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Lorena Rush
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July 23, 2004

Attention: Jennifer J. Johnson
Secretary, Board of Governors
of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, DC 20551

Re: Docket No. OP-1195
Study Concerning Prescreened Solicitations
(FACT Act Section 213(e): Notice of Study and Request for Information)

Dear Ms. Johnson:

Wells Fargo & Company and its affiliates ("Wells Fargo"), including Wells Fargo Bank, N.A. (of which Wells Fargo Home Mortgage is now a division), Wells Fargo Financial, Inc., Wells Fargo Insurance, Inc., appreciate the opportunity to comment on the issues that are the subject of the Board's study and report to Congress regarding the ability of consumers to avoid receiving firm offers of credit or insurance that are not initiated by the customer (also called "prescreened offers") and the potential impact that any further restrictions on providing consumers with such firm offers would have on consumers. Wells Fargo is a financial services company that owns and operates a national bank in 23 Western and Midwestern states, as well as an insurance company that offers a wide range of products from insurance carriers with high standards and excellent customer service, the nation's leading retail mortgage lender, and one of the nation's leading finance companies.

Under the Fair Credit Reporting Act ("FCRA"), Wells Fargo utilizes consumer reports as the basis for sending firm offers of credit to consumers who meet certain pre-established criteria for credit worthiness or insurability. We believe that the FCRA currently provides meaningful mechanisms that allow consumers to avoid receiving prescreened offers. Because Wells Fargo respects and supports the right of every consumer to opt out of marketing solicitations, including prescreened offers of credit and insurance, we provide additional measures for those consumers who wish to avoid receiving prescreened offers of credit.

I. To what extent are insurance providers providing prescreened solicitations to customers?

Wells Fargo Insurance, Inc., and our other affiliated insurance providers do not extend prescreened offers of insurance to consumers. We understand that there are other insurance providers that do extend prescreened offers of insurance.

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?

In the Board's *Notice of Study and Request for Information*, the current FCRA provisions relating to firm offers of credit or insurance are accurately outlined and how a consumer can elect not to receive such offers is adequately described. However, we would add that FCRA also contemplates a process whereby affiliated consumer reporting agencies are allowed to establish and maintain a single notification system and publication of a single notice for all of the affiliates is permissible. 15 U.S.C. §1681b(e)(5)(B). In addition, consumer reporting agencies that compile and maintain files on consumers on a nationwide basis must maintain a joint notification system. This process promotes efficiency by allowing a consumer to make a single election to be excluded from prescreened lists that is effective for all nationwide consumer reporting agencies. 15 U.S.C. §1681b(e)(6).

In addition to the various notification mechanisms that allow a consumer to contact a consumer reporting agency ("CRA") to opt out of receiving a firm offer of credit, FCRA adds yet another layer in which the consumer can opt out of such offers. Under FCRA, each time a creditor or insurer makes a firm offer of credit or insurance based on a prescreened list, that creditor or insurer also provides the consumer with a notice of his/her right to be excluded from prescreened lists, together with the names, addresses and toll free number of the CRA to contact in the event that the consumer elects not to receive future prescreened offers. 15 U.S.C. §1681m(d)(1)(E).

Consumers can also register with the Direct Marketing Association ("DMA") to have their name removed from direct mail or telemarketing lists of its members. The members of DMA include many financial institutions, including Wells Fargo. All DMA members are required to run their list of prospective customers against the DMA list of registered consumers to remove these individuals from marketing solicitations, including but not limited to prescreened offers. The service is also available to non-members of DMA, so that all marketers may take advantage of this service to eliminate the names of those who wish to receive less unsolicited mail, including less prescreened offers.

There are also various company specific solicitation preferences that a customer can express to Wells Fargo which will further limit the ability of Wells Fargo to extend offers, including prescreened offers, to that customer. The availability of these preferences gives customers different options to avoid solicitations through certain media. In connection with prescreened offers, a customer can restrict some or all methods of solicitation, at their election:

1. Do not call requests: If a customer chooses this preference, then no prescreened offer

will be extended by telephone (including Voice Mail Broadcast) and one-to-one outbound calling (such as "customer call" campaigns).

2. Do not mail requests: If a customer chooses this preference, then no prescreened offer will be extended by direct mail.

3. Do not send drafts requests: To the extent that prescreened offers are in the form of a "guaranteed loan offer" through which a customer can accept by depositing a draft included with the offer, if a customer chooses this preference, then a customer will not be mailed drafts as part of a prescreened offer of credit. All live checks, convenience checks or balance transfer checks include a message that is clearly and conspicuously printed on the letter accompanying the checks indicating how the customer may stop receiving these types of checks.

4. Do not solicit requests: If a customer chooses this preference, then a prescreened offer will not be extended to a customer by any method.

If a consumer's name appears on any list then the name will be "scrubbed" from a mailing list and the consumer will not receive any pre-screened offer applicable to their opt out election.

