization of the consumer. To place the freeze, a consumer may make a written request to a CRA by regular or certified mail or by the secure electronic connection

## SCHWARTZ & BALLEN LLP

which must be made available by the CRA. A parent, guardian or conservator may place a freeze on another's behalf by making a written request to the CRA at the address designated by the CRA. The CRA must place the freeze within five business days or, if the consumer is a victim of identity theft, within 24 hours of the request. The CRA must send a written confirmation of the security freeze within five business days of placing the freeze and provide the consumer with a PIN, password, or similar device to be used to release the consumer's credit report. The act took effect July 1, 2007.

A consumer may allow access to his credit report by a specified party or for a specified period of time while a freeze is in effect. To temporarily lift or remove the security freeze, a consumer must provide the CRA with proper identification, the PIN, password, or device provided by the CRA, information regarding the third party or time period for making information available to users, as applicable. The CRA may permit contact by regular or certified mail, telephone, or a secure electronic connection. The freeze must be lifted or removed within three business days of the request or, for requests to lift a freeze made by telephone or through a secure electronic connection, within 15 minutes of receiving the request, with exceptions for acts out of the CRA's control.

Exceptions to the security freeze also include reports provided for:

- credit file monitoring,
- reviewing an account or collecting a financial obligation owing for an account, contract, or debt or extending credit to a consumer with a prior or existing account, contract or debtor-creditor relationship,
- prescreening under the FCRA,
- providing a consumer with a copy of the consumer's consumer report or credit score at the consumer's request, or
- a CRA for its database or file that consists entirely of information concerning criminal record information, tenant screening, employment screening, fraud prevention or detection, or personal loss history information.

Certain entities are not required to place a security freeze on a consumer's report (check or fraud prevention services, deposit account information services, or CRAs acting as resellers).

Any time a summary of rights is required to be provided under section 609 of the FCRA (disclosure by a CRA of the contents of the consumer's file to the consumer at the consumer's request), the law mandates that a specified notice regarding the availability of security freezes be provided to Montana consumers.

## **SCHWARTZ & BALLEN LLP**

Any person who willfully fails to comply with the act is liable to the consumer for actual damages between \$100 and \$1,000, costs and reasonable attorney fees, and punitive damages.

A CRA may charge a specified fee to place or temporarily lift a freeze, unless the consumer is a victim of identity theft.

### **NEBRASKA**

Nebraska law (Neb. Rev. Stat. Ann. §§ 8-2602 et seq.) provides that a consumer may place a security freeze prohibiting the release of the consumer's credit report or information derived from the file without the express authorization of the consumer. To place the freeze, a consumer must send a written request to a CRA by certified mail. The CRA must place the freeze within three business days and must within 5 business days send a written confirmation and provide the consumer with a PIN or password to be used for authorizing release of the report or information derived from the file. Written confirmation must include a warning that the consumer may be denied credit as a result of the freeze. The CRA must also provide information regarding the process for removing or temporarily lifting a security freeze. The act took effect September 1, 2007.

A consumer may allow access to his credit file for a period of time while a freeze is in effect. To temporarily lift or remove the freeze, a consumer must provide the CRA with sufficient identification, the PIN or password, and information regarding the time period for making information available to users, as applicable. The CRA must develop procedures involving use of the telephone, the Internet, or other electronic media to request temporarily lifting of the freeze. The freeze must be removed or lifted within three business days of the request or, if requests to temporarily lift a freeze are made by telephone or secure electronic method, the freeze must be lifted within 15 minutes.

Exceptions to the security freeze also include reports provided for:

- credit file monitoring,
- purposes related to an existing account, contract or negotiable instrument,
- prescreening under the FCRA,
- setting or adjusting an insurance rate or claim or underwriting for insurance purposes, or
- providing a consumer with a copy of the consumer's consumer report or information derived from the consumer's file at the consumer's request.

## **SCHWARTZ & BALLEN LLP**

Certain entities are not required to place a security freeze on a consumer's report (check services, fraud prevention services, deposit account information services, CRAs acting as resellers).

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

The State Attorney General is authorized to bring actions to enforce this law. Violators shall be subject to a civil penalty of not more than \$2,000 per violation, plus attorney's fees and costs. The Attorney General may also seek actual damages for each consumer injured by a violation.

A CRA may charge a specified fee to place, temporarily lift or remove a freeze, unless the consumer is a minor or a victim of identity theft.

### **NEVADA**

Nevada law (Nev. Rev. Stat. Ann. §§ 598C.300 et seq.) provides that a consumer may place a security freeze prohibiting the release of information from the consumer's credit file without express authorization of the consumer. To place the freeze, a consumer must send a written request to a CRA by certified mail. The CRA must place the freeze within five business days and within 10 business days send written confirmation and provide the consumer with a PIN or password to be used for authorizing release of the report. The CRA must also provide information regarding the process of removing or temporarily lifting a security freeze and a written disclosure of rights. The act took effect October 1, 2005.

A consumer may allow access to his credit file by a specified party or for a period of time while a freeze is in effect. To temporarily lift or remove the freeze, a consumer must provide the CRA with sufficient identification, the PIN or password, and information regarding the third party or time period for making information available to users, as applicable. The CRA may permit contact by telephone, fax, the Internet, or other electronic means to request temporarily lifting of the freeze. The freeze must be lifted or removed within three business days of the request and written confirmation sent that the security freeze has been removed.

Exceptions to the security freeze also include reports provided for:

- credit file monitoring,
- purposes related to an existing account, contract or negotiable instrument,
- purposes relating to an existing business relationship,

## **SCHWARTZ & BALLEN LLP**

- prescreening under the FCRA, or
- providing a consumer with a copy of the consumer's consumer report or credit score at the consumer's request.

Certain entities are not required to place a security freeze on a consumer's report (check services, fraud prevention services, deposit account information services, CRAs acting as resellers).

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

The State Attorney General is authorized to bring actions to enforce this law. A person who willfully fails to comply with the law is liable to the affected consumer for actual damages, punitive damages and costs and attorneys' fees. A person who negligently fails to comply with the law is liable to the affected consumer for actual damages, costs and attorneys' fees.

A CRA may charge a specified fee to place, remove or temporarily lift a freeze, unless the consumer is a victim of identity theft or at least 65 years old.

### **NEW HAMPSHIRE**

New Hampshire law (N.H. Rev. Stat. Ann. §§ 359-B:22 et seq.) provides that a consumer may place a security freeze prohibiting the release of the consumer report or credit score without the consumer's express authorization. To place a freeze, a consumer who is a victim of identity theft must send a written request via certified mail to a CRA with a valid copy of a law enforcement report or complaint, in which case a fee may not be charged for placing the freeze. Other consumers who are not victims of identity theft may place a freeze by sending a written request to a CRA via certified mail, in which case a specified fee may be charged for each freeze, removal or temporary lifting of the freeze. Within five business days, the CRA must establish the freeze and within 10 business days, send written confirmation, a PIN or password to be used in authorizing lifting of the freeze, and information regarding the process of process for placing and temporarily lifting a security freeze. The act took effect January 1, 2007.

