



# 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,

AND

Injury cannot reasonably be avoided,

AND

Injury is not outweighed by benefits to consumer or competition.

## Deceptive

The representation, omission, or practice is likely to mislead consumers...

AND

...whose interpretation is reasonable in the circumstances presented.

AND

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;

OR

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 protect 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.

# Setting the Gold Standard: UDAAP Program

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: UDAAP 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



# Setting the Gold Standard: Fees

*‘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



# Setting the Gold Standard: 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.

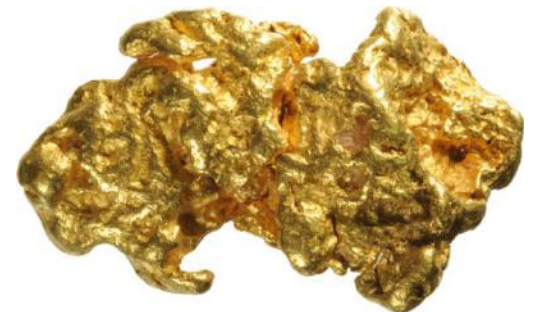
- 1. What should you look at to determine root cause?**
- 2. What controls might you put in place to mitigate the risk this will occur in the future?**





# Setting the Gold Standard: Sales

- 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



# Setting the Gold Standard: Compensation

- 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





## Risk Sources to Rate

- Retail Footprint
- Strategic Direction
- Operations
- UDAAP Environment





- 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



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



- Customer Complaints
- Supervisory Focus
- Litigation



## Board & Senior Management Oversight Compliance Risk Management

- General
- Policies and Procedures
- Training
- Monitoring and Corrective Action
- Compliance Audit

## 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





## Product Initiation

- Marketing
  - General
  - Social Media
  - Telemarketing
- Disclosures
  - Customer Friendly
  - Delivering as Promised
- Fees
  - External Review
  - Internal Review



## 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!**

