July 22, 2004

Jennifer J. Johnson
Secretary
Board of Governors of the Federal
Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551
Attention: Docket No. OP-1195

Re: Request for Information on Prescreened Solicitations or Firm Offers of Credit or Insurance

Ms Johnson,

This letter is submitted on behalf of First National Bank of Omaha in response to the request for information on prescreened solicitations or firm offers of credit or insurance by the Federal Reserve Board (the "Board"), published on May 18, 2004. Please find the following detail outlining our input into this request:

<u>Request for Specific Information</u>

In response to the specific information being requested, First National Bank of Omaha has met with, analyzed and discussed the significant questions presented by the Board. Our comments and anlysis are provided in a question and answer format.

Q1. To what extent are insurance providers providing prescreened solicitations to consumers?

A.1 No comment.

Q2 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?

A2. The Fair Credit Reporting Act ("FCRA") currently allows for creditors to use consumer reports as a basis for providing a firm offer of credit. The FCRA also provides consumer protections by directing consumers to directly contact the administrator of their credit report, the credit reporting agency, in the event that they would like to express their election for non-receipt of a prescreened solicitation. We feel that this centralized point of contact is valuable to consumers so that their requests are processed accurately and in a timely manner.

In the event that the burden of reporting and processing consumer prescreen opt-out requests shifted to the creditor, there would be significant industry challenges in ensuring that opt-out requests were processed consistently and in a timely manner. Creditors would be required develop, pay for and implement significant tracking mechanisms beyond those that already exist, such as internal Do Not Call and Do Not Mail lists, a federal Do Not Call list, lists maintained pursuant to the Gramm-Leach-Bliley Act, and lists maintained pursuant to the CAN-Spam Act. The end result would severely impact the quality of consumer protection provided under the Fair and Accurate Credit Transactions Act of 2003 and frustrate consumers with the credit industry as a whole.

Additionally, the process for a prescreen solicitation provides consumer protections that extend beyond the FCRA because of the controls between creditors and the national credit reporting agencies. Creditors contractually rely on the credit reporting agencies to remove those consumers from the initial prescreen criteria list as applicable. Creditors are shielded from knowing who has excercised their right to opt-out of prescreen solicitations thereby mitigating the potential risk of discrimination under the Equal Credit Opportunity Act. We suggest that the existing consumer prescreen selection process remain as implemented by creditors and the national credit reporting agencies.

Q3. 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?

A3. As mentioned, creditors typically are not privy to prescreen opt-out percentages maintained by the national credit reporting agencies. However, prior to mailing the prescreen consumer list First National Bank of Omaha performs two final scrubs: 1) the ‘prescreen opt-out’ (referred to as “Credit Drop”); and 2) the industry ‘do not solicit’ (referred to as “DMA Drop”) scrub, the latter being maintained by the Direct Marketing Association.

We are able to provide relevant information pertaining to these two criterion. Please note that this data is based on four major credit card prescreen solicitation campaigns mailed in 2004 and reflects on average the last six weeks of a prescreen campaign process for a consumer to elect an opt-out status.

Product	**Criteria**	**Drop % (as % of mail population)**
January 04 Platinum	Credit Drop	2.95%
	DMA Drop	.93%
April 04 Rewards	Credit Drop	3.74%
	DMA Drop	1.19%
April 04 Platinum	Credit Drop	3.30%
	DMA Drop	.11%
August 04 Platinum	Credit Drop	1.46%

DMA Drop	.34%

As indicated by the mere percentages, consumers are actively utilizing the existing statutory and voluntary mechanisms to avoid receiving prescreened solicitations.

Q4. What are the benefits to consumers in receiving prescreened solicitations? Please be specific.

A4. There are numerous key benefits consumers and creditors alike obtain pursuant to receiving and offering prescreened solicitations. They are specifically as follows:

- Presceen solicitations provide an avenue for consumers to be made aware of new credit products, such as new or enhanced rewards programs, low annual percentage rates, fully customizable credit cards, and many other product innovations. Due to supply and demand, the credit industry continuously allocates significant dollars to the development of products and services that the consumer finds valuable.
- The prescreen process allows for creditors to effectively manage credit risk by eliminating consumers who may not be credit worthy, resulting in time and cost savings for both consumers and creditors. This proves valuable in managing one aspect of financial risk for the institution.
- Statistical financial analysis has proven that prescreen solicitations are more cost-effective than standard credit applications. The cost per account and cost per outstanding balance prove favorable for prescreen solicitations due to higher approval rates. If prescreen solicitations were eliminated or significant burdens were placed on creditors, then those costs would passed onto consumers, resulting in higher annual percentage rates, fewer rewards programs, and less product diversification.
- Prescreen solicitations allow creditors to target limited segments of consumers. Creditors can focus on underserved markets. For example, consumers with less than favorable credit or no credit.

Q5. 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?

A5. Creditors bear the costs for providing prescreen solicitations and the consumer reaps the rewards of having credit that may not have been otherwise attained. Identity theft should not be linked to prescreen solicitations. The act of identity theft can occur through mail, telephone, in person or anywhere consumer information is maintained or disposed of. In fact, based on our 2004 review of identity theft on prescreen solicitations, we noted that cases of fraud were less in volume than non-prescreen fraud applications. Particularly, when comparing fraud applications generated through the internet to prescreen solicitations, there were significant fraud risks associated with applications available to the general public.

With the implementation of Section 326 of the USA Patriot Act and the requirements for creditors to have a risk-based Customer Identification Program, creditors are able to partially manage the consumer's exposure to identity theft. Documentary and nondocumentary methods of verification allow for creditors to assist in the fight against identity theft. Placing additional burdens on creditors to mitigate consumer identity theft on prescreen solicitations beyond those measures in Section 326 of the USA Patriot Act and those in the FACT Act would require the such costs to be passed onto consumers.

Q6. 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.

A6. Regulatory limitations and restrictions on prescreen solicitations would hurt consumers, creditors and credit reporting agencies. The fundamental inconsistency between creditors and consumers is the need for additional consumer awareness and training regarding the existing protections under the FCRA and measures to control identity theft. It is recommended that the federal government develop a program to educate consumers on preventions of identity theft, benefits of prescreen solicitations and how to effectively notify consumer reporting agencies of their intent to opt-out of prescreen solicitations. A consumer education program would proactively place the burden of knowledge on the consumer and allow creditors to focus on providing valuable products and services to the public.

First National Bank of Omaha appreciates the opportunity to comment on this 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 Eric Durham, Director of Corporate Compliance at (402) 636-6647.

Sincerely,

Eric Durham
Director, Corporate Compliance
First National Bank of Omaha