A consumer may allow access to his credit file by a specific party or for a period of time while a freeze is in effect. To temporarily lift or remove the freeze, a consumer must provide the CRA with proper identification, the PIN or password and information regarding the third party or time period for making information available to users, as applicable. A CRA may develop procedures to process requests via

## SCHWARTZ & BALLEN LLP

telephone, fax, the Internet, or other electronic media to receive and process a request. The freeze must be lifted or removed within three business days of receiving the request.

Exceptions to the security freeze also include reports provided for:

- credit file monitoring,
- reviewing an account or collecting a financial obligation owing for an account, contract, or debt or extending credit to a consumer with a prior or existing account, contract or debtor-creditor relationship,
- prescreening under the FCRA,
- providing a consumer with a copy of his or her consumer report or credit score upon the consumer's request, or
- setting or adjusting an insurance rate or claim or underwriting for insurance purposes.

Certain entities are not required to place a security freeze on a consumer's report (check services, fraud prevention services, deposit account information services, or CRAs acting as resellers).

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

Any time a summary of rights is required to be provided under section 609 of the FCRA (disclosure by a CRA of the contents of the consumer's file to the consumer at the consumer's request), the law mandates that a specified notice regarding the availability of security freezes be provided to New Hampshire consumers.

A CRA or user of information who willfully fails to comply with the law is liable to affected consumers for actual damages or \$1,000, whichever is greater, punitive damages, costs and attorneys' fees. A CRA or user of information who negligently fails to comply with this law is liable to affected consumers for actual damages or \$1,000, whichever is greater, costs and attorneys' fees.

A CRA may charge a specified fee to place, remove, or temporarily lift a freeze, unless the consumer is a victim of identity theft.

## SCHWARTZ & BALLEN LLP

### NEW JERSEY

New Jersey law (N.J. Stat. Ann. §§ 56:11-46 et seq.) provides that a consumer may place a security freeze prohibiting the release of the consumer's consumer report to a third party without express authorization of the consumer. To place a freeze, a consumer must send a written request to a CRA by certified mail, overnight mail, or e-mail if provided by the CRA. Within five business days, the CRA must establish the freeze and send written confirmation, a PIN or password to be used in authorizing lifting of the freeze, information regarding the process of process for placing, removing and temporarily lifting a security freeze, and written disclosure of the right to place a freeze. The act took effect January 1, 2006.

A consumer may allow access to his credit file by a specific party or for a period of time while a freeze is in effect. To temporarily lift or remove the freeze, a consumer must contact the CRA via certified mail, overnight mail, or e-mail and provide identification, the PIN or password and information regarding the third party or time period for making information available to users, as applicable. A CRA may develop procedures to process requests via telephone, fax, the Internet, or other electronic media. The freeze must be lifted or removed within three business days of receiving the request. Regulations are to be promulgated regarding use of electronic media to receive and process consumer requests to temporarily lift a freeze as quickly as possible, with the goal of processing a request within 15 minutes of receipt.

Exceptions to the security freeze also include reports provided for:

- credit file monitoring service,
- reviewing an account or collecting a financial obligation owing for an account, contract, or negotiable instrument,
- prescreening under the FCRA, or
- providing a consumer with a copy of the consumer's consumer report at the consumer's request.

Certain entities are not required to place a security freeze on a consumer's report (check services, fraud prevention services, demand deposit account information services, or CRAs acting as resellers).

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

Any time a summary of rights is required to be provided under section 609 of the FCRA (disclosure by a CRA of the contents of the consumer's file to the

## **SCHWARTZ & BALLEN LLP**

consumer at the consumer's request), the law mandates that a specified notice regarding the availability of security freezes be provided to New Jersey consumers.

A person who willfully fails to comply with requirements under the law is liable to the affected consumer for actual damages of not less than \$100 and not more than \$1,000, or if a consumer report was obtained under false pretenses or knowingly without a permissible purpose, actual damages or \$1,000, whichever is greater, as well as punitive damages and costs and attorneys' fees. A person who negligently fails to comply with this law is liable to the consumer for actual damages as well as costs and attorneys' fees.

A CRA may charge a specified fee to remove or temporarily lift a freeze, but not to place a freeze.

### **NEW MEXICO**

New Mexico law (N.M. Stat. Ann. §§ 56-3A-1 et seq.) provides that a consumer may place a security freeze prohibiting the release of the consumer's credit report or score to a third party without express authorization of the consumer. To place a freeze, a consumer must send a written request to a CRA by certified or regular mail, telephone or a secure electronic connection if provided by the CRA. The CRA must establish the freeze within three business days and, within five business days thereafter, must send written confirmation and a PIN, password or similar device to be used in authorizing the release or removal of the freeze. The act took effect July 1, 2007.

A consumer may allow access to his credit file by a specific party or period of time while a freeze is in effect. To lift temporarily or remove the freeze, a consumer must contact the CRA via certified or regular mail, telephone or the secure electronic mail or other electronic means required to be provided by the CRA and provide identification, the PIN, password or similar device, and information regarding the third party or time period for making information available to users if applicable. The freeze must be lifted or removed within three business days after the day the request is received, or, for requests received by secure electronic mail connection or other electronic means, within 15 minutes. The act provides exceptions to the 15 minute deadline for acts outside of the CRA's control.

Exceptions to the security freeze also include reports provided for:

- credit file monitoring,
- reviewing an account or collecting a financial obligation owing for an account, contract, or debt,
- prescreening under the FCRA,

## **SCHWARTZ & BALLEN LLP**

- providing a consumer with a copy of his or her consumer report or credit score at the consumer's request, and
- insurance purposes.

Certain entities are not required to place a security freeze on a consumer's report (check and fraud prevention services, deposit account information services, or CRAs acting as resellers).

Any time a summary of rights is required to be provided under section 609 of the FCRA (disclosure by a CRA of the contents of the consumer's file to the consumer at the consumer's request), the law mandates that a specified notice regarding the availability of security freezes be provided to New Mexico consumers.

The CRA must send written notice to a consumer within five business days if the CRA erroneously releases the consumer's report that is subject to a freeze, including the nature of the information released and the identity and contact information of the recipient.

A consumer may bring an action for civil penalties against a CRA that releases information placed under a security freeze without authorization. Civil penalties include injunctive relief, actual damages, a penalty not to exceed \$2,000 for each violation, costs of the action and reasonable attorney fees.

