Unfair, Deceptive, and Abusive Acts and Practices (UDAAP) Policies and Procedures

POLICY STATEMENT

It is the policy of the Credit Union to comply with Section 1036 of the Dodd-Frank Act, which prohibits “unfair or deceptive acts or practices in or affecting commerce,” and all published guidance by our federal regulator and the Consumer Financial Protection Bureau (CFPB) regarding managing risks relating to unfair, deceptive, and abusive acts and practices (UDAAP) and general guidance on measures that credit unions can take to avoid engaging in such acts or practices, including best practices. We will also follow the requirements in the FTC’s Credit Practices rule (16 CFR 444) which is now enforced by the CFPB.

Section 1031 of Dodd-Frank gives the CFPB authority to declare a product or service abusive if it:

- 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 lack of understanding on the part of the consumer of the material risks, costs, or conditions of the product or service;
  - — The inability of the consumer to protect the interests of the consumer in selecting or using a consumer financial product or service; or
  - — The reasonable reliance by the consumer on a covered person to act in the interests of the consumer.

LEGAL STANDARDS UNDER THE DODD-FRANK ACT

The legal standards for unfairness and deception are independent of each other. Depending on the facts, a practice may be unfair, deceptive, or both. The legal standards set forth in the Dodd-Frank Act are briefly described below.

An act or practice is unfair where it:

- Causes or is likely to cause substantial injury to consumers
- Cannot be reasonably avoided by consumers
- Is not outweighed by countervailing benefits to consumers or to competition

Public policy, as established by statute, regulation, or judicial decisions may be considered with all other evidence in determining whether an act or practice is unfair.

An act or practice is deceptive where:

- A representation, omission, or practice misleads or is likely to mislead the consumer
- A consumer's interpretation of the representation, omission, or practice is considered reasonable under the circumstances
- The misleading representation, omission, or practice is material

A material misrepresentation or practice is one that is likely to affect a consumer's choice of or conduct regarding a product. In other words, it is information that is important to consumers. If inaccurate or omitted information is material, injury is likely.

Certain categories of information are automatically considered material. First, express claims are presumed to be material. The Supreme Court has stated that we may assume that the willingness of a business to promote its products reflects a belief that consumers are interested in the advertising. Where the seller knew, or should have known, that an ordinary consumer would need omitted information to evaluate the product or service, or that the claim was false, materiality will be presumed because the manufacturer intended the information or omission to have an effect. Similarly, when evidence exists that a seller intended to make an implied claim, materiality will be inferred.

Claims or omissions are considered material if they significantly involve health, safety, or other areas with which the reasonable consumer would be concerned. Depending on the facts, information pertaining to the central characteristics of the product or service will be presumed material. Information has been found material where it concerns the purpose, safety, efficacy, or cost, of the product or service. Information is also likely to be material if it concerns durability, performance, warranties, or quality.

When materiality exists injury to the consumer is also likely to exist because of the representation, omission, sales practice, or marketing technique. Injury to consumers can take many forms. Injury exists if consumers would have chosen differently but for the deception. If different choices are likely, the claim is material, and injury is likely as well. Therefore, injury and materiality are different names for the same concept.

Relationship of UDAAP to Other Laws and Ratings

Some acts or practices may violate both the Dodd-Frank Act and other federal or state laws. Other acts and practices may violate only the Dodd-Frank Act while fully complying with other consumer protection laws and regulations. Therefore, if a potential UDAAP violation is found, the credit union will consider whether other statutory or regulatory violations have occurred. Furthermore, the following laws warrant particular attention in regard to unfair and deceptive practices:

Truth in Lending and Truth in Savings Acts

Pursuant to the Truth in Lending Act (TILA) (15 USC 1601, 12 CFR 1026), creditors must "clearly and conspicuously" disclose the costs and terms of credit. The Truth in Savings Act (TISA) (12 USC 4301, 12 CFR 1030) requires credit unions to provide interest and fee disclosures for deposit accounts so that members may compare deposit products. TISA also provides that advertisements shall not be misleading or inaccurate, and cannot misrepresent the credit union's account agreement. An act or practice that does not comply with these provisions of TILA or TISA may also violate the Dodd-Frank Act. On the other hand, a transaction that is in technical compliance with TILA or TISA may nevertheless violate the Dodd-Frank Act. For example, members could be misled by advertisements of "guaranteed" or "lifetime" interest rates when the credit union intends to change the rates, whether or not the disclosures satisfy the technical requirements of TILA or TISA.

Specifically, the Credit Union will disclose on periodic statements the aggregate dollar amounts charged for overdraft fees and for returned item fees (for the statement period and the year-to-date), even if we do not promote or advertise our overdraft fees. If we provide account balance information through an automated system, we will also provide a balance that does not include additional funds that may be made available to cover overdrafts.

Equal Credit Opportunity and Fair Housing Acts

The Equal Credit Opportunity Act (ECOA) (15 USC 1691, 12 CFR 1002) prohibits discrimination in any aspect of a credit transaction against persons on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to contract), the fact that an applicant's income derives from any public assistance program, and the fact that the applicant has in good faith exercised any right under the Consumer Credit Protection Act (15 USC 1602). Similarly, the Fair Housing Act (FHA) (42 USC 3601, 24 CFR 110) prohibits creditors involved in residential real estate transactions from discriminating against any person on the basis of race, color, religion, sex, handicap, familial status, or national origin. Unfair or deceptive practices that target or have a disparate impact on consumers who are members of these protected classes may violate the ECOA or the FHA, as well as the Dodd-Frank Act.

