



UDAAP Compliance Checklist

MSTARS Checklist for Creating a Compliant Environment

Training materials.

- Complete Breakdown of content and coursework outline.
- Evaluate effectiveness of compliance within courses in mitigating UDAAP Risks. Is it complete and thoroughly disclose all associated risks?
- Does the information portray an accurate description of the service? Is the consumer going to reasonably understand the product or service completely and accurately? Manage client's expectations and prove that you are teaching this concept.
- Does it incorporate all elements of compliance or is it an add-on to the current sales training. Integration is critical. It has to be a philosophy with a built in psychology driven by ethics and integrity. Complete honesty.
- Is it easy to understand for the average agent. Can every agent receive the same result regardless of educational background?
- Is it feasibly deployed and has it been tested? Does it work? How can you demonstrate that it does and that core deviance can't be expected in order to obtain the effectiveness the agent is required to manifest?
- Is it completely uniform in nature? Is it the same each and every time, creating consistency in your message?
- Does it give the agent a well-rounded, educated perspective? Is it likely to create a one-sided belief based on YOUR company's understanding alone?
- Is it testable? Can you prove that it creates a compliant presentation likely to encompass every element of your offering? Does the testing truly demonstrate the agent's abilities to deploy the information in a way that doesn't create a UDAAP risk?
- Does it encourage and foster maximum consumer education and disclosure? Is the agent demonstrating a linear thought process beyond initial training protocols?
- Is it duplicatable or automated to guarantee effective uniformity to the standards? How can you demonstrate that your training is standardized?
- Are there tests involved to measure the effectiveness of deployment and agent solubility? How do you measure the effectiveness of the absorption and will it pass the CFPB's sniff test. Is it adequate?
- Is there a train the trainer program to ensure proper compliance deployment? How are trainers trained? Are they qualified to teach the system?
- Do you have deliverability testing and auditing protocols in place? Can you demonstrate that the agents are absorbing and mastering the content?
- Do you have written guidelines and instructions on training protocols and systems? How would you demonstrate continuity and uniformity?
- Is the training completely consumer facing? Evaluate for salesmanship vs thorough education and consultative properties.

Lists of products and services, including descriptions, fee structure, disclosures, notices, agreements, and periodic and account statements.

- Binder of product information needs to be created
- All services and service offerings along with costs associated with them need to be clearly defined and written or placed in print within a binder
- All service disclosures need to be written and documented in this binder
- All fees should be clearly listed within the binder
- Copies of agreements should be placed within the binder
- All correspondence should be placed within the binder including any account statement samples or boiler plate letters sent to any and all parties
- Any advertising, marketing slicks and consumer facing website content
- These should all be clear and easy to understand

Procedure manuals and written policies, including those for servicing and fee collections.

- Your compliance document binder should be a master file of all your internal documents. It is easier to start with a master file and create systems and measurement tools from this master file, drilling down into each protocol.
- A regulator should be able to look through this and understand every system and protocol you have in place within your office.
- Sales, training, HR, recruiting, compensation, audit forms, negotiations protocols, customer service, billing, complaint/client services, drafting, etc. If you have a person or department responsible for it, have those system procedures and policies documented.

Minutes of the meetings of the Board of Directors and of management committees, including those related to compliance.

- Each time a department meets, compliance should be of topic. You need to demonstrate that every eye is focused on the consumer and on creating and regulating compliance within that department.
- C-Level and BOD Meetings need to file minutes of meetings demonstrating compliance is being discussed, planned, implemented and improved and of course, measured at every turn.
- C-levels need to understand the importance of compliance and be the primary pioneer of the compliance vision.
- Compliance managers need to document everything and file summaries in the compliance binder daily, weekly, monthly and quarterly in report form.

Internal control monitoring and auditing materials.

