

II.A. The Primary Tools To Minimize Further Fraud

The primary tools for preventing the thief from opening additional new accounts in your client's name are the **fraud alert** and the **credit freeze**. In most cases of the more serious forms of identity theft, your client should place an initial fraud alert on her credit report as quickly as possible after discovering that she is or appears to be an identity theft victim, or she knows that her sensitive personal information has been stolen. Then she will have some time to consider whether to place an extended fraud alert and to obtain the necessary documents, or if she wants to place a credit freeze on her credit report. She will also be able to obtain a free credit report and review the report to see if it shows that there has been any additional fraud by the thief.

A. Fraud Alerts

Types of Fraud Alerts

There are two types of fraud alerts consumers may place on their credit reports: an **initial** alert, and an **extended** alert.¹ Placing a fraud alert on a victim's file should not affect the consumer's credit score.

- **An initial fraud alert stays on a consumer's credit report for at least 90 days.** The Fair Credit Reporting Act (FCRA) gives the right to a consumer, or an individual acting on behalf of a consumer, to have a credit reporting agency (CRA) place an initial fraud alert on her credit report if she suspects she has been, or is about to be, a victim of identity theft. The consumer need only contact one of the three national CRAs, and that CRA will notify the other two, which will in turn place fraud alerts on the consumer's credit report. FCRA § 605A(a)(1), 15 U.S.C. § 1681c-1(a)(1).

With an initial fraud alert, potential creditors must use "reasonable policies and procedures" to verify the identity of an applicant before issuing credit in the consumer's name. FCRA § 605A(h)(1)(B), 15 U.S.C. § 1681c-1 (h)(1)(B). Note that even where potential creditors take reasonable steps to verify the consumer's identity, they may not always discover that the applicant is an imposter.

Consumers who place an initial fraud alert on their credit report are entitled to one free credit report from each of the three nationwide CRAs. FCRA § 605A(a)(2), 15 U.S.C. § 1681c-1(a)(2). Consumers should obtain their credit reports, review them, and make efforts to have the CRAs block or correct the reporting of any inaccuracies resulting from identity theft. If requested, only the last four digits of the consumers' Social Security number will appear on the credit reports that are sent to them. For more information on how to obtain credit reports, see [Appendix A.2](#).

¹ Another type of alert is available for members of the armed services who are on active duty. It can be placed preventatively while they are away from their regular duty station. The active duty alert is provided under section 605A(c) of the FCRA.

- **An extended fraud alert stays on a consumer's credit report for 7 years.**
In addition, the CRAs must remove the consumer's name from marketing lists for pre-screened credit offers for five years, unless the consumer requests otherwise. An extended fraud alert requires potential creditors to contact the consumer by phone (or in another manner requested by the consumer) or in person before they issue credit in the consumer's name. FCRA § 605A(h)(2)(B), 15 U.S.C. § 1681c-1(h)(2)(B). When a consumer places an extended alert on her credit report, she is entitled to two free credit reports within twelve months from each of the three nationwide CRAs. FCRA § 605A(b)(2), 15 U.S.C. § 1681c-1(b)(2). With proper documentation, a consumer can request that the fraud alert be lifted from her file. FCRA § 605A(b)(1), 15 U.S.C. § 1681c-1(b)(1).

Extended alerts are available to victims of identity theft that provide the CRA with an Identity Theft Report. Because the risk of fraud is low, for this purpose the Identity Theft Report does not have to be filed in person with a law enforcement officer. A report generated by the police through an automated system, or a printed copy of the complaint the victim filed with the FTC (the Identity Theft Affidavit), is sufficient to obtain an extended fraud alert. More information on Identity Theft Reports is provided below.

To place either of these alerts on credit reports, or to have them removed, consumers must provide appropriate proof of their identity, which may include their Social Security number, name, address and other personal information requested by the CRA. For more information on proof of identity, see [Appendix A.3](#).

The presence of a fraud alert on a consumer's credit report may cause some delay if the consumer is trying to obtain credit. To limit possible delays, consumers may wish to include in their alert a cell phone number, where they can be reached easily. Consumers should be advised to keep all contact information in their alert current.

B. Credit Freezes

Many states have laws that let consumers "freeze," or restrict access to, their credit report, and the three nationwide CRAs allow this right generally, even for residents of states that do not provide a specific freeze right. When a consumer places a credit freeze, potential creditors and, in some cases, other third parties will not be able to get access to the consumer's credit report, unless the consumer temporarily or permanently lifts the freeze. This means that it is unlikely that an identity thief would be able to open a new account in the consumer's name. Placing a credit freeze should not affect a consumer's credit score.

While credit freezes are available commercially, for a fee, from each of the CRAs to all consumers, credit freeze laws vary from state to state. In some states, anyone can freeze his credit report, while in other states, only identity theft victims can. The cost of placing, temporarily lifting, and removing a credit freeze also varies. In many states, credit freezes are free for identity theft victims, while other consumers must pay a fee –

typically \$10. Unlike with fraud alerts, consumers cannot obtain a freeze on all three of their credit reports by placing it with one CRA. Therefore, the consumer generally should place the freeze with each of the three CRAs, and pay the fee to each one.

More information about credit freeze laws specific to each state is available by going to http://www.consumersunion.org/campaigns/learn_more/003484indiv.html, including information on how to place a freeze.

Access to a credit report during a credit freeze

Consumers who place a credit freeze will continue to have access to their free annual credit report and will still be able to buy their credit report and credit score.

Credit freezes only block companies' access with respect to applications for new accounts. Companies with whom consumers already do business will still have access to their credit reports – for example, a mortgage, credit card, or cell phone company – as would collection agencies that are working for one of those companies. Companies will also still be able to offer consumers prescreened credit, the unsolicited credit offers consumers receive in the mail. Additionally, in some states, a credit freeze will not prevent potential employers, insurance companies, landlords, and other non-creditors from accessing a consumer's credit report.

Temporarily lifting a credit freeze to allow a credit report check

If consumers want to apply for a loan or credit card, or otherwise need to give someone access to their credit report, and that person is not covered by an exception to the credit freeze law, consumers will need to lift the credit freeze temporarily. They do so by using a PIN or password that each CRA sends when the consumer places the credit freeze. There may be a fee to lift the credit freeze depending on the state and whether or not the consumer is a victim of identity theft. The time it takes to lift the freeze also varies. Most states currently give the CRAs three days to lift the freeze temporarily. This might keep consumers from getting on-the-spot, or “instant” credit, a fact that consumers may want to weigh when considering a credit freeze. Note that consumers usually do not need to lift the freeze for all three CRAs in order to get new credit; rather, consumers should ask the potential creditor which CRA will be used and then lift the freeze only for that CRA.

What a Fraud Alert or Credit Freeze Does *Not* Do

Although both a fraud alert and a credit freeze can help keep an identity thief from opening most new accounts in a consumer's name, they do not resolve the threats of all types of identity theft. A fraud alert or credit freeze is effective only when the transaction involves pulling a credit report. It will not protect consumers, for example, from an identity thief who uses a consumer's existing credit cards or other accounts. There are also new accounts, such as bank or health insurance accounts, that an identity thief might be able to open without a credit check. Other types of identity theft, for

example medical or criminal record identity theft, could also be committed despite a fraud alert or credit freeze. Even with respect to new credit, some creditors might open an account without first getting a consumer's report.