

ACA INTERNATIONAL  
WASHINGTON  
INSIGHTS  
FLY-IN



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FLY-IN MEETING GUIDE  
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# FACT SHEET



ACA International, the largest trade association for the accounts receivable management industry, represents approximately



**1,800 members**

including

third-party collection agencies, credit grantors, asset buyers, attorneys, and vendor affiliates. These companies employ approximately

**125,000 employees.**



The accounts receivable management (ARM) industry is instrumental in keeping America's credit-based economy functioning with access to credit at the lowest possible cost. For example, in 2018 the ARM industry returned over \$90 billion to creditors for goods and services they had provided to their customers. And in turn, the ARM industry's collections benefit all consumers by lowering the costs of goods and services—especially when rising prices are impacting consumers' quality of life throughout the country.



ACA partners with **33 independent units** representing **48 states** and has international members in **more than 30 countries**.



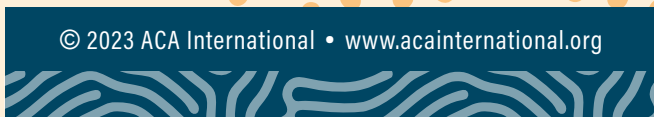
ACA represents a **diverse industry**. As of 2018, 32% of ACA members indicated they were **women-owned businesses**, while 6% reported they were **minority-owned businesses**. While women constitute roughly 47% of the overall U.S. workforce, the debt collection industry is overwhelmingly female, with women making up 72% of the total workforce. Racial and ethnic minorities make up 41.6% of debt collection employees, compared to 37% of the total U.S. workforce.



The majority of ACA member debt collection companies are **small businesses**, with nearly 85% with 49 or fewer employees.



U.S. debt collection agencies support the indirect and induced **employment** of more than 89,000 individuals in industries that sell goods and services to debt collection agencies and their employees.



# ECONOMIC IMPACT




In 2018, third-party collection agencies recovered approximately

**\$102.6 billion**  
in total debt

and

returned  
**\$90.1 billion**  
to creditors

This return to creditors represents an  
**average savings of**

 **\$706**  
per household

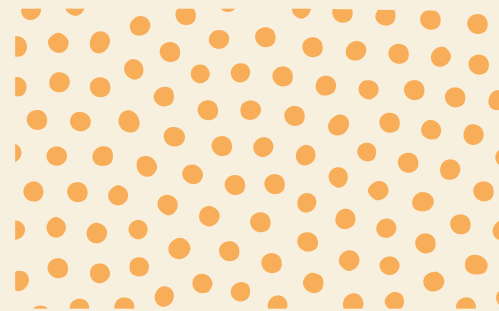
as businesses were not compelled to compensate for lost capital through increased prices.

U.S. debt collection agencies and their employees were estimated to directly  
**contribute more than**

 **\$1.2 billion**  
in taxes

The third-party debt collection industry supports an  
**average annual payroll of**

 **\$5 billion**



**“In theory, well-designed debt collection rules can aid both borrowers and lenders by increasing access to and reducing prices for consumer credit. But poorly designed rules can reduce the effectiveness of debt collection, which will increase losses and lead to higher prices and less access to credit for consumers, especially low-income and high-risk consumers. Rules intended to protect consumers from some credit collection practices could lead creditors to use alternatives that consumers prefer even less.”**

*Source: Todd J. Zywicki. “The Law and Economics of Consumer Debt Collection and Its Regulation.” Mercatus Working Paper, Mercatus Center at George Mason University, Arlington, VA, September 2015.*



# DEBT COLLECTION LANDSCAPE



## The Collection Landscape: How Consumers Are Protected

### Regulators & Legislators

At the federal level, debt collectors are supervised by the CFPB, FCC, FTC, HHS, NCUA, OCC, SBA, Treasury and Congress. These entities issue rules, investigate complaints, conduct examinations and impact firms' behavior.

### ACA Ethics Standards

ACA International, the largest trade association for the accounts receivable management industry, represents approximately 1,800 members, all of whom agree to abide by a Code of Conduct when collecting debts. Members also follow the tenants of the Collector's Pledge, which addresses professional and ethical behavior and expects all consumers to be treated with dignity and respect.

### Clients

Debt collectors work for their clients, who expect them to treat consumers with respect. If a debt collector fails to do so, clients would likely find out and the debt collector could lose their business. With that kind of reputation, it would be difficult to get additional clients.

### Compliance Systems, Governance & Training Programs

ACA provides extensive resources to help its members develop compliance management systems and training programs, focusing on consumer protections.

### Public Relations

Social media and online forums are a consumer's megaphone, and this gives them tremendous power. Businesses understand this. Not only can consumers who feel they've been wronged file a complaint with the collection agency and original creditor, they can also reach out to the CFPB, Better Business Bureau and other consumer protection organizations.

