A Guide to UDAAP Compliance:

*Disrupting the Lifestyles of the Unfair and Deceptive*
Session Overview

• UDAAP Awareness

• UDAAP Program Requirements

• UDAAP Risk Assessment

• UDAAP Monitoring

Note that all UDAAP requirements also apply to UDAP.
UDAAP: Decoded

**Unfair**
- Causes or is likely to cause substantial consumer injury,
- Injury cannot reasonably be avoided,
- Injury is not outweighed by benefits to consumer or competition.

**Deceptive**
- The representation, omission, or practice is likely to mislead consumers...
- ...whose interpretation is reasonable in the circumstances presented.
- The presentation, omission, or practice is material.

**Abusive**
- Materially interferes with the consumer's ability to understand a term or condition of a product or service;
- The practice takes unreasonable advantage of a consumer's: (1) lack of understanding of the risks, costs, or conditions of the products or service; (2) inability to protected the consumer's interests in selecting/using the product/service; OR (3) reasonable reliance by the consumer on a covered person to act in the consumer's interest.
Develop a formal UDAAP Program including:

• Commitment to Compliance (Policy)
• Governance Framework
  • Marketing / Disclosures
  • New Products / Fees
  • Sales / Comp / Service
  • Complaints
• Training
• Risk Assessment
• Monitoring
• Third Parties
Creating Gems: UDAAAP Marketing

• Complete and accurate messaging
  • Prominence
  • Presentation
  • Placement & Proximity
• Features and benefits actually available
• Promote customer understanding
• Account limitations should be clear
• Limit use of asterisks and footnotes
Creating Gems: UDAAP Marketing

- Limit Bad Words
  - Free
  - Guaranteed
  - Pre-Approved
  - Absolute Language

- Substantiate All Claims
  - We’ll Save You Money
  - Endorsements and Pictures
  - Implied Use

- Be Careful with Teaser Rates, Inducements or Incentives

- Mind the Complexity
  - E.g., Tiered Rate Products

- Accurately Represent the Product
‘A “substantial injury” typically takes the form of monetary harm, such as fees or costs paid by consumers because of the unfair act or practice.’ CFPB Bulletin 2013-07

- Customer Value / Reasonableness
- Development:
  - Fee Structure (Triggering Events, Avoidance)
  - Disclosure (Timing, Naming, Proximity)
  - Fee Waivers: Employee Discretion
- Monitoring:
  - Accuracy of Charge (Amount, Appropriateness)
  - Rates of Refund
  - Change Governance
  - Recurrence rate of penalty fees
Now You Try

Your regulators identify an upward trend of complaints in which consumers allege they did not know a specific residential mortgage fee would be assessed.

1. What should you look at to determine root cause?
2. What controls might you put in place to mitigate the risk this will occur in the future?
• Strong product knowledge (Training)
• Scripting / Call Monitoring
• Limit discretion and exceptions
• Promote informed choice
  • Provide balanced product information
  • Educate the customer on their options
  • Avoid presenting products that will not benefit the customer
• Ensure proper incentives
• Regularly review non-salaried compensation
• Avoid situations where employee interests are counter to the customer’s
• Balance speed / sales with good service
• Ensure no other inadvertent incentives / unintended consequences result from compensation policies
• Ensure compensation for like products is similar
Setting the Gold Standard: Customer Service

• Account Servicing
  • Accurate, prompt accounting
  • Easy-to-read statements
• Collections
• Customer Servicing
  • Metrics
  • Adequate staffing / accessibility
  • Timely responses to customers
  • Resolve errors
Now You Try

You determine your Bank’s sales staff is enrolling customers in products they did not agree to. Customers are complaining at a high rate and it has the regulator’s attention.

**Discuss:**

1. What should you look at to determine root cause?

2. What controls might you put in place to mitigate the risk this will occur in the future?
A UDAAP Gold Mine: Complaints

**Review and Escalation**
- Review complaints for patterns of unusual situations.
- Does complaint data suggest a trend that your customers feel misled?
- Is there other evidence that your customers (or their customers) feel misled?

**Analysis**
- What is the UDAAP risk?
- What is the root cause of the complaint/risk identified?
- Is there further action needed to mitigate the risk (training, procedural revisions, more focused compliance analysis)?

**Action**
- Track future actions and the mitigation of risks identified.
- Follow-through
- Show your governance structure is effective *in execution*.
A Wealth of Information: UDAAP Risk Assessment
The Golden Key: Risk Assessment Overview

Inherent Risk + Controls = Residual Risk
Inherent UDAAP Risk

Risk Sources to Rate

• Retail Footprint
• Strategic Direction
• Operations
• UDAAP Environment
Retail Footprint

- Customer Demographics
- Product and Service Offerings
- Complexity of Products and Services
- Delivery Channels
Strategic Direction

• Pricing & Profitability
• Marketing Strategy
• New Product & Service Development
• Advertisements & Solicitations
Operations

- General
- Role of Third Parties
- Compliance with Traditional Regulations
UDAAP Environment

- Customer Complaints
- Supervisory Focus
- Litigation
Compliance Program

Board & Senior Management Oversight

Compliance Risk Management

• General
• Policies and Procedures
• Training
• Monitoring and Corrective Action
• Compliance Audit
UDAAP-Specific Controls

UDAAP Controls to Rate

- Marketing
- Disclosures
- Customer Service
- Third Party Management
- Complaint Response
- Customer Friendly Features
Treasure Trove: UDAAP Monitoring
Playing Paparazzi: UDAAP Monitoring

- Horizontal and Vertical Reviews
- Review through Lifecycle Lens
  - Governance
  - Product Initiation
  - Customer Service
Playing Paparazzi: UDAAP Monitoring

Product Initiation

- Marketing
  - General
  - Social Media
  - Telemarketing
- Disclosures
  - Customer Friendly
  - Delivering as Promised
- Fees
  - External Review
  - Internal Review
Playing Paparazzi: UDAAP Monitoring

Customer Service

- Customer Service Team
- Branch Personnel
- Written Disclosures
- Third Party Management
- Complaints
- Compensation
- Collections
Questions
Thank You!

Cheers to a Richer UDAAP Compliance Program!