

UDAAP Council Quarterly Web Conference



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Agenda



- Welcome/Opening Remarks
- Latest Developments in UDAAP
- Committee Updates
- Abusive – Prof. Jean Braucher
- Open Discussion

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Latest Developments



- Bureau created Office of Financial Institutions and Business Liaison
 - Will provide opportunities for us to connect to the Bureau
- Bureau's data collection continues apace
 - Database has risen from 19,000 publically available complaints to over 100,000
 - credit cards, mortgages and consumer credit reports
- UDAAP Investigations Continue
 - OCC Consent Order Regarding RBS Citizens
 - Report on Senior Designations

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Committee Updates



- Steering
- Standards
- Legislation/Regulation
- Membership
- Annual Meeting

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- SPECIAL GUEST:
Prof. Jean Braucher
Professor of Law
University of Arizona

Dodd-Frank, 12 U.S.C. § 5531, defines abusive by requiring that the act or practice:

- (1) Materially interferes with the ability of a consumer to understand a term or condition of a consumer financial product or service; or
- (2) Takes unreasonable advantage of—
 - (A) A lack of understanding on the part of the consumer of the material risks, costs, or conditions of the product or service;
 - (B) The inability of the consumer to protect the interests of the consumer in selecting or using a consumer financial product or service; or
 - (C) The reasonable reliance by the consumer on a covered person to act in the interests of the consumer

Examination manual

Red flag for examiners:

- Consumer complaints alleging lack of understanding of the terms of a product or service

Risk template—more red flags

- The profitability of a product is dependent upon penalty fees (e.g., fees for a late payment, for exceeding a credit limit, or for overdrawing deposited funds)
- The terms of the product are subject to change at the discretion of the entity, and the entity has frequently made changes in the terms
- The entity reverses fees at a significantly higher rate than other entities of similar size offering similar products

More from risk template

- Pricing structure (interest rate, points, fees) and other features and terms are combined in a manner that is likely to make the total costs of the product difficult for consumers to understand
- Products are bundled in a way that may obscure relative costs
- Consumers pay penalties to terminate a relationship, including forgoing money or benefits they would otherwise earn

And more red flags

- Consumers face barriers to information, such as costs to access customer service or information about their account
- Credit decision-makers have wide discretion over setting terms and features of products with inadequate policies and procedures addressing appropriate exercise of that discretion
- Credit products are not underwritten based upon the likely ability of the consumer to make the required (or, in the case of adjustable rate products, potentially required) payments over the term of the loan

Abusive

Another examination question

Product marketed in particular to:

- Students or young adults
- Elderly
- Minorities
- Immigrants or those with limited education or English
- Military
- Low-income consumers or consumers receiving public assistance
- Those who have recently experienced financial distress or who have low credit scores

Abusive

Product example

- Credit card solicitation (invitation to apply) to 21-year-old college junior with occasional part-time employment
- 0 % APR for 12 months (also for balance transfers within 60 days of opening account)
- After 12 months, rate goes to 13 to 20 % for balance and purchases
- No annual fee; late payment fee: \$35
- Penalty APR of up to 30 % for new transactions after making a late payment
- Different APR for cash advances, some other fees

Abusive

Analysis

Need to know more than product features, such as:

- How is the product profitable? (From late fees? From rollovers that last more than 12 months?)
- How is the product in fact used? (Do many cardholders carry balances past the no-interest period; do they mistakenly think they will roll over to some other card?)

Abusive

Positives

- Big picture question: Does this operate as a debt trap?
- Good feature
 - Penalty APR only applicable to new transactions after a late payment—won't apply to balance at that time
 - It would help if the credit limit is fairly low, as the potential “debt trap” at 12 months is reduced in severity

Open Discussion



- Questions for Prof. Braucher?
- Recent UDAAP Experiences?
- Trends?
- Other Questions?

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