### Federal Laws

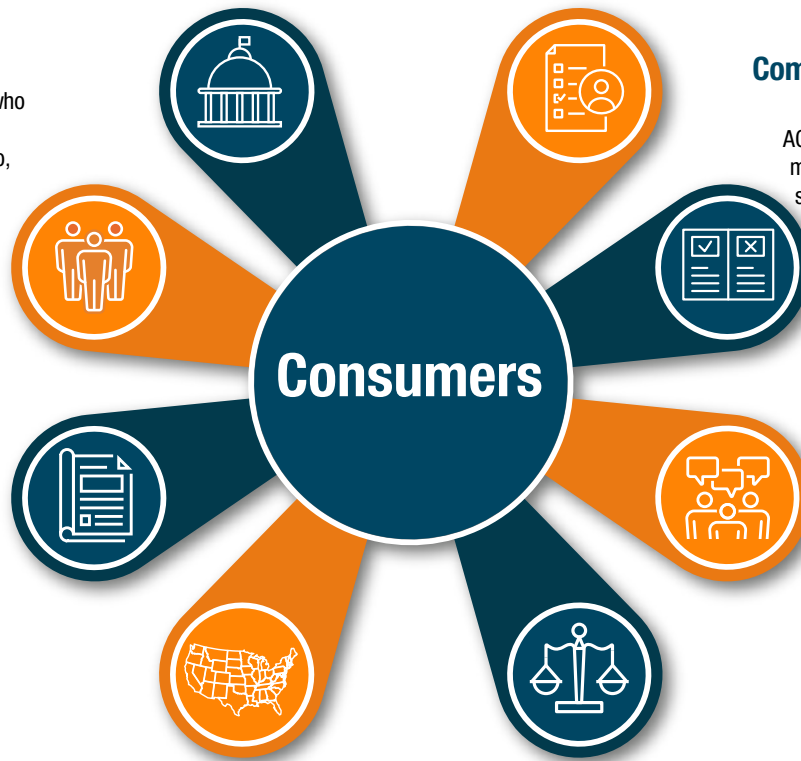
More than two dozen federal laws—which we as a society have agreed on—control the debt collection industry, including the FDCPA and Regulation F, TCPA, FCRA and HIPAA.

### State Laws

State legislatures, attorneys general, licensing bodies and/or financial departments in all 50 states oversee debt collectors, many of which have laws that are even more stringent than federal laws. Some have licensing, bonding and registration requirements for collecting debts as well.

### Plaintiffs' Bar

Even honest mistakes are costly from the lens of the plaintiffs' bar; any intentional mistakes from bad actors are catastrophic. The plaintiffs' bar is clever in finding disgruntled consumers.





# DEBT COLLECTION: A HIGHLY REGULATED INDUSTRY

- Consumer Financial Protection Bureau (CFPB)
- Federal Trade Commission (FTC)
- Federal Communications Commission (FCC)
- Congress
- 50 State AGs, Licensing Bodies and Financial Departments
- 50 State Legislatures
- U.S. Judicial System

The ARM industry is regulated by the CFPB pursuant to the Consumer Financial Protection Act of 2010 (CFPA), the FCC pursuant to the Telephone Consumer Protection Act (TCPA) and the FTC under the Federal Trade Commission Act as well as numerous federal laws including the Fair Debt Collection Practices Act (FDCPA).

Additional federal laws regulating third-party debt collectors include:

- The Higher Education Act of 1971, Pub. L. No. 89-329;
- The Bank Holding Company Act, 12 U.S.C. §§ 1841 et seq.;
- The Consumer Leasing Act, 15 U.S.C. §§ 1667 et seq.;
- The Electronic Fund Transfer Act, 12 U.S.C. §§ 222 et seq.;
- The Equal Credit Opportunity Act, 15 U.S.C. §§ 1691 et seq.;
- The Fair Credit Billing Act, 15 U.S.C. §§ 1666 et seq.;
- The Fair Credit and Charge Card Disclosure Act, 15 U.S.C. §§ 1601 et seq.;
- The Fair Credit Reporting Act, 15 U.S.C. §§ 1681 et seq.;
- The Federal Bankruptcy Code, 11 U.S.C. §§ 101 et seq.;
- The Gramm-Leach-Bliley Act, 15 U.S.C. § 6801 et seq.;
- The Health Insurance Portability and Accountability Act, 42 U.S.C. § 1320d-2 et seq., including the Security Rule, Privacy Rule, and Transaction and Code Set Standards promulgated by the Department of Health and Human Services;
- The Home Equity Loan Consumer Protection Act, 15 U.S.C. §§ 1637 et seq.;
- The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act, P.L. 107-56, 115 Stat. 272;
- The Right to Financial Privacy Act, 12 U.S.C. §§ 3401 et seq.;
- Telemarketing Sales Rule, 16 C.F.R. §§ 310.1 et seq.;
- Truth in Lending Act, 15 U.S.C. §§ 1601 et seq.;
- Regulation E, 12 C.F.R. § 205.1 et seq.;
- Regulation J, 12 C.F.R. § 210.1 et seq.;
- Regulation M, 12 C.F.R. §§ 213 et seq.;
- Regulation Z, 12 C.F.R. § 226 et seq.; and
- Regulation F, 12 CFR part 1006.