A CRA may charge a specified fee to either temporarily remove or release it except no charge may be made if the consumer is 65 years of age or older or is a victim of identity theft.

### **NEW YORK**

New York law (N.Y. Gen. Bus. Law § 380-t) provides that a consumer may place a security freeze on his or her consumer credit report prohibiting the release of the report, the contents of the report or the credit score without express authorization of the consumer. To place a freeze, a consumer must send a request to a CRA by certified or overnight mail at the address designated by the CRA, by telephone or secure website, or other methods developed by the CRA. Within three business days the CRA must place the freeze and within 5 business days must send written confirmation and provide the consumer with a PIN or password, or other device to be used in authorizing release of the consumer credit report. The CRA must inform the consumer of the process for placing, removing or temporarily lifting a security freeze, including the point of contact for doing so, and including a written disclosure of the consumer's rights. The act took effect November 1, 2006.

## SCHWARTZ & BALLEN LLP

A consumer may allow access to his credit file to specific parties or for a specified period of time while a freeze is in effect. To temporarily lift or to remove the freeze, a consumer must contact the CRA via certified or overnight mail, telephone or other method developed by the CRA and provide proper identification, the PIN or password and information regarding the parties or time period for making information available to users, as applicable. The CRA may permit contact by other methods of communications, including the Internet or other electronic means to temporarily lift the freeze. The freeze must be lifted or removed within three business days of the request if received by mail or within 15 minutes if received by telephone or secure electronic method.

Exceptions to the security freeze also include reports provided for:

- credit file monitoring,
- reviewing an account or collecting a financial obligation owing for an account, contract, or negotiable instrument,
- prescreening under the FCRA, or
- providing the consumer with a copy of the consumer's report at his or her request.

Certain entities are not required to place a security freeze on a consumer's report (check services, fraud prevention services, deposit account information services, or CRAs acting as resellers).

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

Any time a summary of rights is required to be provided under section 609 of the FCRA (disclosure by a CRA of the contents of the consumer's file to the consumer at the consumer's request) the law mandates that a specified notice regarding the availability of security freezes be provided to New York consumers.

The CRA must send written notice to a consumer within three business days if the CRA erroneously releases the consumer's report that is subject to a freeze, including the nature of the information released and the identity and contact information of the recipient.

The State Attorney General is authorized to seek an injunction against continued violations and the court may order a sum of no more than \$2,000 per defendant to be paid. A civil penalty also may be imposed of no more than \$5,000 per violation.

## **SCHWARTZ & BALLEN LLP**

A CRA may charge a specified fee to remove or temporarily lift a freeze, or to place another freeze after removal of a previous freeze, unless the person is a victim of identity theft or domestic violence or a consumer is placing their first security freeze.

### **NORTH CAROLINA**

North Carolina law (N.C. Gen. Stat. § 75-63) provides that any consumer may place a security freeze prohibiting the release of the consumer's credit report or any information from it to a third party without express authorization of the consumer. To place a freeze, a consumer must send a written request to a CRA by first class mail, telephone or secure website or secure electronic mail connection. Within three business days of receiving a request by mail or within 24 hours of receiving a request via telephone or electronic mail, the CRA must place the freeze and within three business days must send written confirmation and provide the consumer with a PIN or password for use in lifting the freeze. The CRA must inform the consumer of the process for placing and temporarily lifting a security freeze. The act took effect December 1, 2005.

A consumer may allow access to his credit file for a specified period of time or to a specific party while a freeze is in effect. To temporarily lift or to remove the freeze, a consumer must provide the CRA with proper identification, the PIN or password and information regarding the time period for making information available to users, as applicable. The CRA may permit contact by mail, telephone, or electronic means to temporarily lift the freeze. The freeze must be lifted or removed within three business days of the request if the request is received by mail or within 15 minutes if received electronically or by telephone.

Exceptions to the security freeze also include reports provided for:

- credit file monitoring,
- reviewing an active account or collecting a financial obligation owing for an account, contract or debt,
- prescreening under the FCRA,
- a CRA to provide the consumer with a copy of the consumer's report at his or her request,
- financial institutions for purposes related to checking, savings and investment accounts, or
- setting or adjusting a rate, adjusting a claim or underwriting for property and casualty insurance purposes.

## **SCHWARTZ & BALLEN LLP**

Certain entities are not required to place a security freeze on a consumer's report (check services, fraud prevention services, deposit account information services, or CRAs acting as resellers).

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

When a summary of rights is required to be provided under section 609 of the FCRA (regarding disclosure by a CRA of the contents of the consumer's file to the consumer at the consumer's request), the law mandates that a specified notice regarding the availability of security freezes be provided to North Carolina consumers.

A nationwide CRA that places a freeze must provide a notice to the consumer stating that the freeze is only placed with that CRA, providing the contact information for the other nationwide CRAs and the State Attorney General, and stating that the consumer may place a freeze with the other CRAs and obtain information on combating identity theft from the Attorney General. Such notice cannot make a solicitation for other goods and services.

Violations of the law are considered violations of the State law prohibiting unfair or deceptive act or practices, for which actions may be brought by the State Attorney General for civil penalties of up to \$5,000 per violation or an injunction or other equitable relief. Actions may also be brought by injured consumers for treble damages and attorneys' fees.

A CRA may charge a specified fee to place a freeze if requested via telephone or mail (but not if requested electronically), unless the consumer is over age 62 or is a victim of identity theft.

### **NORTH DAKOTA**

North Dakota law (N.D. Cent. Code §§ 51-33 -01 et seq.) provides that a consumer may place a security freeze prohibiting the release of the consumer's credit report or any information derived from it, without express authorization of the consumer. A consumer may place a freeze by either mail, telephone, or through a secure electronic mail connection to the CRA. The CRA must place the freeze on the consumer's file within three business days. If a victim of identity theft requests a freeze, the CRA must place the freeze within 24 hours. The CRA must send written confirmation and provide the consumer with a PIN or password for releasing the

## SCHWARTZ & BALLEN LLP

freeze within five business days after receiving the request. The act took effect June 1, 2007.

A consumer may allow access to his credit file for a specified period of time or a specific party while a freeze is in effect. To temporarily lift or to remove the freeze, a consumer must provide the CRA with proper identification, the PIN or password and information regarding the time period for making information available to users or regarding the third party who is to receive the consumer report, as applicable. A CRA that receives a request to lift a freeze must do so no later than two business days of receiving a request by mail or within 15 minutes of receiving a request by telephone or a secure electronic connection.

