ROBERTA MEYER
SENIOR COUNSEL, RISK CLASSIFICATION
robbiemeyer@acli.com

July 21, 2004

Via Electronic Mail

Jennifer J. Johnson
Secretary of the Board
Board of Governors of the Federal Reserve System
Washington, D.C. 20551

Re: Docket No. OP-1195; Study on Prescreened Solicitations of Insurance

Ladies and Gentlemen:

The American Council of Life Insurers ("ACLI") is submitting this comment to the Board of Governors of the Federal Reserve System (the "Board") in connection with its request for public comment to assist the Board in its preparation of a study on prescreened offers of insurance as required under § 213(e) of the Fair and Accurate Credit Transactions Act of 2003 ("FACT Act").[1] ("§ 214"). 69 *Fed*. *Reg*. 29539 (May 24, 2004).

ACLI is the principal trade association of life insurance companies whose 383 member companies account for 73 percent of the assets of legal reserve life insurance companies, 70 percent of life insurance premiums and 77 percent of annuity considerations in the U.S. ACLI members are also major participants in the pension, long-term care insurance, disability income insurance and reinsurance markets. ACLI member companies actively engage in marketing activities with existing and prospective policyholders, insureds and annuitants. Accordingly, ACLI and its member companies have a significant interest in the Board's study of prescreened offers of insurance.

ACLI is pleased to respond to the Board's questions as follows:

To what extent are insurance providers providing prescreened solicitations to consumers?

Under the Fair Credit Reporting Act ("FCRA"), insurers may use consumer reports received from consumer reporting agencies ("CRAs") as a basis for sending unsolicited offers of insurance to consumers who meet certain criteria for insurability. Insurers may receive prescreened lists, derived from consumer reports, containing names,

[1] Pub. L. 108-159, 117 Stat. 1952.

101 CONSTITUTION AVENUE, NW, Suite 700, WASHINGTON, DC 20001-2133
Telephone: (202) 624-2184 Facsimile: (202) 572-4808

addresses and/or certain other information permitted under the FCRA. An insurer provides the consumer with a statement that the information contained in the consumer report was used in connection with the offer, that the consumer satisfied the criteria for insurability that was used to screen the report and that insurance may not be extended if it is determined that the consumer does not meet the criteria or any applicable criteria bearing on insurability.

The insurance industry makes extensive use of prescreened solicitations of insurance. Each year, insurers send consumers millions of prescreened offers based upon lists derived from consumer reports. The number of prescreened offers of insurance is growing rapidly and is an important marketing tool for insurers.

What statutory or voluntary mechanisms are available to a consumer to notify lenders and insurance providers that the consumer does not wish to receive prescreened solicitations?

The FCRA requires a person who uses a consumer report in connection with a prescreened offer of insurance to provide the consumer with a statement that the consumer has the right to prohibit use of information in the consumer's file in connection with future prescreened offers of insurance by contacting the notification system established by the CRA that provided the report. The statement must also provide the address and toll-free telephone number of the appropriate notification system. These requirements are set forth in 15 U.S.C. § 1681m(d).

We have also been advised that some companies, on a voluntary basis, maintain company specific lists to which consumers who do not wish to receive prescreened offers may add their names. Companies will then delete the names of consumers from consideration in future prescreened solicitations.

To what extent are consumers currently utilizing existing statutory and voluntary mechanisms to avoid receiving prescreened solicitations? For example, what percent of consumers (who have files at consumer reporting agencies) opt out of receiving prescreened solicitations for credit or for insurance?

ACLI does not possess information concerning the extent to which consumers are utilizing statutory mechanisms to avoid prescreened solicitations. We have been advised by companies that maintain company specific lists that very few consumers request that their names be removed from the lists used for prescreened solicitations.

What are the benefits to consumers in receiving prescreened solicitations? Please be specific.

ACLI members inform us that the ability to use prescreening enables them to better serve consumers by making insurance products and services available to a greater number of consumers than would otherwise be the case and at a lower cost. Prescreening enables insurers to tailor insurance product offers to the specific needs of consumers who share the selected criteria. For example, insurers may solicit consumers between the ages of 25 and 35 who, as a group, have a tendency to be underinsured. The availability of prescreening makes the marketing process far more efficient than would otherwise be the case. Companies find that the ability to identify consumers with certain characteristics enables them to identify those prospects who may be in need of specific insurance products. As a result of the ability to use prescreening efficiently, there are far fewer mass solicitations that are of little interest to most recipients. Consumers benefit from these efficiencies in the form of lower costs of insurance.

What significant costs or other adverse effects, if any, do consumers incur as a result of receiving prescreened solicitations? Please be specific. For, example, to what extent, if any, do prescreened solicitations contribute to identity theft or other fraud? What percent of fraud-related losses are due to identity theft emanating from prescreened solicitations?

ACLI believes that consumers do not incur any significant costs or other adverse effects as a result of receiving prescreened offers of insurance. The information that is sent by insurers takes very little time for consumers to review to determine if they have an interest in the solicitation. Companies inform us that there have been no reports of instances of identity theft resulting from prescreened offers of insurance. ACLI finds it difficult to see how prescreened offers of insurance could be used to facilitate identity theft because the offer would not contain anything of value to an identity thief. Accordingly, ACLI believes that it is highly unlikely that an identity thief would use prescreened offers of insurance as a basis for attempting to steal someone's identity. If companies could not use prescreening, they would be required to resort to less efficient means of marketing, which would increase expenses. As a result of the inefficiency, consumers would incur adverse effects in the form of increased costs of insurance.

What additional restrictions, if any, should be imposed on consumer reporting agencies, lenders, or insurers to restrict the ability of lenders and insurers to provide prescreened solicitations to consumers? How would these additional restrictions benefit consumers? How would these additional restrictions affect the cost consumers pay to obtain credit or insurance, consumers' knowledge about new or alternative products and services, the ability of lenders or insurers to compete with one another, and the ability of creditors or insurers to offer credit or insurance products to consumers who have been traditionally underserved? Please be specific.

ACLI strongly believes that prescreened offers of insurance provide valuable benefits to consumers in a cost effective manner. Prescreened offers provide consumers with information about products and services that may be of considerable interest to them given their personal stage of life and particular needs. It is far more efficient to target consumers who possess characteristics that are best suited for specific insurance products rather than sending mass mailings to large numbers of consumers who would not be interested in the offer. Because there are virtually no risks such as identity theft associated with prescreened offers of insurance, ACLI believes that no additional restrictions should be imposed on CRAs or insurers to restrict the ability of insurers to engage in prescreening.

ACLI appreciates the opportunity to provide its reply comments to the Commission. We would be pleased to answer any questions you may have regarding these additional comments.

Sincerely,

Roberta B. Meyer

Roberta B. Meyer