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From Our Desk to Yours

Leadership Series for ARM Execs

Part III

September 24, 2014

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Meet the Speakers



Mike Ginsberg

President & CEO

Kaulkin Ginsberg



Rozanne Andersen

Chief Compliance Officer

Ontario Systems



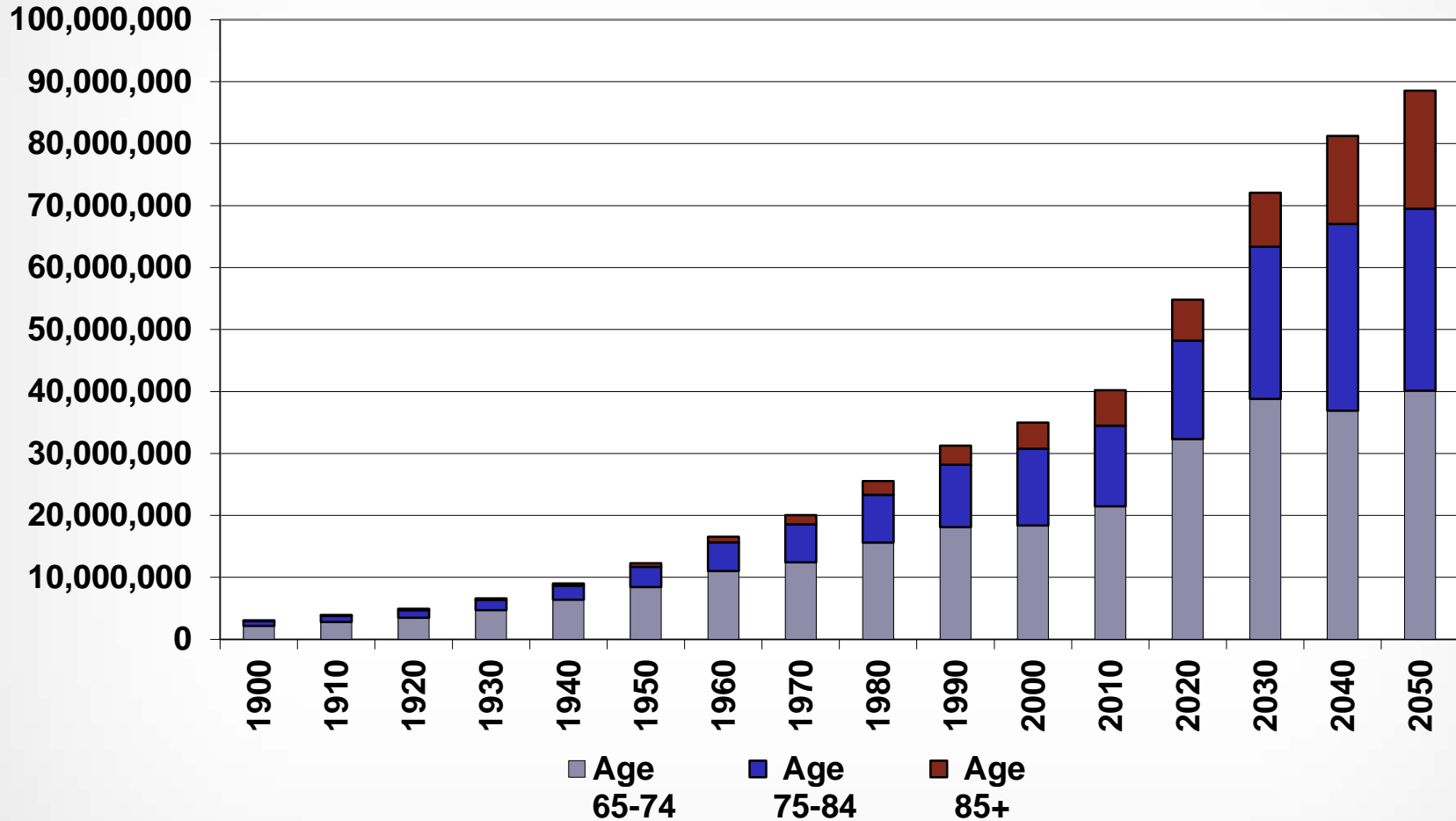
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Market segments will expand and contract but the U.S. will remain a vibrant credit economy.