Exceptions to the security freeze also include reports provided for:

- reviewing an account or collecting a financial obligation owing for an account, contract, or negotiable instrument,
- prescreening under the FCRA,
- credit file monitoring,
- providing a consumer with a copy of his or her consumer report or credit score at the consumer's request, or
- setting or adjusting a rate, adjusting a claim or underwriting for insurance purposes.

Certain entities are not required to place a security freeze on a consumer's report (check services, fraud prevention services, deposit account information services, or CRAs acting as resellers).

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

Any time a summary of rights is required to be provided under section 609 of the FCRA, the law mandates that a specified notice regarding the availability of security freezes be provided to North Dakota consumers.

A consumer may bring an action for injunctive relief, the greater of the actual damage or \$2,000 for each violation, and reasonable expenses, costs, and attorney's fees against a CRA that erroneously releases a consumer's credit file. The State Attorney General also may enforce the law.

## SCHWARTZ & BALLEN LLP

A CRA may charge a specified fee for placing or temporarily lifting a security freeze unless the consumer is a victim of identity theft.

### OHIO

Ohio law (Ohio Rev. Code Ann. §§ 1349.52 et seq.) provides that a consumer may place a security freeze prohibiting the release of the consumer's credit report or information derived from the consumer's credit report relating to the extension of credit without the express authorization of the consumer. To place a freeze, the consumer must send a written request to the CRA via certified mail or other comparable service providing a delivery receipt or by electronic means authorized by the CRA. The CRA shall place a security freeze within three business days of the request and within five business days send written confirmation and provide a PIN or password for use in lifting the freeze. The act took effect September 1, 2008.

A consumer may allow access to his or her credit report for a specific party or period of time while a freeze is in effect. To temporarily lift or remove a freeze, a consumer must provide the CRA with proper identification, the PIN or password and information regarding the party or time period for which the freeze should be lifted, as applicable. The CRA may permit contact by certified mail or comparable service providing a delivery receipt, secure electronic method or telephone to temporarily lift a freeze. The freeze must be temporarily lifted or removed within three business days of a request received by certified mail or comparable service and within 15 minutes of receiving a request to lift a freeze via secure electronic method, telephone or another means authorized by the CRA.

Exceptions to the security freeze also include reports provided for:

- reviewing an account or collecting a financial obligation owed for an account, contract or negotiable instrument,
- prescreening under the FCRA,
- credit file monitoring,
- providing the consumer with a copy of the consumer's report or credit score at his or her request, or
- setting or adjusting a rate, adjusting a claim or underwriting for insurance purposes.

Certain entities are not required to place a security freeze on a consumer's report (check services, fraud prevention services, deposit account information services, or CRAs acting as resellers).

When a summary of rights is required to be provided under section 609 of the FCRA (regarding disclosure by a CRA of the contents of the consumer's file to the consumer at the consumer's request) or when receiving a request from a consumer

## **SCHWARTZ & BALLEN LLP**

about a security freeze, the law mandates that a specified notice regarding the availability of security freezes be provided to Ohio consumers.

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

The State Attorney General is authorized to bring a civil action for appropriate relief, including an injunction, civil penalties of up to \$2,500 per instance where the CRA intentionally or recklessly failed to comply with this law, and costs. Consumers may pursue a civil action for actual and punitive damages, costs and fees for willful failure or for actual damages, plus costs and fees, in the case of negligent failure to place a freeze or to send written confirmation of a change to a consumer's information as required by the law.

A CRA may charge a specified fee to place a security freeze, unless the consumer is a victim of identity theft. A CRA may charge a specified fee to remove or temporarily lift a security freeze.

### **OKLAHOMA**

Oklahoma law (Okla. Stat. Ann. tit. 24, §§ 149 et seq.) provides that a consumer may place a security freeze prohibiting the release of the consumer report or credit score relating to the opening of new accounts or extension of credit. To place a freeze, the consumer must send a written request to a CRA by certified mail. The CRA shall place a security freeze within five business days of the request and within 10 business days, the CRA shall send written confirmation and provide a PIN or password for use in lifting the freeze. The CRA must inform the consumer of the process for placing and temporarily lifting a security freeze. The act took effect January 1, 2007.

A consumer may allow access to his or her credit file for a specific period of time while a freeze is in effect. To temporarily lift or remove the freeze, a consumer must provide the CRA with proper identification, the PIN or password and information regarding the time period for making information available to users, as applicable. The CRA may permit contact by telephone, fax, the Internet, or other electronic means to temporarily lift the freeze. The freeze must be lifted or removed within three business days of the request.

Exceptions to the security freeze also include reports provided for:

- credit file monitoring,

## **SCHWARTZ & BALLEN LLP**

- reviewing an account or collecting a financial obligation owed for an account, contract or negotiable instrument,
- prescreening under the FCRA,
- providing the consumer with a copy of the consumer's report or credit score at his or her request, or
- underwriting of insurance.

Certain entities are not required to place a security freeze on a consumer's report (check services, fraud prevention services, deposit account information services, or CRAs acting as resellers).

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

When a summary of rights is required to be provided under section 609 of the FCRA (regarding disclosure by a CRA of the contents of the consumer's file to the consumer at the consumer's request), the law mandates that a specified notice regarding the availability of security freezes be provided to Oklahoma consumers.

A person who willfully or negligently fails to comply with this law is liable to an affected consumer for actual damages and costs and attorneys' fees.

A CRA may charge a specified fee to place, remove or temporarily lift a freeze, unless the consumer is a victim of identity theft. No fee may be charged to persons 65 years of age or older to place or remove a freeze.

### **OREGON**

Oregon law (Or. Rev. Stat. §§ 646A.604 et seq.) provides that a consumer may place a security freeze prohibiting the release of information from the consumer's consumer report without express authorization of the consumer. To place a freeze, a consumer must send a written request to a CRA or make a secure electronic request at a website designated by the CRA if such method is made available at the CRA's discretion. The CRA must place the freeze within five business days of receiving the request and, within 10 business days after placing the freeze, send written confirmation, a PIN, password or similar device to be used to authorize a temporarily lift or permanent removal of the freeze, and information regarding the process for removing and temporarily lifting the freeze. The act took effect on October 1, 2007.

A consumer may allow access to the consumer's credit report for a specific period of time while a freeze is in effect. To temporarily lift or remove a freeze, the

## **SCHWARTZ & BALLEN LLP**

consumer must contact the CRA using a point of contact designated by the CRA and provide proper identification, the PIN, password or similar device, the information regarding the time period for making information available to users, and a fee, as applicable. The freeze must be lifted or removed within three business days of receiving the request.

Exceptions to the security freeze also include reports provided for:

- credit file monitoring,
- reviewing an account or collecting a financial obligation owing for an account, contract or debtor-creditor relationship,
- prescreening under the FCRA,
- providing the consumer with a copy of the consumer's report at his or her request, or
- setting or adjusting a rate, adjusting a claim or underwriting for insurance purposes.