Fair Debt Collection Practices Act

The Fair Debt Collection Practices Act (15 USC 1692) prohibits unfair, deceptive, and abusive practices related to the collection of consumer debts. Although this statute does not by its terms apply to credit unions that collect their own debts, failure to adhere to the standards set by this act may support a claim of unfair or deceptive practices in violation of the Dodd-Frank Act. Moreover, credit unions that either affirmatively or through lack of oversight, permit a third-party debt collector acting on their behalf to engage in deception, harassment, or threats in the collection of monies due may be exposed to liability for approving or assisting in an unfair or deceptive act or practice.

COMPLIANCE RISK EVALUATION

UDAAP violations can present significant legal, reputation, and compliance risks for our credit union. The board directs management to include UDAAP considerations when conducting risk assessments for all products and services offered by our credit union and to every stage and activity, from product development to the creation and rollout of marketing campaigns, and to servicing and collections. Particular focus should be paid to new or modified systems or products and third party arrangements. UDAAP applies to both consumer and commercial services.

MANAGING RISKS RELATED TO UNFAIR, DECEPTIVE, OR ABUSIVE ACTS OR PRACTICES

The board directs management to consider the following best practices when putting internal controls in place to avoid misleading our members or the general public about our products and services:

- Review all promotional materials, marketing scripts, and member agreements and disclosures to ensure that they fairly and adequately describe the terms, benefits, and material limitations of the product or service being offered, including any related or optional products or services, and that they do not misrepresent such terms either affirmatively or by omission.
- Ensure that these materials do not use fine print, separate statements, or inconspicuous disclosures to correct potentially misleading headlines, and ensure that there is a reasonable factual basis for all representations made.
- Draw the attention of members to key terms, including limitations and conditions, that are important in enabling the member to make an informed decision regarding whether the product or service meets the member's needs.
- Clearly disclose all material limitations or conditions on the terms or availability of products or services, such as a limitation that applies a special interest rate only to balance transfers; the expiration date for terms that apply only during an introductory period; material prerequisites for obtaining particular products, services, or terms (e.g., minimum transaction amounts, introductory or other fees, or other qualifications); or conditions for canceling a service without charge when the service is offered on a free trial basis.
- Inform members in a clear and timely manner about any fees, penalties, or other charges (including charges for any force-placed products) that have been imposed, and the reasons for their imposition.
- Clearly inform members of contract provisions that permit a change in the terms and conditions of an agreement.
- When using terms such as "pre-approved" or "guaranteed," clearly disclose any limitations, conditions, or restrictions on the offer.
- Clearly inform members when the account terms approved by the Credit Union for the member are less favorable than the advertised terms or terms previously disclosed.
- Tailor advertisements, promotional materials, disclosures, and scripts to take account of the sophistication and experience of the target audience. Do not make claims, representations or statements that mislead members of the target audience about the cost, value, availability, cost savings, benefits, or terms of the product or service.

- Avoid advertising that a particular service will be provided in connection with an account if the Credit Union does not intend or is not able to provide the service to account holders.
- Clearly disclose when optional products and services — such as insurance, travel services, credit protection, and consumer report update services that are offered simultaneously with credit — are not required to obtain credit or considered in decisions to grant credit.
- Ensure that costs and benefits of optional or related products and services are not misrepresented or presented in an incomplete manner.
- When making claims about amounts of credit available to members, accurately and completely represent the amount of potential, approved, or useable credit that the member will receive.
- Avoid advertising terms that are not available to most members and using unrepresentative examples in advertising, marketing, and promotional materials.
- Avoid making representations to members that they may pay less than the minimum amount due required by the account terms without adequately disclosing any late fees, overlimit fees, or other account fees that will result from the member paying such reduced amount.
- Clearly disclose a telephone number or mailing address (and, as an addition, an e-mail or Web site address, if available) that members may use to contact the Credit Union or its third-party servicers regarding any complaints they may have, and maintain appropriate procedures for resolving complaints. Member complaints should also be reviewed the Credit Union to identify practices that have the potential to be misleading to members.
- Implement and maintain effective risk and supervisory controls to select and manage third-party servicers.
- Ensure that employees and third parties who market or promote the Credit Union products, or service loans, are adequately trained to avoid making statements or taking actions that might be unfair or deceptive.
- Review compensation arrangements for Credit Union employees as well as third-party vendors and servicers to ensure that they do not create unintended incentives to engage in unfair or deceptive practices.
- Ensure that the Credit Union and its third party servicers have and follow procedures to credit member payments in a timely manner. Members should be clearly told when and if monthly payments are applied to fees, penalties, or other charges before being applied to regular principal and interest.

Recognizing the need for clear and accurate disclosures for certain groups of our members and the general public which have been associated in the past with abusive practices, the board directs management to pay particular attention to marketing credit and other products and services to the elderly, the financially vulnerable, and members who are not financially sophisticated. In addition, we will pay particular attention to the following credit or credit related products:

- Home-secured loans
- Insurance offered in connection with loans
- Loans covered by the Home Ownership and Equity Protection Act; reverse mortgages
- Credit cards designed to rehabilitate the credit position of the cardholder
- Courtesy overdraft programs
- Loans with prepayment penalties, temporary introductory terms, or terms that are not available as advertised to all members.

The board of directors approved and adopted this policy on __________________.