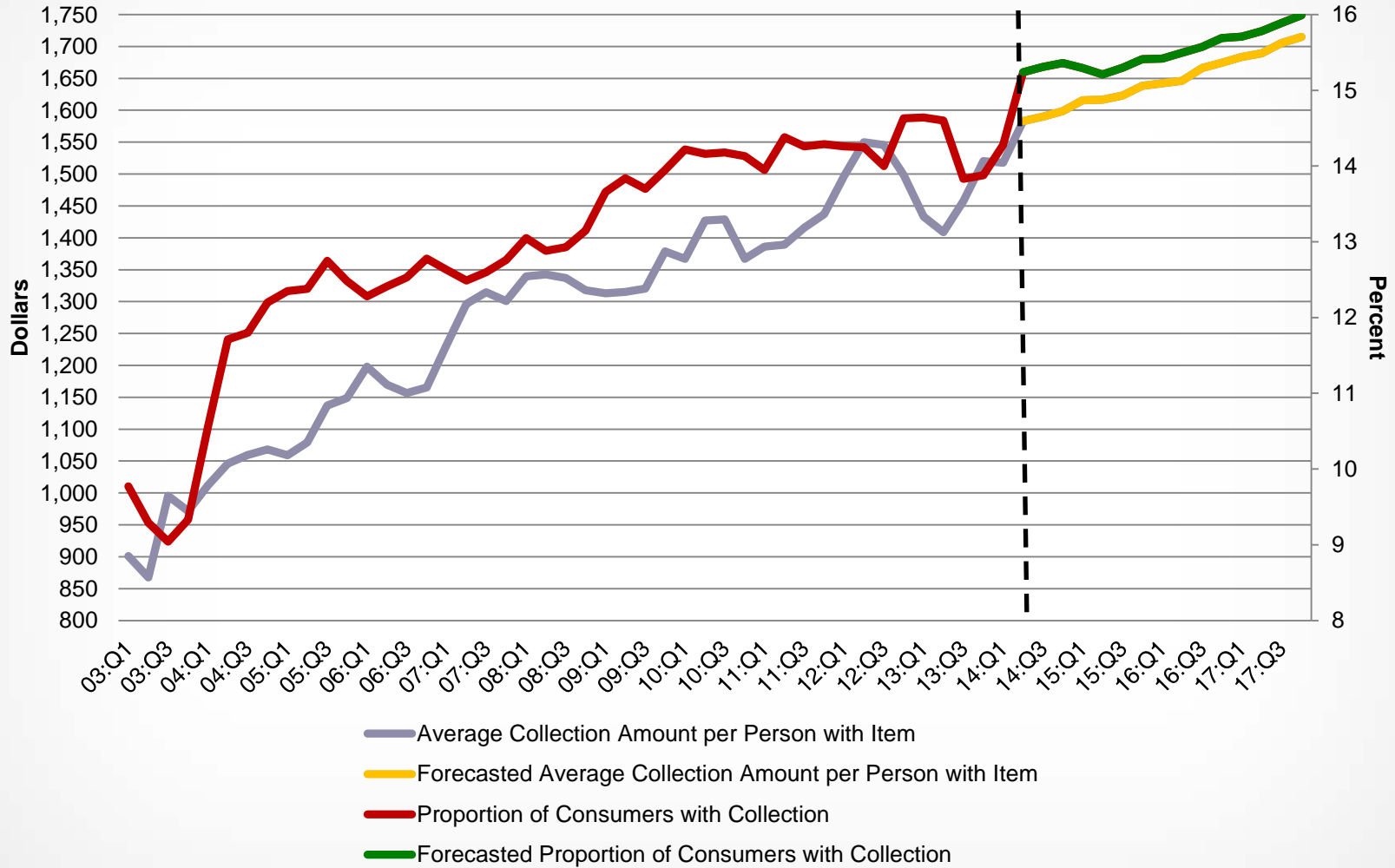
Population 65+ by Age: 1900-2050

Source: U.S. Bureau of the Census





Third Party Collections





The dearth of industry friendly regulatory or legislative action coupled with the steady increase in consumer complaints and litigation under a variety consumer financial laws make risk mitigation and compliance the #1 priority for any agency or debt buyer.