Certain entities are not required to place a security freeze on a consumer's report (check services, fraud prevention services, deposit account information services, or CRAs acting as resellers).

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

A CRA may charge a specified fee to place, temporarily lift, or remove a freeze, or to replace a previously provided PIN or password, unless the consumer is a victim of identity theft.

### **PENNSYLVANIA**

Pennsylvania law (73 Pa. Cons. Stat. §§ 2501 et seq.) provides that a consumer may place a security freeze prohibiting the release of the consumer's consumer report without express authorization of the consumer. To place a freeze, a consumer must send a written request to a CRA by certified mail or through a secure internet connection if made available by the CRA. Within five business days, the CRA must establish the freeze and within 10 business days send written confirmation, a PIN or password to be used in authorizing lifting of the freeze and information regarding the process for removing and temporarily lifting the freeze. The act took effect January 1, 2007.

## SCHWARTZ & BALLEN LLP

A consumer may allow access to his credit file by a specific party or for a period of time while a freeze is in effect. To temporarily lift or remove the freeze, a consumer must contact the CRA via certified mail or by a toll-free number or (if made available by the CRA) through a secure internet connection and provide identification, the PIN or password and information regarding the third party or time period for making information available to users, as applicable. A CRA may develop procedures to process requests via telephone, fax, the internet, or other electronic media. The freeze must be lifted or removed within three business days of receiving the request.

Exceptions to the security freeze also include reports provided for:

- credit file monitoring,
- reviewing an account or collecting a financial obligation owing for an account, contract or negotiable instrument,
- prescreening under the FCRA,
- providing the consumer with a copy of the consumer's report at his or her request,
- for check services, fraud prevention services, deposit account information services, or CRAs acting as resellers or
- setting or adjusting a rate, adjusting a claim or underwriting for insurance purposes.

Certain entities are not required to place a security freeze on a consumer's report (check services, fraud prevention services, deposit account information services, or CRAs acting as resellers).

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

The State Attorney General is exclusively authorized to bring an action for unfair or deceptive acts or practices, for which a civil penalty may be imposed of no more than \$1,000 per violation or \$3,000 per violation if the victim is age 60 or older.

A CRA may charge a reasonable fee to place or temporarily lift a freeze, unless the consumer is a victim of identity theft or 65 years of age or older.

## **SCHWARTZ & BALLEN LLP**

### **RHODE ISLAND**

Rhode Island law (R.I. Gen. Laws §§ 6-48-1 et seq.) provides that a consumer may place a security freeze prohibiting the release of the consumer's credit report or credit score relating to the extension of credit. To place a freeze, the consumer must send a written request to a CRA by certified mail. The CRA must place a security freeze within five business days of the request and within 10 business days, the CRA must send written confirmation and provide a PIN, password or similar device for use in temporarily lifting or removing the freeze. The act took effect January 1, 2007.

The consumer may allow access to his or her credit file for a specific period of time while a freeze is in effect. To temporarily lift or remove the freeze, a consumer must provide the CRA with proper identification, the PIN or password and information regarding the time period for making information available to users, as applicable. A CRA may develop procedures to process requests via telephone, fax or, if consent is obtained in the manner required by the federal E-Sign Act, by Internet, e-mail or other electronic media. The freeze must be lifted or removed within three business days of receiving the request.

Exceptions to the security freeze also include reports provided for:

- credit file monitoring,
- reviewing an account or collecting a financial obligation owed for an account, contract or debt,
- prescreening under the FCRA,
- providing the consumer with a copy of the consumer's report at his or her request, or
- setting or adjusting a rate, adjusting a claim or underwriting for insurance purposes.

Certain entities are not required to place a security freeze on a consumer's report (e.g., check services, fraud prevention services, deposit account services, CRAs acting as resellers).

When a summary of rights is required to be provided under section 609 of the FCRA (regarding disclosure by a CRA of the contents of the consumer's file to the consumer at the consumer's request), the law mandates that a specified notice regarding the availability of security freezes be provided to Rhode Island consumers.

A person who willfully fails to comply with this law is liable to affected consumers for actual damages of not less than \$100 and not more than \$1,000, punitive damages, costs and attorneys' fees. A person who is negligent in complying with the law is liable to the consumer for actual damages, costs and attorneys' fees.

## **SCHWARTZ & BALLEN LLP**

A CRA may charge a specified fee for any security freeze-related services, unless the person is an identity theft victim or 65 years of age or older.

### **SOUTH CAROLINA**

South Carolina law (S.C. Code Ann. § 37-20-160) provides that a consumer may place a security freeze on the consumer's credit report prohibiting the release of any or all parts of the consumer's credit report or any information derived from it without the consumer's authorization. To place the freeze, the consumer must send a written request by certified or electronic mail. The CRA must place the freeze within five business days of the request. The CRA must issue a written confirmation that the freeze has been placed as well as a PIN or password to authorize removal or lifting of the freeze within 10 business days of the request. The act took effect December 31, 2008.

The consumer may request to temporarily release the consumer report to certain requesters or for certain time periods. To temporarily lift or remove a freeze, a consumer must contact the CRA and provide proper identification, the PIN or password assigned to him and information regarding the time period or requesters for which the freeze will be lifted, as applicable. The CRA may permit contact by telephone, fax, the Internet or another electronic medium. The freeze must be removed within three business days and temporarily lifted within 15 minutes of receiving the request electronically or via telephone.

Exceptions to the security freeze also include reports provided for:

- credit file monitoring,
- purposes related to an account, contract or instrument,
- insurance purposes,
- prescreening under the FCRA,
- providing the consumer with a copy of the consumer's report at his or her request, or
- a consumer reporting agency acting as a reseller.

Certain entities are not required to place a security freeze on a consumer's report (e.g., check services, fraud prevention services, deposit account services, CRAs acting as resellers).

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN, or address.

## **SCHWARTZ & BALLEN LLP**

A person who willfully fails to comply with the requirements of the law is liable for three times the amount of actual damages or not more than \$1,000 per incident, whichever is greater, plus attorney's fees and costs. A person that negligently fails to comply with the requirements is liable for actual damages and attorney's fees and costs.

A CRA may not charge a fee for a freeze or temporary or permanent removal of a freeze, or reinstatement of a freeze.

### **SOUTH DAKOTA**

South Dakota law (S.D. Codified Laws §§ 54-15-1 et seq.) provides that a consumer who is a victim of identify theft may place a security freeze prohibiting the release of information from the consumer's report, relating to an extension of credit involving the consumer's report, without express authorization of the consumer. To place a freeze, the victim must send a written request to a CRA by certified mail with a valid copy of a police report. The CRA must place the freeze within five business days of the request and within 10 business days send written confirmation and provide a PIN or password for use in lifting the freeze. The CRA must inform the consumer of the process for placing and temporarily lifting a security freeze. The freeze will remain in place for up to 7 years, unless the consumer opts to remove that freeze at an earlier date. The act took effect July 1, 2006.

