



October 27, 2004

***By Electronic Delivery***

Federal Trade Commission  
Office of the Secretary  
Room H-159 (Annex R)  
600 Pennsylvania Ave., N.W.  
Washington, D.C. 20580

Re: FACTA Prescreen Rule, Project No. R411010

Ladies and Gentlemen:

This comment letter is submitted on behalf of GE Consumer Finance - Americas (“GECF”) in response to the notice of proposed rulemaking (“Proposed Rule”) and request for public comment by the Federal Trade Commission (“FTC”), published in the Federal Register on October 1, 2004. Pursuant to the Fair Credit Reporting Act (“FCRA”), as amended by the Fair and Accurate Credit Transactions Act of 2003 (“FACT Act”), the Proposed Rule would provide requirements concerning the format, manner and type size of the disclosure (“opt-out notice”) that must be provided along with prescreened offers of credit or insurance. While the Proposed Rule raises a number of important issues that will be addressed by other providers of financial services and trade associations, GECF is addressing only the disclosure of the short notice in electronic prescreened solicitations. GECF appreciates the opportunity to comment on this important topic.

GECF, a unit of General Electric Company (“GE”), with \$107.4 billion in assets, is a leading provider of credit services to consumers, retailers and auto dealers in 38 countries around the world. GECF, based in Stamford, Conn., offers a range of financial products, including private label credit cards, personal loans, bank cards, auto loans and leases, mortgages, corporate travel and purchasing cards, debt consolidation and home equity loans, and credit insurance. GE (NYSE: GE) is a diversified technology, media and financial services company with operations worldwide. More information about GE can be found online at [www.ge.com](http://www.ge.com).

**The Proposed Rule**

The FCRA requires a lender to provide a clear and conspicuous opt-out notice with each written, prescreened solicitation made to consumers.<sup>1</sup> As amended by the FACT Act, the FCRA requires this opt-out notice to “be presented and in such format and in such type size and manner as to be simple and easy to understand, as established by the [FTC], by rule.”<sup>2</sup>

---

<sup>1</sup> FCRA § 615(d)(1).

<sup>2</sup> FCRA § 615(d)(2)(B).

---

The Proposed Rule would specify baseline requirements for the content and the form of the opt-out notice, including requiring that the notice be provided twice, in a “layered” form comprised of a short and a long notice. With respect to the short notice, the Proposed Rule would require that the notice be a “simple and easy to understand statement” informing consumers of the right to opt out of receiving prescreened solicitations, the toll-free number that can be called to exercise this right and the existence and location of the long notice.<sup>3</sup> The Proposed Rule also would provide detailed requirements concerning the form of the short notice, including that the notice be: (1) prominent, clear and conspicuous; (2) in a type size of at least 12-point that is larger than the type size of the principal text on the same page; (3) on the front of the first page of the principal promotional document or on the first electronic screen; (4) located on the page and in a format so the statement is distinct from other text, such as inside a border; and (5) in a typeface distinct from other typeface used on the same page, such as bolding, italicizing underlining and/or using a different color.<sup>4</sup>

### **The Disclosure of the Short Notice in Electronic Prescreened Solicitations**

As noted above, the Proposed Rule would require the short notice to be located “[o]n the front side of the first page of the principal promotional document in the solicitation, or, *if provided electronically, on the first screen.*”<sup>5</sup> GECF is concerned that the Proposed Rule could be read to impose more difficult standards for the disclosure of the short notice on electronic solicitations than it imposes on mailed solicitations.

Many lenders make prescreened solicitations online. These online solicitations are often provided in the form of a box, statement, pop-up or other link that consumers must click on in order to obtain more information about the offer. In effect, the link functions as an “envelope” that the consumer must “open” to find out about the offer, and the screen that the consumer is directed to after clicking on the link functions as the cover letter presenting the offer. The requirement to place the short notice on the first electronic screen could be interpreted to mean the first screen that refers to the offer or the link. Such a requirement would be similar to requiring lenders to place the short notice on the envelope of a mailed solicitation. The FTC, however, indicates in the Supplementary Information that it would consider the “principal promotional document” to include the prescreened solicitation’s cover letter or “the document that is designed for consumers to see first when they *open the envelope.*”<sup>6</sup>

GECF believes that the substance of the requirements for online solicitations should not be different from mailed solicitations. Online links generally communicate little more information to consumers than do the envelopes of mailed solicitations. Both the links and the envelopes are designed to attract consumers to “open” the documents in order to find out more information about the offer. Moreover, requiring a short notice to be displayed prominently on a

---

<sup>3</sup> Proposed 16 C.F.R. § 642.3(a)(1).

<sup>4</sup> Proposed 16 C.F.R. §§ 642.3(a)(2)(i)-(v).

<sup>5</sup> Proposed 16 C.F.R. § 642.3(a)(2)(iii) (emphasis added).

<sup>6</sup> 69 Fed. Reg. 58,861, 58,863 (Oct. 1, 2004) (emphasis added).

---

link would supplant all other information and would discourage consumers from activating the link. In addition, imposing different standards for the display of the short notice depending on whether the solicitation is made by mail or electronically likely would detract from future innovations by lenders in providing consumers prescreened solicitations online. Accordingly, GECF believes that the final rule should clarify that it is the first full screen of the electronic promotion, rather than the link, that should include any short notice.

In conclusion, GECF appreciates the opportunity to comment on this very important topic. If you have any questions concerning these comments, or if we may otherwise be of assistance in connection with this matter, please do not hesitate to contact me, at (203) 585-6102.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Begor". The signature is stylized and cursive.

Mark Begor  
President and Chief Executive Officer