Risk Mitigation and Compliance Checklist

- Compliance policies and procedures in place [54]
- Compliance department seated and functioning
- Complaint and dispute management system functioning
- Role based company wide training includes 7-12 modules/disciplines
- Compliance budget line item included in 2015
- Annual CFPB assessment with deliverables is scheduled for 2015

[Approximate Cost = \$15,000 for non LMPs or \$19,500 for LMPs]

TCPA Case Law Update – Issues de jour



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- **April 2014 – Lardner v. Diversified Consultant's Inc.**

On motion for SJ, plaintiff argued LiveVox system fits the definition of an ATDS because it stores preprogrammed telephone numbers and then dials these numbers automatically in a sequential order from the preprogrammed list. Defendant argued “LiveVox system is not an ATDS because it does not have the present capacity to store or produce numbers to be called using a random or sequential number generator.” This U.S. District Court held in favor of plaintiff explaining, “The statute has no requirement on how long a telephone number is stored. If the equipment “has the capacity to store or produce telephone numbers,” then it meets the statutory definition of an ATDS.” Judgment for Plaintiff \$63,000 [Case No.: 1:13-cv-22751-UU (S.D.FL April 30, 2014)]

- **September 2014 - Zybuero v. NCSPlus, Inc.**

Before the U.S. District Court in the Southern District of New York, plaintiff alleged the defendant had repeatedly called his cell phone using an automated dialing system without his express consent. Adopting the Mais court’s analysis, the court certified a TCPA class action against a debt collection agency rejecting defendant’s argument it had express prior consent to call a cell phone because the plaintiff had provided that number to the creditor. The ruling referenced and ignored an FCC order defining express consent. But see, Hudson v. Sharp Healthcare

Proposed Amendments to the FCRA & New Rules



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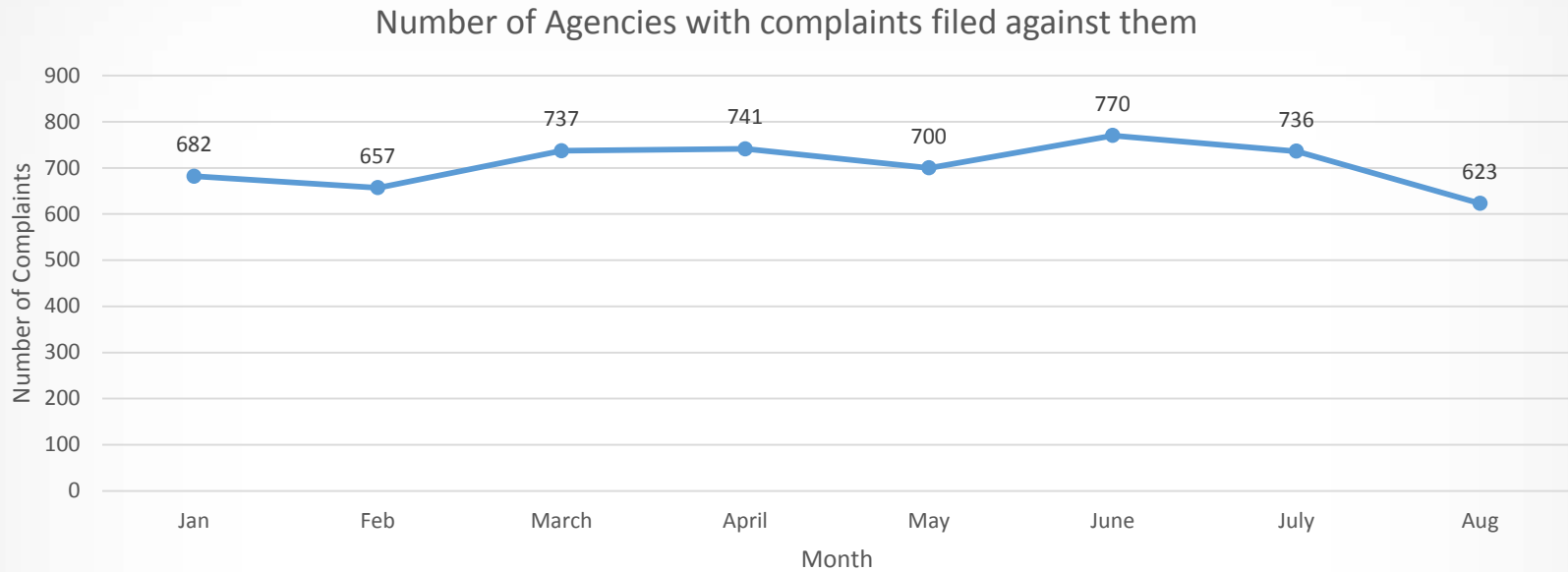
- **Fair Credit Reporting Improvement Act of 2014**
 - Introduced Sept. 10, 2014, Rep. Maxine Waters (D-Calif.)
 - Key Elements of Proposed Amendments
 - Shorten length of time negative information may remain on a credit report—from seven to four years
 - Remove all fully paid or settled debt from the report
 - Erase private student loan defaults for borrowers after they make nine consecutive, on-time monthly payments