An identity theft victim may allow access to his or her credit file for a specific period of time or to specific parties while a freeze is in effect. To temporarily lift or remove the freeze, a consumer must provide the CRA with proper identification, the PIN or password and information regarding the time period for making information available to users, as applicable. The CRA may permit contact by telephone, fax, the Internet, or other electronic means to temporarily lift the freeze. The freeze must be lifted or removed within three business days of receipt of the request.

Exceptions to the security freeze also include reports provided for:

- credit file monitoring,
- reviewing an account or collecting a financial obligation owed for an account, contract or negotiable instrument,
- prescreening under the FCRA,
- providing the consumer with a copy of the consumer's report at his or her request, or
- setting or adjusting a rate, adjusting a claim or underwriting for insurance purposes.

## **SCHWARTZ & BALLEN LLP**

Certain entities are not required to place a security freeze on a consumer's report (check services, fraud prevention services, deposit account information services, or CRAs acting as resellers).

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

### **TENNESSEE**

Tennessee law (Tenn. Code Ann. §§ 47-18-2108, 47-18-2109) permits a consumer to place a security freeze on a consumer report prohibiting the release of the consumer report or credit score without the express authorization of the consumer. To place a freeze, a consumer must make a request in writing by certified mail or an electronic method required to be made available by the CRA for requesting a freeze. The CRA must place the freeze within three business days after receiving the request and within 10 business days of placing the freeze provide the consumer with written confirmation and a PIN or password to be used to release or temporarily lift the freeze. The CRA must notify the consumer of the process for placing, removing, or temporarily lifting a freeze. The act took effect September 1, 2008.

The consumer may allow access to his credit file for a period of time while a freeze is in effect. To temporarily lift or remove the freeze, a consumer must contact the CRA and provide proper identification, the PIN or password and information regarding the time period for making information available to third parties, as applicable. The CRA must develop procedures involving the use of telephone, the Internet, or other electronic method to receive and process a request to temporarily lift a freeze within 15 minutes of receiving the request. A freeze must be permanently lifted within two days of the consumer's request when the request is made by telephone, the Internet or other electronic means.

Exceptions to the security freeze also include reports provided for:

- credit file monitoring,
- purposes related to an existing account, contract or negotiable instrument,
- prescreening under the FCRA,
- providing a copy of the consumer's report to the consumer upon the consumer's request, or
- setting or adjusting a rate, adjusting a claim or underwriting for insurance purposes.

## **SCHWARTZ & BALLEN LLP**

Certain entities are not required to place a security freeze on a consumer's report (check or fraud prevention services, deposit account information services, CRAs acting as resellers).

If a security freeze is in place, the CRA must send written confirmation to the consumer at the consumer's last known address within 30 days of posting changes to the consumer's name, date of birth, SSN or address.

When a summary of rights is required to be provided under section 609 of the FCRA (disclosure by a CRA of the contents of the consumer's file at the consumer's request), the law mandates that a specified notice regarding the availability of security freezes also be provided to Tennessee consumers.

Violators are liable to consumers for actual damages of not less than \$100 and not more than \$1,000, punitive damages and costs and attorney's fees. Persons who negligently fail to comply with requirements of the law are liable to consumers for actual damages, costs and attorney's fees.

A CRA may charge a specified fee for placing or permanently removing a freeze but may not charge a fee to temporarily lift a freeze. A CRA may not charge a consumer who is a victim of identity theft.

### **TEXAS**

Texas law (Tex. Bus. & Com. Code Ann. §§ 20.034 et seq.) permits a consumer to place a security freeze prohibiting the release of information from the consumer's file without express authorization of the consumer. To place a freeze, a consumer must send a written request to a CRA by certified mail with proper identification. The CRA must place the freeze within five business days and within 10 business days provide the consumer with written confirmation and a PIN or password to be used in lifting the freeze. The CRA must notify the consumer of the process for placing, removing and temporarily lifting a security freeze. The act took effect September 1, 2003.

The consumer may allow access to his credit file by a specified party or for a period of time while a freeze is in effect. To temporarily lift or remove the freeze, a consumer must contact the CRA in writing or by telephone and provide proper identification, the PIN or password and information regarding the third party or time period for making information available to third parties, as applicable. The CRA may permit contact by telephone, fax, the Internet, or other electronic means to process requests. The freeze must be lifted or removed within three business days of receipt of the request.

## SCHWARTZ & BALLEN LLP

Exceptions to the security freeze also include reports provided for:

- credit file monitoring,
- purposes related to an existing account, contract or negotiable instrument,
- prescreening under the FCRA,
- providing a copy of the consumer's report to the consumer upon the consumer's request,
- for check services, fraud prevention services, or deposit account information services or
- a CRA acting as a reseller.

Certain entities are not required to place a security freeze on a consumer's report (check or fraud prevention services, deposit account information services, CRAs acting as resellers).

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

A consumer is permitted to bring an action for violations of the law. The State Attorney General also may seek injunctive relief or a civil penalty not to exceed \$2,000 per day the violations continue and attorneys' fees and costs. A violation of the law, except a violation of a requirement to place, temporarily lift or remove a security freeze, is considered a false, misleading or deceptive act or practice under Texas law.

A CRA may charge a specified fee for placing, removing, or temporarily lifting a freeze, unless the consumer is a victim of identity theft.

### UTAH

Utah law (Utah Code Ann. §§ 13-45-201 et seq.) provides that a consumer may place a security freeze prohibiting release of the credit report or information from the report without express authorization of the consumer to a third party who intends to use it to determine the consumer's eligibility for credit. To place a freeze, a consumer must send a written request to a CRA by certified mail. The CRA must place the freeze within five business days of the request and within 10 business days, the CRA must send written confirmation and provide the consumer with a PIN or password to be used in lifting the freeze. The CRA must inform the consumer of the process for placing, removing and temporarily lifting a security freeze. The act took effect September 1, 2008.

## SCHWARTZ & BALLEN LLP

A consumer may allow access to his credit file for a specified period of time while a freeze is in effect. To temporarily lift or remove the freeze, a consumer must provide the CRA with proper identification, the PIN, password or other information sufficient to identify the consumer, and information regarding the time period for making information available to third parties. The CRA may permit contact by telephone, fax, the Internet, or other electronic means in addition to providing a postal address to place, remove or temporarily lift a freeze. If contact is made by telephone or an electronic means during regular business hours, a freeze must be removed with fifteen minutes. Otherwise, a freeze must be removed within three business days.

