



## How Accutrac helps prevent lawsuits

### Our compliance matters: How we help prevent lawsuits

We stay aware of industry trends and laws, because we care about mitigating risk of law violation for clients. We help prevent class-action suits from being leveled against clients by staying thoroughly compliant in our products and processes.

Our verification process is based on compliance: we verify consumer information through our live contact center, thereby obeying TCPA laws against automatic telephone dialing systems. By providing accurate consumer contact information, we make sure that clients do not violate laws by attempting to collect from the wrong person.

### Telephone Consumer Protection Act (TCPA) compliance

The TCPA was issued by the Federal Communications Commission and violations are governed by the Consumer Financial Protection Bureau (CFPB).

#### Relevant TCPA law:

Telephone Consumer Protection Act 47 U.S.C. § 227 SEC. 227. [47 U.S.C. 227] Subsection d

(d) TECHNICAL AND PROCEDURAL STANDARDS.— (1) PROHIBITION.—It shall be unlawful for any person within the United States— (A) to initiate any communication using a telephone facsimile machine, or to make any telephone call using any automatic telephone dialing system, that does not comply with the technical and procedural standards prescribed under this subsection, or to use any telephone facsimile machine or automatic telephone dialing system in a manner that does not comply with such standards;

#### How We Comply

A key portion of this subsection is “It shall be unlawful for any person within the United States... to make any telephone call using any automatic telephone dialing system that does not comply with the technical and procedural standards prescribed under this subsection”.

In order to comply with TCPA law, we do not use automatic telephone dialing systems (ATDS) to place calls to consumers. Our live agents in our contact center do this instead, because we have the desire to obey all TCPA law, thereby ensuring that clients will be compliant with TCPA law in verification processes as well.

#### Relevant TCPA law:

(3) PRIVATE RIGHT OF ACTION.—A person or entity may, if otherwise permitted by the laws or rules of court of a State, bring in an appropriate court of that State— (A) an action based on a violation of this subsection or the regulations prescribed under this subsection to enjoin such violation, (B) an action to recover for actual monetary loss from such a violation, or to receive \$500 in damages for each such violation, whichever is greater, or (C) both such actions. If the court finds that the defendant willfully or knowingly violated this subsection or the regulations prescribed under this subsection, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under subparagraph (B) of this paragraph.



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### Discussion

The penalty for breaking TCPA law can be steep; lawsuits have resulted in millions of dollars in penalties for companies that are found to be in violation of the TCPA. By obeying the law, we are not put at risk of violation, and therefore our clients are protected from violation as well.

### TCPA Lawsuits

#### Wells Fargo

Wells Fargo has been the defendant in multiple class-action suits in recent years, with the named TCPA violation of Act 47 U.S.C. § 227 (b)(1)(B) which reads:

(1) PROHIBITIONS.—It shall be unlawful for any person within the United States, or any person outside the United States if the recipient is within the United States

(B) to initiate any telephone call to any residential telephone line using an artificial or prerecorded voice to deliver a message without the prior express consent of the called party, unless the call is initiated for emergency purposes or is exempted by rule or order by the Commission under paragraph (2)(B);

Wells Fargo call recipients were alleged to have been contacted via ATDS without their prior express consent. In four recent settlements, the calls regarded debt collection of various types of loans and mortgages. The four recent Wells Fargo TCPA class action suits costed Wells Fargo a total of more than \$64 million, not including plaintiff and attorney's fees. Instead of successfully collecting debts from the millions of consumers, Wells Fargo had to reach expensive settlements resulting from TCPA law violation.

#### How We Help Prevent Lawsuits

When companies are dialing large volumes of consumer phone numbers, it may seem like automated calling is the best route. But if consent is not proven and phone numbers change, companies can end up calling the wrong people, and ATDS brings an additional layer of fault in a TCPA lawsuit. Instead of repeatedly violating TCPA law, companies can use a large-volume verification solution before dialing, putting them at lesser risk for violations and lawsuits. Accutrac stays aware of these and updated TCPA laws, and therefore does not use ATDS equipment that violates the equipment provisions mentioned in the TCPA. Live contact center agents eliminate the risk associated with using automated voices, and the verification of consumer phone numbers before companies dial ensures that the wrong person is not contacted. TCPA law is relevant for our live contact center and our own compliance, and it is also relevant to clients who engage in calling practices for debt collection purposes.

### Fair Debt Collection Practices Act (FDCPA) compliance

The FDCPA is governed by the Federal Trade Commission (FTC) and the CFPB.

#### Relevant FDCPA law

Public Law 111-203, title X, 124 Stat. 2092 (2010) §806. Harassment or abuse



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A debt collector may not engage in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

(5) Causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.

### How We Help Prevent Lawsuits

FDCPA law is targeted toward third party collectors, including debt buyers. As a large-volume verification company rather than a debt collector, we may be subject to FDCPA law when calling on behalf of third party collectors. Even though we never attempt to collect on behalf of clients, we are aware of FDCPA laws. We comply with FDCPA standards in our contact center because we want to represent clients well when calling on their behalf.

When the agents in our contact center call consumers to verify phone numbers or other identification information, we use scripts that are compliant to FDCPA laws, so as not to harass, intimidate or abuse consumers. Our agents are polite and courteous when speaking with consumers on the phone, whether the consumer chooses to verify their contact information or not. We also obey laws regarding the hours calling is allowed, which is between the hours of 8 a.m. and 9 p.m. local time. Our contact center operates during typical work hours, well within the permitted time for making third party calls to consumer within the bounds of FDCPA law.

In addition, violations of wage garnishment in the FDCPA include garnishment from the wrong consumer, garnishment above the allowed percentage of income, and more; we protect collectors from garnishing from the wrong consumers with our employment validation product. Our contact center agents confirm with specific, confidential consumer identification information that the person is the correct consumer, before companies can garnish wages. Therefore, third party debt collector clients are protected from certain violations of FDCPA law that could arise from wage garnishment.

### Other additional compliances

We remain in compliance with laws established by the following other legislation:

- Dodd–Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank)
- Fair Credit Reporting Act (FCRA)
- Gramm-Leach-Bliley Act (GLBA)
- Health Insurance Portability and Accountability Act (HIPAA)
- Health Information Technology for Economic and Clinical Health (HITECH) Act
- Privacy Act

### Information

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