

ACA International &  
Kaulkin Ginsberg Company



ARM Industry Legislative  
& Regulatory Update  
February 2010

# ACA International-Kaulkin Ginsberg

*ARM Industry Legislative & Regulatory Update*



## Presenters

- **Rozanne Andersen** – Chief Executive Officer, ACA International
- **Mike Ginsberg** – President and Chief Executive Officer, Kaulkin Ginsberg Company
- **Adam Peterman** – Director of Federal Government Affairs, ACA International
- **Patrick Lunsford** – Editor, [insideARM.com](http://insideARM.com)

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## Rapidly Changing Political Landscape

- Year out from landmark inauguration of President Obama
- Legislative and regulatory environment difficult for the entire financial services industry throughout most of 2009
- November gubernatorial elections in Virginia and New Jersey and January Massachusetts Senate race appear to be chastening Congress and the Administration
- November 2010 elections now loom large

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## Credit & Collection Industry Issues

- Regulation Authority - Consumer Financial Protection Agency (CFPA)
- FDCPA Reform
- State Attorneys General Enforcement Actions
- Healthcare Reform
- TCPA Autodialer Prohibition
- Student Loan Reform
- Gramm-Leach-Bliley Paperwork Reduction
- Bankruptcy Amendment

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## Consumer Financial Protection Agency (CFPA)

- Administration proposal largely problematic
- Consolidates existing regulatory authority
- Provides open-ended rulemaking authority over federal laws including the FDCPA and FCRA.
- Largely viewed by financial industry as onerous and constrict consumer lending

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## Alternative Regulatory Structure

- Consumer Protection Financial Council – new council of existing regulators
- New Treasury Department regulator for non-depository industries: debt collection, mortgage brokerage, etc.
- ARM industry Self-Regulatory authority on hold
- FTC + rulemaking authority

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## Fair Debt Collection Practices Act Reform

- House Financial Services Committee requested ACA take steps in preparation for FDCPA overhaul
- Needs to be modernized to address technological advancements

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## FTC Debt Collection Workshop Report

- Issued in February 2009
- FTC's principal conclusions:
  - ✓ Flow of information needs improvement
  - ✓ Law needs to be modernized
  - ✓ Certain litigation/arbitration raises concerns
  - ✓ FTC should have rulemaking authority
  - ✓ Aggressive law enforcement necessary

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## State Attorney General Actions

- 2009 was a very active year for state attorneys general and the ARM industry
- In 2010, the AGs in Louisiana and Washington have already announced enforcement actions

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## GAO Report on Debt Collection

- Issued in October 2009
- Provides three main recommendations to Congress:
  - ✓ Update obsolete federal collection laws
  - ✓ Improve media provided to third party agencies
  - ✓ Provide FTC with rulemaking authority

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## Healthcare Reform and Education Effort

- Important to illustrate role collectors have in the health care industry
- Senate Finance Committee draft included section implementing new requirements of non-profit providers to maintain tax-exempt status
- ACA was successful in keeping harmful, punitive provisions related to our industry out of Senate Finance Committee bill

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## TCPA Autodialer Prohibition

- Telephone Consumer Protection Act (TCPA) prohibits use of an automatic dialing device to contact wireless phones
- FCC ruling states number provided to creditor is authorization to collector
- Working to amend TCPA to allow calls to wireless number regarding existing financial transaction

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## Student Loan Reform

- The President has committed to converting all federally subsidized student loans to direct loans
- The House passed legislation that would terminate the FFEL loans and create new Federal Direct Perkins Loans, managed by the federal government

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## Gramm-Leach-Bliley Paperwork Reduction

- GLBA provision requires annual privacy notices be sent to consumers allowing them to opt out of information sharing
- Many companies prohibited from sharing under other laws
- In such cases, notices serve no purpose and requirement should be waived
- Successful in introducing legislation already this Congress



## Bankruptcy Amendment

- Collectors held to a strict liability standard for contacting a consumer after bankruptcy filing
- Many contacts are due to not knowing a filing has been placed
- Correction to Bankruptcy Code would require consumers to provide notice to “known third-party debt collectors”

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## Labor Relations: “Card Check”

- Card Check legislation would remove secret ballot in unionizing votes
- Industry advocacy helped convince key Senator to change from support to opposition of the legislation
- It is now considered unlikely to pass this Congress

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## Labor Relations: “Son of Card Check”

- In September Senator Specter announced he was working with union leaders on a revised bill
- New bill would not include “card check” provision
- Main component would expedite unionizing votes (30 days)
- Also calls for mandatory arbitration for employers and unions who fail to reach a contract within three months

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## Impacting Legislation and Regulation

- ACA Washington Office
  - ✓ On the ground ACA staff
  - ✓ Lobby Capitol Hill Full Time
  
- Capitol Hill fly-ins
  - ✓ Great opportunity to introduce yourself to legislators and help them understand your business and how it affects the local economy

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**Questions?**