Exceptions to the security freeze also include reports provided for:

- credit file monitoring,
- reviewing an account or collect a financial obligation owed by the consumer,
- prescreening under the FCRA, or
- providing a copy of the consumer's report to the consumer upon the consumer's request.

Certain entities are not required to place a security freeze on a consumer's report (check services, fraud prevention services, deposit account information services or CRAs acting as resellers).

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

The State Attorney General is authorized to enforce this law, and seek injunctive relief. A person violating the law is subject to a civil penalty of up to \$2,500 for a violation concerning a specific consumer and up to \$100,000 for related violations against more than one consumer.

A CRA may charge a reasonable fee to place, remove, or lift a freeze. A CRA may not charge a fee for placing or removing a freeze if the consumer is a victim of identity theft.

## SCHWARTZ & BALLEN LLP

### VERMONT

Vermont law (Vt. Stat. Ann. tit. 9, §§ 2480b, 2480h et seq.) permits a consumer to place a security freeze prohibiting the consumer's credit report or information from it to be released without express authorization of the consumer. To place the freeze, a consumer must send a written request to a CRA by certified mail. The CRA must place the freeze within five business days and, within 10 business days, the CRA must provide the consumer with written confirmation and a PIN or password to be used in lifting the freeze. The CRA must notify the consumer of the process for placing, removing and temporarily lifting a security freeze. The act took effect July 1, 2006.

The consumer may allow access to his credit file by a specified party or for a period of time while a freeze is in effect. To temporarily lift or remove the freeze, a consumer must contact the CRA and provide proper identification, the PIN or password and information regarding the third party or time period for making information available to users, as applicable. The CRA may permit contact by telephone, fax, the Internet, or other electronic means to process a request to temporarily lift a freeze. The freeze must be lifted or removed within three business days of receipt of the request.

Exceptions to the security freeze also include reports provided for:

- credit file monitoring,
- reviewing an account or collecting a financial obligation owing for an account, contract, or debt, or extending credit to a consumer with a prior or existing account, contract or debtor-creditor relationship,
- prescreening under the FCRA,
- setting or adjusting a rate or underwriting for property or casualty insurance purposes, or
- providing a consumer with a copy of the consumer's report at the consumer's request.

Certain entities are not required to place a security freeze on a consumer's report (check services, fraud prevention services, deposit account information services, or CRAs acting as resellers).

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

A CRA may charge a specified fee to place, remove, or lift a freeze, unless the consumer is a victim of identity theft.

## SCHWARTZ & BALLEN LLP

### VIRGINIA

Virginia law (Va. Code Ann. §§ 59.1-444.1 et seq.) permits a consumer to place a security freeze prohibiting the consumer's credit report or score from being released. To place a freeze, a consumer must send a written request by certified mail or other secure method authorized by the CRA. The CRA must place the freeze within one business day if the request is received electronically and within 10 business days provide the consumer with written confirmation and a PIN, password or similar device for authorizing the temporary lifting of the freeze and disclosing the process for placing and temporarily lifting a freeze. The act took effect July 1, 2008.

A consumer may allow access to his or her consumer report by a specified party or for a period of time while a freeze is in effect. To temporarily lift the freeze, the consumer must contact the CRA and provide proper identification, the PIN or password, and information regarding the time period or specific party for making the report available to users, as applicable. A CRA may develop procedures involving the use of telephone, fax, the Internet or electronic media. The CRA must temporarily lift or remove a freeze within three business days if the request is received via mail or temporarily lift a freeze within fifteen minutes after receiving a request through the electronic contact method chosen by the CRA.

Exceptions to the security freeze also include reports provided for:

- credit file monitoring,
- reviewing an account or collecting a financial obligation owing for an account, contract, or negotiable instrument,
- prescreening under the FCRA,
- providing a consumer with a copy of the consumer's report at the consumer's request, or
- setting or adjusting a rate, adjusting a claim or underwriting for insurance purposes.

Certain entities are not required to place a security freeze on a consumer's report (e.g., check services, fraud prevention services, deposit account information services or CRAs acting as resellers).

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

When a summary of rights is required to be provided under Section 609 of the FCRA (disclosure by a CRA of the contents of the consumer's file at the consumer's

## **SCHWARTZ & BALLEN LLP**

request), the law mandates that a specified notice regarding the availability of security freezes also be provided to Virginia consumers.

A CRA may charge a specified fee to place a freeze to consumers other than victims of identity theft who submit a valid police report to the CRA.

Violators who willfully fail to comply with the law may be liable to the consumer for actual damages of not less than \$100 or more than \$1,000, punitive damages and costs and attorney's fees. Violators who negligently fail to comply with the law may be liable to the consumer for actual damages and costs and attorneys' fees. The State Attorney General may seek an injunction and recover damages on behalf of affected consumers. A court may award no more than \$1,000 per violation to the State, plus costs, expenses and attorneys' fees. Only the State Attorney General may bring an action to enforce the 15-minute requirement.

### **WASHINGTON**

Washington law (Wash. Rev. Code Ann. §§ 19.182.170 et seq.) permits consumers to place a security freeze prohibiting the release of the consumer's report or information from a report without express authorization of the consumer. To place a freeze, the consumer must send a written request to a CRA by certified mail with a valid copy of law enforcement report or complaint. The CRA must place the freeze within five business days and within 10 business days, the CRA must provide the consumer with written confirmation and a PIN or password for use in lifting the freeze. The CRA must notify the consumer of the process for placing, removing and temporarily lifting a security freeze. The act took effect July 24, 2005.

The consumer may allow access to his credit file for a specific period of time while a freeze is in effect. To temporarily lift or remove the freeze, a consumer must contact the CRA and provide proper identification, the PIN or password and information regarding the third party or time period for making information available to users, as applicable. The CRA may permit contact by telephone, fax, the Internet, or other electronic means to temporarily lift a freeze. The freeze must be temporarily lifted within 15 minutes of a request received via telephone, fax, the Internet or other electronic means and within three business days if by mail.

Exceptions to the security freeze also include reports provided for:

- credit file monitoring,
- reviewing an account or collecting a financial obligation owing for an account, contract, or negotiable instrument,
- prescreening under the FCRA, or

## **SCHWARTZ & BALLEN LLP**

- providing a consumer with a copy of the consumer's report at the consumer's request.

Certain entities are not required to place a security freeze on a consumer's report (check services, fraud prevention services, deposit account information services, or CRAs acting as resellers).

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

The State Attorney General is exclusively empowered to enforce this law. A CRA may charge a specified fee for placing, lifting or removing the freeze. A CRA may not charge a victim of identity theft or a consumer who is 65 years of age or older.