- **New Rules for 2014**
 - The Office of the Comptroller of the Currency (OCC) passes new requirements for debt buyers
 - New York City Court rules pass

2014 CFPB Complaint Data



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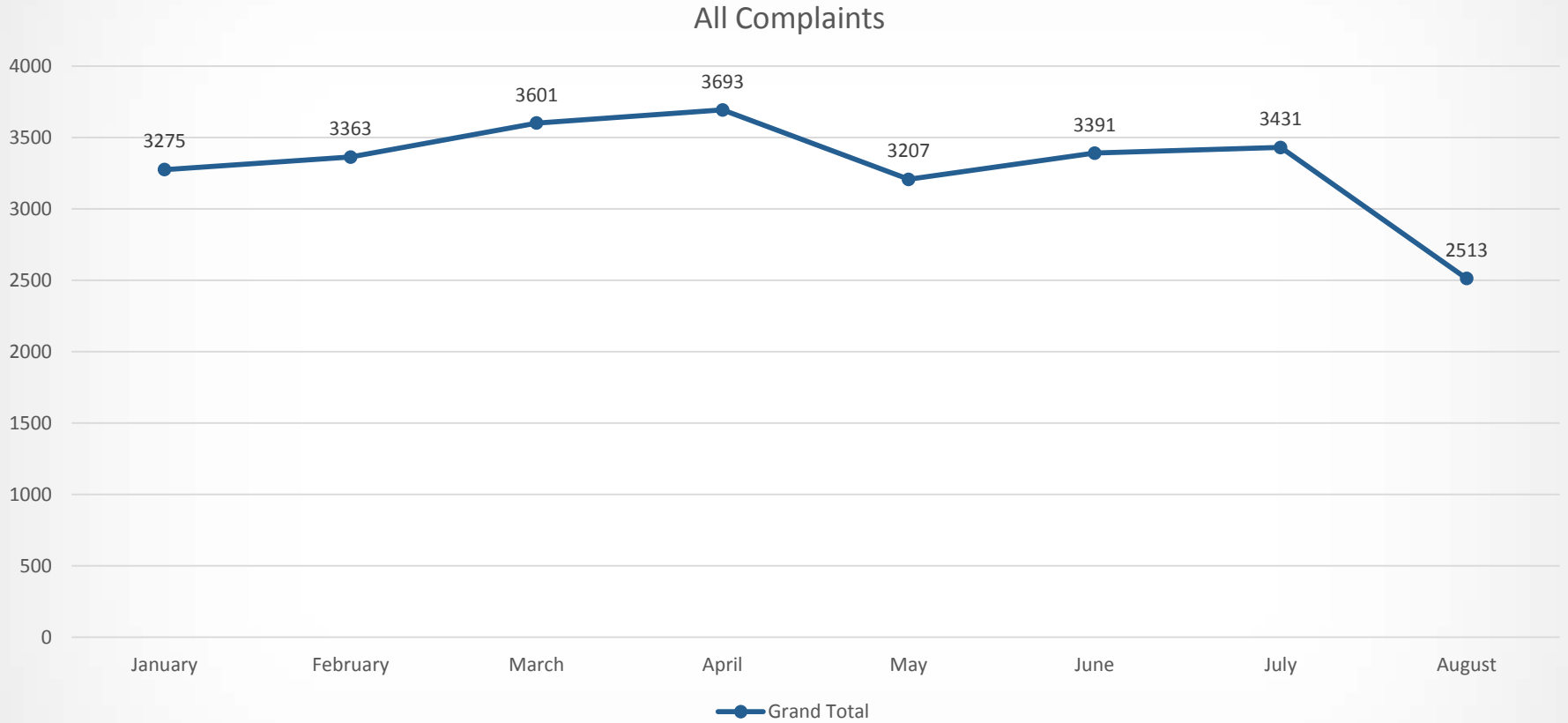
Total number of agencies with complaints filed against them YTD:

1449

Total Debt Collection Complaints



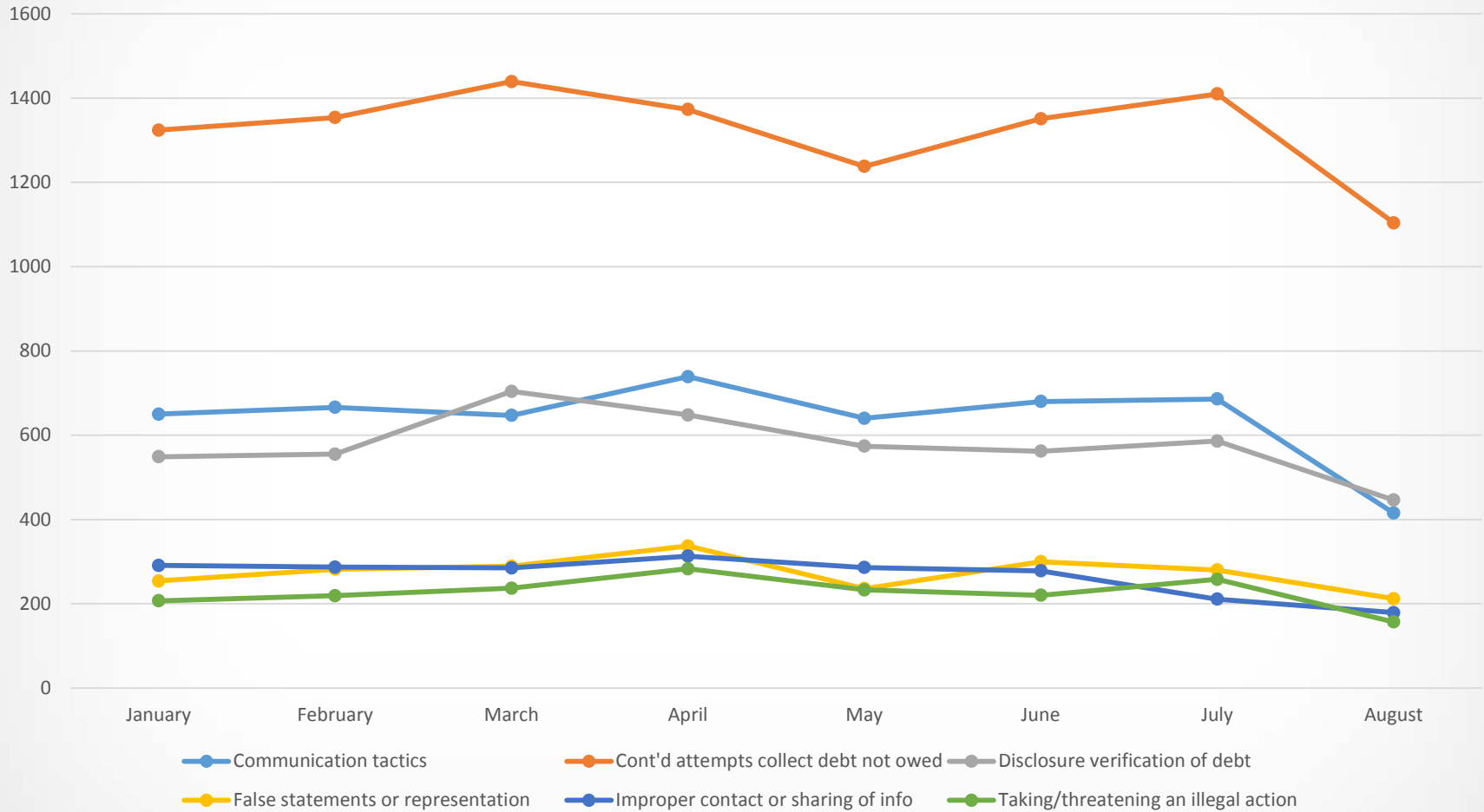
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Debt Collection Complaints by Reason

All Complaints





Economic factors directly impacting recoveries will continue to move in the right direction, albeit at a slower pace than ARM professionals would prefer.




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We expect a strong wave of consolidation within the ARM industry over the next 24-36 months.

Thank You!

For additional information or consultation please contact:

- **Mike Ginsberg**
mike@kaulkin.com
240-499-3800
 [@mike_ginsberg](https://twitter.com/mike_ginsberg)
M&A Advisory Services
Market Intelligence & Analysis
Valuations
- **Rozanne M. Andersen**
Rozanne.Andersen@ontariosystems.com
952-221-6267
CFPB Consulting [Pre and post closing]
CFPB Gap Assessment
Compliance Outsourcing
Complaint Management



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