**100+** regulators  
oversee the ARM  
industry



**ACA members comply with  
dozens of state and federal  
laws and regulations.**

# 2023 FEDERAL POLICY PRIORITIES



## Ensuring Legitimate Businesses Can Communicate with Consumers

ACA International members contact consumers exclusively for non-telemarketing and legitimate business reasons.

ACA works with the Federal Trade Commission, Consumer Financial Protection Bureau and Federal Communications Commission to help them understand the complex issues that legitimate debt collectors face, and we take pride in our industry compliance educational services and offerings in support of the overwhelming majority of legitimate debt collectors who operate lawfully, take consumer protection seriously and play a unique and much-needed role in our credit-based economy.

At the same time, when there are admissible facts evidencing egregious conduct, ACA International supports regulators' general efforts to stop illegal robocalls and text messages and efforts by bad actors under the guise of working in the highly regulated and compliant debt collection industry and to educate consumers.

These efforts stop illegitimate debt collection activity, safeguard consumer rights by removing known violators from the financial marketplace and ensure consumers know the behavior to look out for by bad actors versus legitimate callers that are there to help and provide information about their finances.

ACA maintains that overly broad call blocking and labeling efforts, and texting restrictions, can create dangerous circumstances where consumers are not getting the information they want and need.

For example, a February 2020 study by Number Sentry LLC on the impact of call blocking and labeling practices on outbound calls placed from the ARM industry found that over 21.3% of ARM industry calls were blocked and an additional 25.7% were labeled. So, for every 1 million ARM industry calls, 213,000 would be blocked and an additional 257,000 would be labeled.

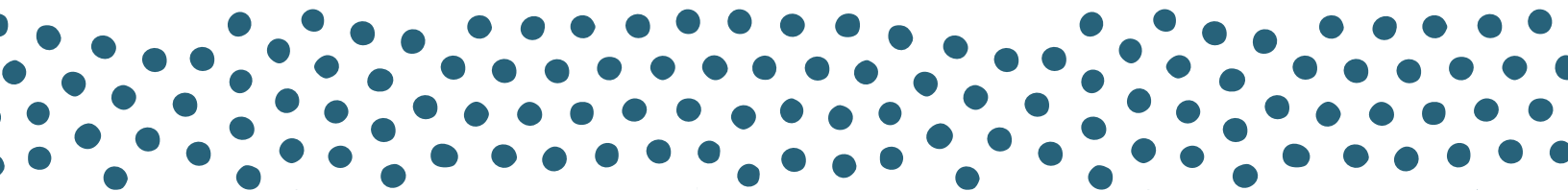
There must be greater consequences for calls being blocked or mislabeled based on faulty analytics.

Texting is a vital tool for businesses and even some consumer groups. The CFPB made it clear during the Regulation F rulemaking process that people in collections should be able to use these tools as long as the sender has the correct protocols in place.

Time-sensitive calls are being blocked by voice service providers' use of analytics engines from hundreds of different smaller providers. Consumers are harmed because they may not receive lawful calls affecting their health, safety, or financial well-being.

The same is the case for lawful text messages sent with consumer consent.

ACA has submitted comments and met with the FCC on these issues to ensure important illegal robocall blocking measures do not impact calls from legitimate businesses consumers want and need.



# 2023 FEDERAL POLICY PRIORITIES



## Consumer Financial Protection Bureau Reform

Significant movement on possible reform of the Consumer Financial Protection Bureau came in February 2023 when the U.S. Supreme Court decided to hear a case from the 5th Circuit Court of Appeals on the constitutionality of the CFPB's funding structure. Depending on the Supreme Court's ruling in the case, Congress could have directives to pass new legislation on the bureau's funding—which was among the several proposals before the House Financial Services Subcommittee on Financial Institutions and Monetary Policy in March 2023.

The Supreme Court granted the CFPB's petition for certiorari to review the decision, requesting that the court address whether the 5th Circuit Court of Appeals erred in its ruling that the bureau's funding structure through the Federal Reserve rather than the congressional appropriations process violates the U.S. Constitution's separation of powers.

The U.S. Court of Appeals for the 5th Circuit held that the CFPB's "double-insulated" funding violates the U.S. Constitution's Appropriations Clause as well as the separation of powers

principles on which it is based. As a result of this ambiguity surrounding the CFPB's rulemaking authority, it seems judicious for the CFPB not to engage in any additional rulemaking until critical questions about its structure are resolved.

