

## Viewpoint

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# 5 Revealing Points on UDAAP from Director Cordray

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**O**n Feb. 20, 2013, Consumer Financial Protection Bureau (CFPB) Director Richard Cordray delivered a speech to the Consumer Advisory Board in Washington, D.C. The director's [prepared remarks](#) are revealing and likely foreshadow more of what's to come for our industry.

### **1 First, Director Cordray emphasized the importance of the bureau's UDAAP duties:**

*The new financial reform law makes it illegal to engage in unfair, deceptive, or abusive acts or practices in connection with consumer financial products or services, and directs us to enforce this prohibition. More generally, we are charged with the duty of ensuring fair, transparent, and competitive markets. We recognize that a key to protecting consumers is strong and vigilant enforcement.*

### **2 Second, Director Cordray highlighted what we already know: UDAAP is vague and amorphous and, as a result, dangerous for consumer financial services companies:**

*The possibilities here for injuring consumers are almost limitless. Maybe a customer service representative provided misleading information. Maybe consumers were told only about the benefits of a product and not about any of the limitations or risky features. Maybe important information about rates or fees was hidden or obscured. Or maybe consumers were told that they would have the chance to consider the matter further and later found they were already signed up and charged for a service without ever giving their actual consent.*

### **3 Third, an important component of the bureau's UDAAP focus will be on marketing:**

*[One] class of problems is the deceptive and misleading marketing of consumer financial products and services. As consumers pursue their goals in life, they learn the importance of making sound financial decisions. Some do research so they can better compare products and try to figure out what best suits their needs. Others turn to a provider they think they can trust. But if the costs and risks are misrepresented, then consumers are no longer in control and they may be disabled from making careful choices.*

*Sometimes, the problem that consumers face is not out-and-out misrepresentation, but instead that critical product information is presented to them in a manner they cannot readily understand and compare. Such information may be buried in pages of fine print or written in language that requires an advanced degree to decipher. Various providers may describe the*



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*same fee very differently, which makes comparisons numbingly difficult. Often, consumers need to have key terms highlighted so the most important risks will stand out and can be more easily comprehended.*

### **4** Fourth, the bureau may be previewing some of its first “abusive” arguments:

*Another problem that consumers face on the pathway to opportunity is that in certain important markets—such as debt collection, loan servicing and credit reporting—they are unable to choose their provider of financial products or services. When people cannot “vote with their feet,” their clout is limited, even*

*though these products and services can have a profound influence on their lives. When a market’s central focus is on the nature of the financial relationship between two businesses, consumers can become collateral damage to the dynamics that actually drive the economics of such markets.*

*Without consumer choice, a key element of market discipline is lacking. The result is to permit or even facilitate a distinct indifference to the interests of individual consumers. At the bureau, we are taking on this problem by highlighting troublesome practices and working to fix them. At the same time, we recognize that careful rules and effective oversight (through supervision*

*and enforcement) are needed if we are going to correct the kinds of market failures that subordinate the interests of individual consumers. We are strongly committed to shouldering our important responsibility to protect consumers in these particular markets.*

### **5** Finally, enforcement will remain the bureau’s weapon of choice for UDAAP:

*We recognize that a key to protecting consumers is strong and vigilant enforcement.*

See Bishop’s [previous article](#), “UDAAP: Shouldn’t the CFPB Give Us More Information?” 