

## DATA PROTECTION COMPLIANCE CHECKLIST

### General Questions:

- The candidate is a resident of what country? \_\_\_\_\_
- Hiring location in the same country? If not, where? \_\_\_\_\_
- Will the screening report be sent to another country? \_\_\_\_\_
- Who at the client is responsible for privacy compliance? \_\_\_\_\_
- Does the client have a works council or other representative body to consider? \_\_\_\_\_

### Data Involved:

- Verification of past employment
  - Verification of education
  - Verification of professional credentials
  - Professional reference check
  - Personal reference check
  - Criminal background check
  - Driving records check
  - Credit check
  - Other \_\_\_\_\_
- Is the report generally available in the target country and/or candidate's country of residence?
- What is the usual source of the report?
- Candidate
  - Previous employer
  - Government agency
  - Third party screening company
  - Other third party \_\_\_\_\_

### Compliance Issues Checklist:

- Is there a data protection law in the hiring location country or the candidate's country of residence?
- If required, has the company notified the applicable data protection authority about its screening activities?
- Are there other laws that regulate or limit screening in these countries?
- If the company has a local works council or other representative body, have any required approvals been obtained? Are there any restrictions on screening imposed?
- For each report listed above, are you permitted to consider this data given the country(ies) and position for which the candidate is applying?
- Is the screening appropriate given the particular job?

**Candidate Communications Checklist:**

- Does the client have a privacy notice for its candidates? Does the notice address background screening?
- Does the client have an appropriate consent form for the screening process? Does the consent form appropriately address sensitive data (including Special Categories of Data)?
- Does the consent form appropriately address data transfers?
- Are the notice and consent forms written in language(s) in which the candidate is fluent?
- Does the client have an individual who can answer questions about the company's screening practices? Is this person named in the privacy notice and/or the consent form?
- Does the client understand applicable limits of the consent form? For example, is the client generally permitted to reject candidates who refuse to consent? If not, does the client understand the possible liability for such rejection?
- Does the client have a process to communicate with the candidate if adverse information is presented in the screening report(s)? Does the client have a process to allow the candidate to respond to adverse information?

**Data Transfers Checklist:**

- Does the screening process require any personal data to be transferred across national borders? If so, are there any legal restrictions on such transfers?
- Do candidates consent to the transfers in the consent form?
- For countries that restrict transfers (including the EU member states, Iceland, Lichtenstein, Norway, Switzerland, the Channel Islands, Russia, Tunisia, Japan, Uruguay, and Argentina), is the transfer authorized using (for example) model contracts, Safe Harbor or consent?

**Local Screening Vendor Checklist:**

- Can the vendor establish its knowledge of application laws? Is the vendor established in the candidate's country of residence? Does the vendor have a written screening compliance policy?
- Who is accountable for privacy compliance within the vendor? \_\_\_\_\_
- If applicable, has the vendor notified the data protection authority regarding its own data processing activities?
- Does the vendor have an appropriate information security program? Is sensitive data encrypted?
- Does the vendor have template privacy notice or consent forms that your clients can use to comply with local laws?
- Does the vendor have any other compliance resources?