The case, *Consumer Financial Protection Bureau, et. al., vs. Community Financial Services Association of America, Limited, et al.*, is slated to be heard as part of the Supreme Court's next term, which begins in October 2023. That means a decision may not be issued until next year.

ACA has long advocated for the bureau's funding to be through the congressional appropriations process as well as for the bureau to be led by a five-member bipartisan commission.

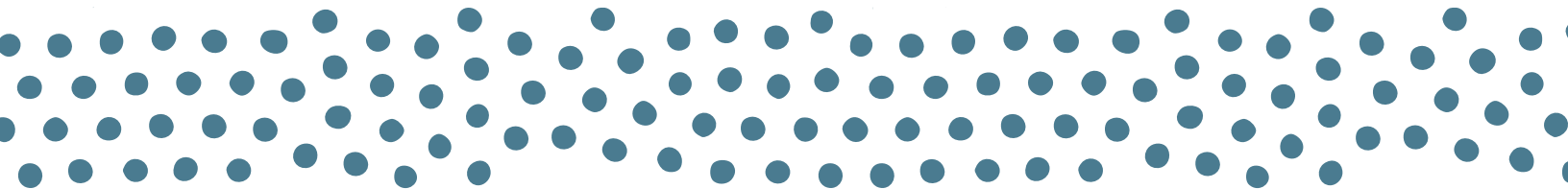
ACA also supports several legislative proposals resurfaced in the 118th Congress that would enact extensive reform at the CFPB.

Unfortunately, the CFPB remains undeterred in its continued efforts to regulate by enforcement actions and press releases, and, even when

it does engage in actual rulemaking, it is through flawed and unlawful procedures.

These overbroad activities undertaken by the CFPB put significant judicial, consumer, and financial service market participant resources at risk, which benefits no one. Furthermore, the ongoing litigation, in conjunction with the CFPB's refusal to engage in a transparent process for policymaking that follows the Administrative Procedure Act, highlights why reforms are needed to the construct to the CFPB.

If legal challenges to the CFPB's funding structure are reviewed by the U.S. Supreme Court as requested by the bureau, it's possible the court could send the issue back to Congress to determine how to bring the CFPB under the congressional appropriations process, which ACA supports.



## Tailored Processes for Medical Debt Credit Reporting and Account Resolution

The Fair Credit Reporting Act (FCRA) and the Health Insurance Portability and Accountability Act (HIPAA) generally allow furnishers to report medical debts to consumer reporting agencies (CRAs), though some restrictions apply. The policies of the individual consumer reporting agencies impose further restrictions on credit reporting this type of debt.

The FCRA permits health service providers and their agents to furnish information about medical debts to CRAs. But the FCRA also requires furnishers to encrypt certain information to protect the consumer's privacy. Likewise, HIPAA allows medical providers or their debt collector agents to report medical debts to CRAs provided that the information used is limited to the minimum amount necessary. The CRAs themselves also have certain policies that impact the furnishing of medical information.

However, in 2022, at the urging of the CFPB, the CRAs increased the timeline to credit report from six months to one year from the date of delinquency, effective July 1, 2022. They also stopped all ability to report medical debt under \$500, which started in March 2023.

ACA recognizes that most patients want to resolve their medical accounts in a responsible manner. However, one of the challenges facing them is the highly variable processes used to resolve accounts, which contributes to confusion. ACA members have examined how paid debt should be treated to ensure that a consumer is not penalized beyond resolution of the account.

The blanket policies CFPB Director Rohit Chopra is working to implement are not tailored only to those in need. They include Americans who can afford their low-dollar medical bills under \$500. The blind belief that the health care community can absorb financial shocks of that nature is misguided and could lead to disastrous outcomes for consumers.

ACA is concerned about the negative impact of the CFPB's consideration to eliminate, or in this initial change reduce, the reporting of legally-owed medical debt on credit reports. It not only harms ACA members, but it harms members' provider clients, and ultimately the patients who will see reduced access to care as more providers will require payments in advance to offset the financial losses from this reckless decision.

If the CFPB were allowed to engage in rulemaking here, it must do so in compliance with the Administrative Procedure Act and provide impacted entities with an opportunity to voice their concerns as well as follow the Regulatory Flexibility Act, which requires a cost-benefit analysis of proposed rules and collecting input from small businesses—all actions the bureau has skirted recently in other proposed rules.

ACA continues to advocate that the CFPB's actions taken outside of the rulemaking process will have negative consequences for the ARM industry.

A blanket removal of all medical debt records from consumers' credit reports is not the answer.

Focusing on medical debt without input from stakeholders in the health care industry will ultimately harm patients and rulemaking should be on hold while the U.S. Supreme Court considers the case on the constitutionality of the CFPB's funding structure.



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