



July 23, 2004

Jennifer J. Johnson, Secretary  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue, NW  
Washington, DC 20551

**Re: Request for Information on Prescreened Solicitations or Firm Offers  
of Credit or Insurance  
Docket No. OP-1195.**

Dear Ms. Johnson:

Ameriquest Mortgage Company (“Ameriquest”) respectfully submits these comments in response to the Board of Governors of the Federal Reserve System (“the Board”); Notice of Study and Request for Information; Docket No. OP-1195. Ameriquest is one of the nation’s largest home-equity lenders with twenty-five years of experience in the lending industry. We currently lend in approximately forty-seven states, and we use a myriad of marketing techniques including prescreened solicitations.

**Background**

Pursuant to Section 213(e) of the Fair and Accurate Reporting Act (“FACT Act”), the Board is required to conduct a study of both the ability of consumers to avoid receiving written offers of credit or insurance in connection with transactions not initiated by the consumer, and the potential impact that any further restrictions on providing consumers with such written offers of credit and insurance would have on consumers. As a mortgage lender who does not use credit reports as a basis for selling or marketing insurance products, we will not comment on the practices pertaining to offers for insurance providers. We, therefore, limit our comments to prescreened solicitations involving offers of credit and greatly appreciate the opportunity to comment on any proposed changes regarding their use.

As the Board is aware, Sections 604 and 615 of the Fair Credit Reporting Act (“FCRA”) currently permit creditors, in specific circumstances, to use consumer reports as a basis for sending unsolicited firm offers of credit. 15 U.S.C. §§ 1681b & m. In addition, Section 615 requires that users making firm offers of credit based upon information contained in consumer files, shall provide with each solicitation, a clear and concise statement that: (1) information in the consumers credit file was used in

connections with the offer; (2) the consumer received the offer because he or she satisfied criteria of credit worthiness; (3) that the credit may not be extended if, after the consumer responds, it is determined that the consumer does not meet the criteria used for screening; and (4) the consumer has the right to prohibit use of information in the consumer's file by contacting the credit reporting agency's notification system that provided the report. 15 U.S.C. § 1681m(d).

Section 213 of the FACT Act, passed December 4, 2003, amends the FCRA with respect to prescreened solicitation in two ways: (1) Section 213(a) requires that the notice provided by creditors with each prescreened solicitation offer be simple and easy to understand, and be presented in a particular format to be determined Federal Trade Commission, in consultation with the Federal banking agencies and the National Credit Union Administration; and (2) Section 213(c) extends the effective period of a consumer's election not to receive prescreened solicitations through a telephone notification system from two years to five years. After a diligent and careful review of our policies and practices, Ameriquest submits its comments to the Board's questions below.

### **Comments**

#### **I. To what extent are insurance providers providing prescreened solicitations to consumers?**

As a mortgage lender who does not use consumer reports as a basis for selling or marketing insurance products, we are unaware of the extent to which insurance providers provide prescreened solicitations to consumers.

#### **II. 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?**

As discussed above, Section 604(e) of the FCRA provides specific statutory authority for consumers to exclude themselves from prescreened lists by either sending a written request or telephoning the credit reporting agency which would last until revoked in writing by the consumer or two years respectively. Section 213(e) of the FACT Act will extend the duration of a telephone request from two years to five years.

In addition, to the statutory mechanisms described above, Ameriquest internally processes numerous requests from consumers who seek to exclude themselves from our prescreened mailings. These requests, received both telephonically and in writing, are placed into our systems and honored. Ameriquest respects consumer privacy and we make every effort to avoid contacting individuals who do not wish to receive our mailings. In addition, from a business perspective, we simply have no interest in marketing anyone who has indicated that they are not interested in our products.

**III. 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?**

We cannot determine how many consumers contact credit reporting agencies, in writing or telephonically, in an effort to cease receiving prescreened mailings as we do not own that information. However, Ameriquest receives numerous consumer requests internally, written and telephonically, and we have a sophisticated system in place to ensure that we continuously honor such requests.

**IV. What are the benefits to consumers in receiving prescreened solicitations?**

Consumers receive numerous benefits from receiving prescreened solicitations. As the term “prescreened solicitations” suggests, consumers receive information on products that are tailored to the consumer’s characteristics. Thus, our prescreened mailings allow consumers to learn about our newly offered products that fit their particular profile, as opposed to being overwhelmed with offers of credit that do not take their individual characteristic or need into account.

Prescreening also makes the process of shopping for credit easier. In the absence of prescreened solicitations, consumers would receive numerous solicitations and would be forced to apply to each company in order to find the best product. Prescreens allow for customers to do actual comparison shopping without a full application.

Consumers receive the benefit of reduced costs as a result of prescreened solicitations. To be sure, marketing is a necessary activity to ensure name recognition and market strength. As a result of prescreened solicitations, we can focus our mailing efforts on consumers who, based upon their profile, would be interested and most likely qualify for our products. This simultaneously permits us to significantly decrease, if not eliminate, the concept of mass marketing everyone regardless of their profile, thus we can reduce our marketing costs and pass those savings along to our customers.

The reduced costs which result from prescreens also fosters competition among lenders. Prescreened solicitations enable companies to compete with each other to offer the best product at the best price to their respective costumers. As a result, the competitive marketplace provides a wide variety of product choices, while simultaneously keeping the cost of providing those products low.

**V. What significant costs or other adverse effects, if any, do customers 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?**

We are unaware of any significant costs or adverse effects incurred by our customers as a result of receiving prescreened solicitations.

**VI. 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, the availability of 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 and insurers to offer credit or insurance products to consumers who have been traditionally underserved? Please be specific.**

The FCRA and the newly enacted FACT Act provide ample restrictions regarding the use of prescreened solicitations. Additional restrictions would simply raise the costs of marketing, which would cause a corresponding rise in costs of products to consumers. It should also be cautioned that if the use of prescreened solicitations were to be completely restricted, companies would be forced to market products to everyone, regardless of their profile or cease mail marketing altogether. Mass marketing would cause more mailings, not less, thus raising the costs of marketing of the company and the ultimate cost of the product to the consumer.

We also believe that further restrictions would negatively affect consumers' knowledge about new and alternative products. As discussed above, greater restriction on prescreened solicitations would either force companies to mass market to everyone, thereby creating a potential overload of indistinguishable products which would confuse consumers, or at the other extreme, refrain from marketing various products altogether, which would undoubtedly limit both consumers' choice and knowledge of potential products.

Finally, additional restrictions on prescreened solicitations would negatively affect the ability to offer credit to traditionally underserved markets. Again, as discussed above, increased restrictions will bring on higher costs of marketing and ultimately higher cost of products. Thus, those consumers who need are in of lower cost offers of credit will be proportionally forced out of the market.

## **Conclusion**

Ameriquest believes that the FCRA and the newly enacted FACT Act provides strong consumer protections while simultaneously insuring an efficient market. Moreover, we are confident that consumers are receiving the ultimate benefit from our prescreened solicitations, namely freedom of choice and low cost products. Therefore, we urge the Board to restrain from further restrictions on prescreened solicitations. Thank you again for allowing us to comment on these issues. Please do not hesitate to contact me at 202-742-4289 if I can be of any assistance.

Sincerely,

James L. Anderson  
Managing Director and Counsel,  
Government and Community Affairs