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# UDAAP TOOLKIT

Looking to learn more about best practices to reduce UDAAP (Unfair, Deceptive, & Abusive Acts and Practices) compliance risk?

This toolkit contains a curated selection of essential articles, resources, and tools to help you skill up quickly about this important element of your compliance management program.



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# BLOG POSTS

Our blog is a robust resource for you to get up-to-date insights on risk and compliance management.

We've curated a few key articles about UDAAP here:

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## UDAAP Compliance: Defining Unfair, Deceptive, & Abusive Acts and Practices

UDAAP is an important area of focus for compliance officers and financial institutions, and continues to make headlines. One of the most challenging areas is how to define unfair, deceptive, and abusive acts and practices for UDAAP compliance.

[READ THE FULL ARTICLE](#)

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## 3 Tips for Avoiding UDAAP Violations

This post will help you learn how to reduce your UDAAP compliance risk, and avoid potential violations. Learn three tips for reducing your risk, and even get access to valuable UDAAP resources!

[READ THE FULL ARTICLE](#)

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## 3 Simple Tips to Manage UDAAP Compliance Risk

UDAAP has garnered attention as a regulatory focal point. Regulators are watching very closely for Fair Lending and UDAAP violations, and the cost of noncompliance is high.

[READ THE FULL ARTICLE](#)

[NSIGHT BLOG](#)

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## Dos and Don'ts for UDAAP compliance

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### DO

- Be clear about fees
- Get clear authorization
- Keep up to date with enforcement actions and UDAAP trends
- Ensure policies and procedures are followed
- Train staff regularly and make sure your vendors do the same
- Deliver on promises to consumers
- Manage complaints - root cause analysis
- Adopt a strong vendor management program

### DON'T

- Mistake your customer for a banker— keep disclosures prominent and simple
- Think you can't get in trouble just because you didn't do it on purpose
- Assume your vendors are following UDAAP
- Create incentives that encourage employees or vendors to violate UDAAP
- Wait for your customers to complain before you monitor higher-risk activities

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# WHITEPAPER

Fair lending has been a hot button regulatory issue for years, and this trend is accelerating. Through this whitepaper, you'll learn about:

- ④ The key components of a fair lending compliance management system
- ④ Common fair lending mistakes
- ④ Key considerations when conducting a fair lending risk assessment
- ④ How to build or strengthen your FI's overall fair lending program



UNCOVERING  
FAIR LENDING  
RISK to Build  
a Stronger  
Fair Lending  
Program

[READ THE WHITEPAPER](#)

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# UDAAP WEBINAR

With regulators signaling increased interest in uncovering UDAAP violations, it's important to ensure that your UDAAP compliance programs are built to protect consumers and withstand examiner scrutiny. Is your program up to the task? Download our webinar recording to learn how to implement an effective UDAAP program and avoid common missteps.



WATCH NOW

# UDAAP COMPLIANCE DEFINITIONS

UDAAP compliance can be tricky, as the definitions of each element can be subjective. The definitions below are based on Section 1031 of the Dodd-Frank Act:

## UNFAIR PRACTICES:

Acts and practices are considered “unfair” if they:

- **May cause substantial injury.** Interpretation of this is often subjective, but below are some considerations:
  - May or may not include monetary harm;
  - Small amount of harm to a large number of people or substantial harm to one person;
  - Actual injury is not required, as harm could be substantial if it merely raises the risk of harm;
  - Emotional harm is not typically part of the definition.
- **Not reasonably avoidable.**
  - Interferes with the consumer’s ability to effectively make decisions or to avoid the injury.
  - Prevents a consumer from comparison shopping or choosing advantageous alternatives.
  - If the practice is pervasive in the industry, regulators are more likely to find the practice unfair if there aren’t alternatives.
- **Injury is not outweighed by benefit.**
  - Offsetting benefits could include lower prices to the consumer or a wider availability of products and services because of competition.
  - The costs to society as a whole are high due to any increased burdens.

# UDAAP COMPLIANCE DEFINITIONS

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## DECEPTIVE PRACTICES:

Some experts have said that as much as 90 percent of UDAAP regulatory actions focus on deception. Statements or omissions are considered “**deceptive**” if they are:

- **Misleading or likely to mislead.** Here are a few additional points to remember about “deceptive” statements, omissions, acts or practices:
  - Intent is not required to be considered deceptive.
  - Actual deception is not required, only an interpretation.
  - Deception may occur if you are misleading to a consumer through words, silence or action.
  - Acting in good faith is not a defense.
- **A reasonable consumer would be misled.** That is, a consumer’s interpretation of the statement or omission is not reasonable under the circumstances.
- **A representation, omission or practice is *material*.**

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## ABUSIVE PRACTICES:

An [abusive act](#) or practice is defined as one that:

- Materially interferes with the ability of a consumer to understand a term or condition of a consumer financial product or service; or
- Takes unreasonable advantage of a consumer’s:
  - Lack of understanding of the material risks, costs or conditions of the product or service;
  - Inability to protect its interests in selecting or using a consumer financial product or service; or
  - Reasonable reliance on a covered person to act in the interests of the consumer.

For a more in-depth look at these definitions, read our blog post [TEST: UDAAP 101 \(ncontracts.com\)](#)