

January 2007

FTC Issues Prescreened Offers of Credit Rule

Last month the Federal Trade Commission (“FTC”) issued its final regulation to regarding prescreened offers for credit or insurance. The rule mandates certain notices be provided to consumers, which among other things, inform consumers about their right to opt out of receiving future prescreened offers.

“Prescreened” solicitations sent to consumers – such as “pre-approved” offers for credit cards – are required to contain a notice with information about the offer and instructions on how consumers can opt out of receiving future offers by calling a toll-free number or writing to a specified address. The Fair and Accurate Credit Transactions Act of 2003 (FACTA) requires that any person who uses a consumer’s credit report to offer an unsolicited firm offer of credit provide a “simple and easy to understand,” notice to consumers about their rights. Additionally, FACTA specifies that opt-out notices must be provided in a specific format, type size, and manner.

In its final rule, the FTC retained a “layered” approach, requiring that each prescreened offer contain a short statement informing consumers of their right to opt out and listing the toll-free number to call, as well as a longer statement providing additional information about prescreening. The FTC’s also specified that the “short notice” should appear on the document in a location designed to be seen first by the consumer, such as the cover letter. The final rule establishes other baseline requirements for the format, type size, and manner of the notices.

The rule presents “model” notices in English and Spanish. To view the model notices provided by the FTC, you can visit its website at:
<http://www.ftc.gov/os/2005/01/050124factafrn.pdf>.