### **WEST VIRGINIA**

West Virginia law (W. Va. Code Ann. §§ 46A-6L-101 et seq.) provides that a consumer may place a security freeze prohibiting the release of the consumer's report or any information derived from it without the express authorization of the consumer. To place the freeze, the consumer must send a written request by certified or overnight mail or make a request directly to the CRA through the secure electronic method required to be made available by CRAs. The CRA must within five business days place the freeze and provide a written confirmation of the freeze, along with a PIN or password for authorizing release of the consumer report and a specified notice on how to place, lift and remove a freeze. The act took effect June 8, 2007.

A consumer may allow access to his or her consumer report for a specified period of time while a freeze is in effect. To temporarily lift or remove the freeze, a consumer must contact the CRA by regular mail or by telephone, fax, the Internet or other electronic media and provide proper identification, the PIN or password, and information regarding the time period for making information available to users, as applicable. The CRA may permit contact by telephone, fax, the Internet, or other electronic means. The freeze must be temporarily lifted within 15 minutes of receipt of a request by telephone, fax, the Internet or other electronic media and must otherwise be lifted or removed within three business days of receipt.

Exceptions to the security freeze also include reports provided for:

- reviewing an account or collecting a financial obligation owing for an account, contract, or negotiable instrument,

## **SCHWARTZ & BALLEN LLP**

- prescreening under the FCRA,
- credit file monitoring,
- providing a consumer with a copy of the consumer's report upon the consumer's request, or
- setting or adjusting a rate, adjusting a claim or underwriting for insurance purposes.

Certain entities are not required to place a security freeze on a consumer's report (check services, fraud prevention services, deposit account information services or CRAs acting as resellers, CRA database or file used for criminal record information, fraud prevention or detection, personal loss history, employment, tenant or background screening).

When a summary of rights is required to be provided under section 609 of the FCRA (disclosure by a CRA of the contents of the consumer's file at the consumer's request), the law mandates that a specified notice regarding the availability of security freezes also be provided to West Virginia consumers.

A consumer may file a civil action against a CRA that negligently violates the freeze for injunctive relief, actual damages or \$1,000 whichever is greater, and expenses, costs and attorney's fees. A consumer can also file an action against a CRA for willful violations seeking actual damages of not more than \$5,000. Violations of the act constitute unfair or deceptive acts or practices and can be enforced by the State Attorney General.

A CRA may charge a specified fee to place, remove, or lift a freeze, unless the consumer is a victim of identity theft.

### **WISCONSIN**

Wisconsin law (Wis. Stat. Ann. § 100.54) provides that a consumer may place a security freeze prohibiting the release of the consumer's report for any purpose related to an extension of credit without express authorization of the consumer. To place the freeze, a consumer must send a written request by certified mail or other means authorized by the CRA. The CRA must place the freeze within five business days and within 10 business days, the CRA must provide the consumer with written confirmation and a PIN, password or other device for authorizing release of the consumer report. The CRA also must notify the consumer of the procedure to authorize release of the consumer report. The act took effect January 1, 2007.

A consumer may allow access to his or her consumer report for a specified period of time while a freeze is in effect. To temporarily lift or remove the freeze, a consumer must contact the CRA at the point of contact designated by the CRA and

## **SCHWARTZ & BALLEN LLP**

provide proper identification, the PIN, password or other device, and information regarding the time period for making information available to users, as applicable. The CRA may permit contact by telephone, fax, the Internet, or other electronic means. The freeze must be lifted or removed within three business days of receipt of the request.

Exceptions to the security freeze also include reports provided for:

- credit file monitoring,
- preventing or investigating potential fraud or theft of identity,
- reviewing an account or collecting a financial obligation owing for an account, contract, or negotiable instrument,
- conducting a business transaction initiated by the individual,
- prescreening under the FCRA, or
- underwriting of insurance involving the individual.

Certain entities are not required to place a security freeze on a consumer's report (check services, fraud prevention services, deposit account information services or CRAs acting as resellers).

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

When a summary of rights is required to be provided under section 609 of the FCRA (disclosure by a CRA of the contents of the consumer's file at the consumer's request) the law mandates that a specified notice regarding the availability of security freezes also be provided to Wisconsin consumers.

A person who fails to comply with the law is liable for actual damages sustained by an individual as well as costs and attorneys' fees.

A CRA may charge a specified fee to place, remove, or lift a freeze, unless the consumer is a victim of identity theft.

### **WYOMING**

Wyoming law (Wyo. Stat. Ann. §§ 40-12-503 et seq.) provides that a consumer may place a security freeze prohibiting the release of a consumer's credit report or any information from it relating to an extension of credit or the opening of a new account without the express authorization of the consumer. To place the freeze, a consumer must send a written request by certified mail. The CRA must place the

## SCHWARTZ & BALLEN LLP

freeze within five business days and, within 10 business days, the CRA must provide the consumer with written confirmation and a PIN or password to be used in authorizing the release of the consumer report. The act took effect July 1, 2007.

A consumer may allow access to his or her consumer report for a specified period of time while a freeze is in effect. To temporarily lift or remove the freeze, a consumer must contact the CRA at the point of contact designated by the CRA and provide proper identification, the PIN or password, and information regarding the time period for making information available to users, as applicable. The contact method shall include mail, electronic contact method chosen by the CRA, and telephone. The freeze must be lifted or removed within 15 minutes of receipt of the consumer's request via the electronic contact method established by the CRA or telephone and otherwise within three business days of receipt of the request.

Exceptions to the security freeze also include reports provided for:

- credit file monitoring,
- reviewing an account or collecting a financial obligation owing to the third party requesting the report or to another person,
- preventing or investigating potential fraud or theft of identity,
- prescreening under the FCRA, or
- providing a consumer with a copy of the consumer's report at the consumer's request.

Certain entities are not required to place a security freeze on a consumer's report (check services, fraud prevention services, deposit account information services or CRAs acting as resellers, setting or adjusting of a rate or underwriting insurance).

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

If a person violates the security freeze, the consumer must be notified within five business days of the release of the information, including what information was released and the recipient, and must be notified that the consumer may file a complaint with the Federal Trade Commission and the State Attorney General.

If the CRA intentionally or negligently violates a valid security freeze and fails to take steps to correct the release and provide the notification, the affected consumer may bring a civil action for injunctive relief, a civil penalty not to exceed \$1,000 plus any other available damages; and reasonable expenses, costs and attorney's fees.

**SCHWARTZ & BALLEEN LLP**

A CRA may charge a specified fee to place, remove, or lift a freeze, unless the consumer is a victim of identity theft.

Copyright © 2011 by Schwartz & Ballen LLP. All rights reserved.