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## CLIENT ALERT

### DHS Rescinds Immigration “No-Match” Rule

On October 7, 2009 the U.S. Department of Homeland Security (“DHS”) announced that it is rescinding the 2007 Social Security “No-Match” Rule. Under the No-Match Rule, if an employee provided information on an I-9 Employment Eligibility Verification Form that did not match the Social Security Administration’s records, No-Match notices were issued to inform the employer of this discrepancy. Employers were then expected to verify information on the employee’s I-9 Form to confirm employee’s authorization to work in the United States.

The No-Match Rule was never put in effect because it was blocked by court order shortly after its issuance. DHS announced in July 2009 its intention to rescind the No-Match Rule and instead focus its enforcement attention on the use of the E-Verify database system as the mechanism for preventing the employment of aliens not authorized to work in the U.S. (See Putney’s October 2008 and July 13, 2009 Client Alerts, respectively available at: [http://www.putneylaw.com/cu\\_103108.html](http://www.putneylaw.com/cu_103108.html) and [http://www.putneylaw.com/cu\\_071309.html](http://www.putneylaw.com/cu_071309.html))

It is important to keep in mind that even though the DHS rescinded the No-Match Rule, employers must continue to take reasonable steps to verify an employee’s employment eligibility if the employer receive a No-Match notice or other credible notice from any other agency that there may be an issue with an employee’s social security number. As the DHS explained in comments published with the final rule, the receipt of a No-Match notice “when considered with other probative evidence, is a factor that may be considered in the totality of the circumstances and may in certain situations support a finding of ‘constructive knowledge’” of an employee’s lack of eligibility to work in the United States.

If you should have any questions regarding this issue, please contact us.

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