



August 16, 2004

TO: Federal Trade Commission
Office of the Secretary
Room H-159 (Annex Q)
600 Pennsylvania Avenue, N.W.
Washington DC, 20580

RE: Fact Act Affiliate Marketing Rule
Matter No. R411006
(RIN 3084-AA94)

Ameriquest Mortgage Company is one of the nation's oldest and largest home equity lenders. We are among the largest specialty lending firms in the U.S. market, lend in approximately forty-seven states, and have approximately 13,000 employees nationwide. We consider it our mission to assist consumers to gain a fresh start, realize their dreams, and make homeownership.

Comments:

We thank you for the opportunity to present our comments on these important rules aimed at protecting consumer information and ensuring against unwanted marketing solicitations. These comments address the proposals under 69 F.R. 42301, which implement Section 214 of the Fair and Accurate Credit Transactions Act of 2003 ("FACTA").

Ameriquest Mortgage Company upholds the highest ethical principles in all aspects of its business practices, including marketing and information-sharing. Our corporate commitment to doing the right thing drives everything we do for our customers and those communities we serve. We therefore consider this rulemaking to be of significant importance, as we will take seriously our responsibility to abide by any consumer protection standards that the Federal Trade Commission enacts. In this sense, we are proud to note that our customer information protection systems are among the best and strictest in the industry.

Mortgage Industry Concerns:

Section 214 establishes very important Congressional standards regarding the dissemination of information relating to intimate personal information of consumers, including credit worthiness, character, and mode of living. We commend the Commission for crafting proposals that are clear and generally reflective of Section 214 of the FACTA. We concur, however, with comments filed by the mortgage industry through the *Mortgage Bankers Association* (“MBA”) in connection with this rulemaking that, in enacting Section 214, Congress engaged in a very careful balancing of diverse public interests. As reflected in MBA’s comments, there is no doubt that the use of information from affiliates, within proper limits, contributes to increased efficiency, lower costs, and expanded flow of useful information to consumers. We urge that the Commission consider and respect the precise parameters established by Congress under Section 214, as they reflect an important apportionment of benefits that give rise to great advantages to industry and consumers alike.

In this spirit, we reiterate the mortgage industry’s pleas that—

- The responsibility for providing notice and opportunity to opt out of affiliate information sharing should not be specifically assigned to the entity that has the relationship with the consumer. (17 C.F.R. § 247.20(a)).
- The Commission should not finalize the restrictive rule that a customer’s opt-out is deemed to last forever in instances where a loan is transferred (or, where the relationship is “terminated”) and the customer never had the opportunity to opt out. (17 C.F.R. § 247.25).
- The definition of “pre-existing” relationship should include situations in which statements are sent out in the affiliate’s name or the customer could reasonably be expected to perceive the relationship.
- The Commission should revise the definition of the term “consumer” to increase clarity and ensure that it properly restricts the application of the regulations to information that is shared for personal, family, or household purposes.

Conclusion:

Ameriquest believes that, in enacting FACTA, Congress set forth a balance of consumer and industry interests that must be respected in this regulatory implementation process. We urge the Commission to carefully review the comments submitted by MBA, summarized above, and hope they guide you in finalizing these important consumer protection rules. Thank you again for allowing us to comment on these issues. Please contact me at 202-742-4292 if I can be of any assistance.

Sincerely,

Rod J. Alba
Vice President, Federal and Regulatory Affairs