

2012  
*Compliance Supervisory Perspectives*  
SEMINAR



# UDAAP

Unfair, Deceptive, or Abusive Acts or Practices

## Agenda

- Background: Evolution, Coverage, Definitions
- UDAAP Risk Factors
- Case Studies: High Risk Areas, Enforcement Actions
- Supervisory Approach: Expectations, Methodology

## Background: Evolution

### UDAAP Timeline

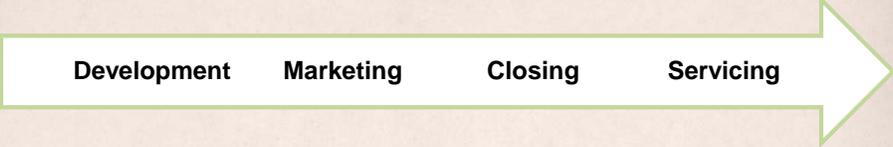
<b>1938:</b> FTC Act prohibits "unfair or deceptive acts or practices"	<b>1980:</b> FTC Policy Statement articulates unfair and deceptive standards	<b>2004:</b> CA Letter 04-2 provides FRB and FDIC (joint) guidance to avoid unfair and deceptive acts	<b>2007:</b> CA Letter 07-8 establishes joint Examination Procedures	<b>2010:</b> DFA §1031 prohibits "abusive" acts and practices	<b>2011:</b> CFPB UDAAP enforcement and Examination Procedures
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## Background: Coverage

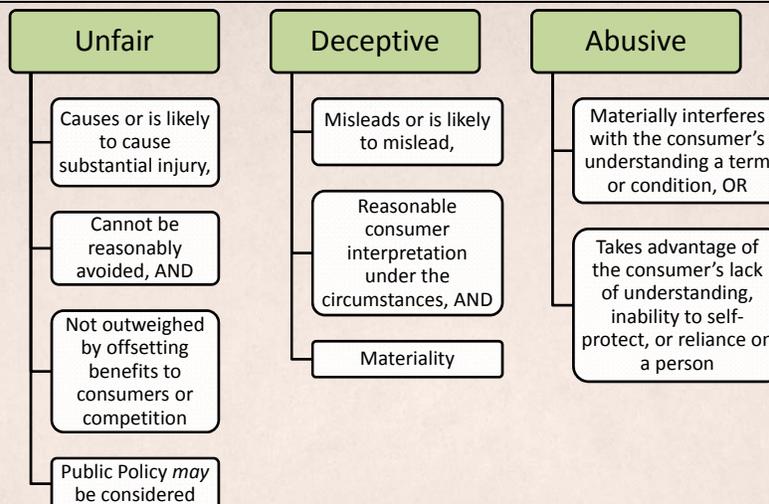
### UDAAP Applies to:

- All products, services, and activities at *every* stage
- All contacts or communications through *any* media

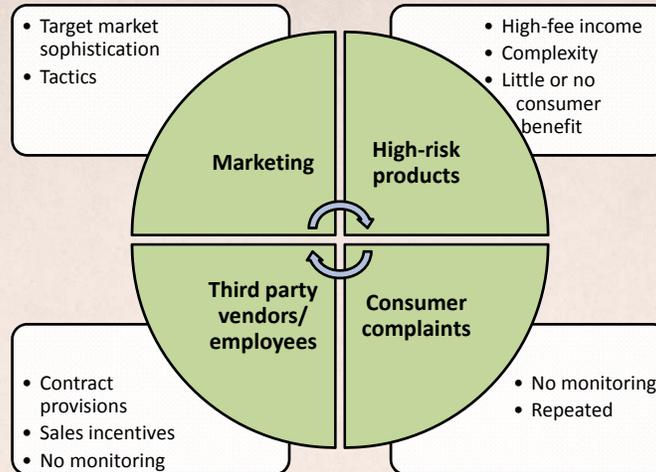
Development    Marketing    Closing    Servicing



## Background: Definitions



## UDAAP Risk Factors



## Case Studies: High-Risk Areas

### Unfair

- Withholding material price information until after the consumer has committed to purchase the product or service
- Conditioning short sales on borrowers waiving legal rights
- Refusing to release a lien after the consumer makes final payment on a mortgage
- Dishonoring credit card convenience checks without notice

### Deceptive

- Misleading cost or price claims
- Offering to provide a product or service that is not in fact available ("bait and switch")
- Omitting material limitations or conditions from an offer
- Selling a product unfit for the purposes for which it was sold
- Failing to provide promised services
- Charging discount points when the interest rate is not discounted

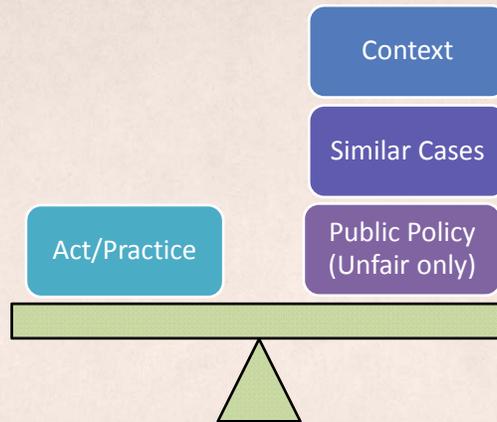
## Case Studies: Enforcement Actions

- Capital City Mortgage – 2005 FTC settlement
- Woodforest Bank, N.A. – 2010 OCC consent order and written agreement
- Wells Fargo – 2011 Federal Reserve Board consent order
- Higher One and The Bancorp Bank – 2012 FDIC consent orders
- Capital One – 2012 OCC and CFPB consent orders

## Supervisory Approach: Expectations

- Effective UDAAP Risk Management Considers:
  - compliance program (suitability)
  - life cycle oversight of products and services
  - third party service provider oversight

## Supervisory Approach: Methodology



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## Background and References

- Federal Trade Commission Act, Section 5
- Interagency Guidance for State-Chartered Banks (CA 04-2)
- Examination Procedures: CA 07-8, *Consumer Compliance Handbook*  
([http://www.federalreserve.gov/boarddocs/supmanual/supervision\\_cch.htm](http://www.federalreserve.gov/boarddocs/supmanual/supervision_cch.htm))
- CFPB *Supervision and Examination Manual*  
(<http://www.consumerfinance.gov/guidance/supervision/manual/>)
- Dodd-Frank Act §1031 (“Abusive” Standard)

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# QUESTIONS?