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Update to Maryland Franchise Law Necessitates Minor FDD Update

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A recent amendment to Chapter 168 of the Laws of Maryland of 2010 has revised the Franchise Disclosure Document (“FDD”) delivery requirements of Section 14-223 under the Maryland Franchise Registration and Disclosure Law, bringing Maryland law into conformity with the 2007 amendments to the Federal Trade Commission (“FTC”) Rule regarding FDD disclosure and delivery requirements.

As a result of the new law, effective October 1, 2010, Maryland law requires FDDs to be delivered upon the earlier of: (a) 14 calendar days before the prospective franchisee executes any binding agreement with the franchisor or pays any fee that relates to the franchise relationship; or (b) a prospect’s reasonable request to receive a copy of the FDD.

Prior to this new law going into effect, the applicable rule in Maryland followed the “old” FTC Rule which required FDD delivery at the earlier of: (a) the first personal meeting between the franchisor and prospective franchisee; or (b) 10 business days before the execution of a contract or payment of any consideration relating to the franchise relationship.

Accordingly, franchisors selling in Maryland should update the receipt page of their FDDs by deleting the Maryland-specific notice based on the old rule regarding FDD delivery requirements. The Maryland Securities Division has clarified through a recent interpretive opinion that such an update by itself will not require the filing of an amendment to a franchisor’s current franchise registration.

For additional information concerning franchise registration, disclosure, and compliance issues, please contact Eric Perkins at (804) 205-5162 or eric@ericperkinslaw.com.