In addition to the FCRA opt out provisions, consumers may also place their telephone numbers, mailing addresses and/or email addresses on a variety of external marketing suppression lists, including lists from State Do Not Call lists (established pursuant to state laws) or the National Do Not Call Registry (established pursuant to the Telemarketing Sales Rule promulgating the Telephone Consumer Protection Act, 16 C.F.R. 310). Once a consumer consciously elects to be placed on these marketing suppression lists, and depending upon the applicable law, the consumer would not receive pre-screened offers from creditors or insurers with whom they have no existing relationship.

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?

Comments received from or on behalf of a CRA would be better resource to provide figures on the number of opt outs received under FCRA. In connection with voluntary mechanisms directly to a lender, Wells Fargo estimates that approximately 10% of its customers opt out of receiving marketing solicitations, which includes prescreened offers, from Wells Fargo.

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

Prescreening for potential customers provides consumers with firm offers of credit that they are actually qualified to receive. If the consumer accepts that offer, it will be honored if the consumer continues to meet the initial criteria of the offer. Therefore, a prescreened offer also provides a consumer with a product for which they qualify and can actually obtain; a consumer can avoid making applications for products for which they do not qualify and avoid receiving declinations of credit through adverse action notices required under FCRA and Regulation B (promulgating the Equal Credit Opportunity Act) that could adversely affect their credit. Prescreening can eliminate consumers who do not need or will not qualify for a credit or an insurance product and it also allows marketing to a larger audience of creditworthy individuals. For example, prescreened offers of credit reach a wider spectrum of individuals, including those in the low to moderate income bracket, who have a need for credit, but may not otherwise apply due to a fear of decline.

A prescreened offer can also provide consumers with the ability to choose from among a variety of products may be available for to a consumer. For example, from a credit perspective, a consumer may receive a credit card prescreened offer and a home equity prescreened offer, compare the benefits of both, review the terms applicable to each, and choose the product that best fits their needs.

Not only can a consumer benefit from the different types of credit that may be available through different prescreened offers, but due to nation-wide competition between creditors, prescreened offers are likely to contain lower pricing in terms of interest rate and/or fees, as well as higher credit availability. By removing ineligible consumers from a mail file, the creditor's costs of acquiring a customer is reduced, which, in turn, can result in lower and more competitive pricing.

The increased competition from prescreened offers can also result in a consumer receiving non-credit related benefits. For example, in the credit card industry, the competition promoted by prescreened offers has contributed to the development of other ancillary benefits such as airline miles, free membership in clubs, redemption of points for cash, merchandise and gift certificates from select merchants, travel services, to mention only a few. The increased competition in the credit card industry has also resulted in the co-branding of credit cards with philanthropic organizations, educational institutions and charitable causes from which they have derived monetary benefit.

In addition, a prescreened offer can provide a consumer with the most expeditious and streamlined approach to financing; for example, at the maturity of a vehicle lease, a prescreened offer can reduce the time in which consumer would have to investigate financing options to purchase their formerly leased vehicle. A prescreened offer is an expeditious approach to what otherwise could be a lengthy credit approval process.

V. 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?

The prescreening process does not contribute to identity theft or fraud. When mailing a prescreened offer to a consumer, Wells Fargo does not provide any identifying information specific to a consumer (such as social security numbers or other non-public identifying information). The process for a consumer accepting a prescreened offer is subject to the same authentication and security procedures as any application for credit or insurance. Currently, the FCRA allows a creditor or insurer to verify information provided by a consumer during the process of acceptance of a prescreened offer. This process of verification not only allows a creditor or insurer to confirm that the consumer continues to meet the qualifications established by the creditor or insurer prior to the CRA prescreening process, but it also assures a consumer that the identity of the consumer responding to the offer is, in fact, the consumer to whom the offer was extended.

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 or insurers to offer credit or insurance products to consumers who have been traditionally underserved? Please be specific.

Inherent in these questions is the assumed need for additional restrictions on consumer reporting agencies, lenders, and insurers in providing prescreened offers to consumers. In fact, no additional restrictions are necessary because the current statutory and voluntary mechanisms offer an effective means for consumers to consciously make a decision to opt out of prescreened offer (as described above). New regulations under FCRA §615(d)(2), as amended by Section 213 of the FACT Act, will prescribe new formatting and type size requirements to assure that consumers understand their right to opt out of receiving firm offers of credit as well as how to exercise that right. If more stringent requirements are imposed, lenders may not be in a position to extend prescreened offers or would cut back on the number of prescreened offers, thereby reducing the availability of credit. Reduced availability of credit would adversely affect primarily low to moderate income consumers. Further, more stringent requirements could lead to an increase of costs of consumer credit, resulting in reduced borrowing by consumers and, consequently, less consumer spending. Under the present system, prescreening allows a lender or insurer to test new pricing and new products; restrictions would adversely affect such innovation. The current prescreening process promotes a more efficient marketing process that allows lenders and insurers to tailor programs and services to meet the needs of consumers and promotes efficient delivery of low cost products to all qualified consumers.

Thank you for the opportunity to provide comment on these issues. We would be pleased to supplement our comments or to discuss any of them with you. Please contact me if you have any questions.

Sincerely,

s/ *Lorena Rush*

Lorena Rush
Senior Counsel