- What internal controls are in place to measure and ensure compliance?
- You should complete audits each week if not daily on all consumer touch points to ensure a clear, uniform message. Those should be filed as well.
- Sales floor
- Training department
- Customer service
- Negotiations
- Banking and Drafting
- Marketing and Advertising
- You must demonstrate that someone is watching and approving the processes. Those processes need to be audited and policies need to be drafted, printed and filed.
- Client follow up and communication for success. The more you touch a client, the more likely you'll have a true read on the pulse of your business and be able to detect and repair compliance risks
- Samplings and audit forms. Sample clients, 3rd parties and employees.
- What policies and procedures are in place to perform the auditing. Remember, proving these systems are effective is critical

Compensation arrangements, including incentive programs for employees and third parties.

- Are your compensation programs likely to create a UDAAP risk?
- Are the comp models geared toward incentivizing volume vs satisfied clients?
- Can you adjust your compensation programs to place emphasis on retention, satisfaction and completion of the program or service?
- Are you placing a large volume of the employee's income on initial enrollment and continued participation or on client satisfaction and completion of the service with an amicable conclusion?
- Do you incentivize marketing for volume draw and appeal or for qualified consumers engaging your company based on clear understanding?

Documentation related to new product development, including relevant meeting minutes of Board of Directors, and of compliance and new product committees.

- Are you deploying add-on products ad-hoc or are they thoughtfully deployed based on secondary disclosure?
- Are new products necessary for the client to successfully complete the program?
- Are changes to your current offerings being clearly communicated to your clients and do they have options to stay with their current offering? If you make a change and the consumer is dissatisfied with the change, they can claim bait and switch.
- Are add-on programs being offered up front in a full disclosure methodology?
- When making any internal changes, these changes must be documented and deployed properly as to demonstrate that they are complete in nature. If you launch a major change that affects the client's experience, systems, policies and procedures need to be deployed and documented to ensure a thorough, compliant integration and continued success internally.

Marketing programs, advertisements, and other promotional material in all forms of media (including print, radio, television, telephone, Internet, or social media advertising).

- Are all marketing creatives explored for compliance? How do you guarantee that every marketing campaign aligns with your compliance statements and meet your company's core message?
- Every creative needs to be reviewed thoroughly with UDAAP and Sec 5 at the forefront of decisions. Make sure you know what the landing pages attracting companies to yours say.
- Don't buy leads haphazardly. Hold the marketing or lead gen firm responsible. Craft an agreement of compliance with the lead generation firm and INSPECT what you EXPECT.
- Review your website for UDAAP Risks. Carefully scrutinize your FAQs and Statements made.
- Maintain records of communication to consumer on any sales focused communication. Create a policy of compliant communication and create "approved" marketing statements for emails. No rogue emails or correspondence. These will be used as evidence in the event the consumer cries foul.
- Create a policy or assign a specific task master for responding to any on-line scrutiny from websites. Make sure every communication presented to the world carefully presents your values.
- Social media marketing and consumer facing blog entries are scrutinized for compliance. Create a written policy, document, meet and file. Audit these protocols and again, INSPECT what you EXPECT.

Scripts and recorded calls for telemarketing and collections.

- Scripts need to be carefully crafted for each department and masters printed and filed in the compliance binder.
- Customer Scripts need to match the message of the sales scripts to create a uniform, compliant message. Uniformity will decrease risks and ensure compliance cross-departmentally. Responses and rebuttals need to be crafted, scrutinized, clearly posted and a policy needs to be drafted, declared and filed as standard operating procedures. All segments need to be taught and policies need to be filed in the compliance binder.
- UNIFORMITY IS KEY.
- Recorded calls are great for compliance auditing but can also be subpoenaed for use against you. Randomly sample calls proportionate to the number of calls made. Create an adequate sampling to identify and reduce UDAAP risks.
- Recommendation ONLY: Record only sampling calls and provide an evaluation on that agent's call. This number should be an adequate sampling of the days call volume to demonstrate proactive compliance oversight.
- Verification calls for every client, no questions asked. Needs to be recorded, archived and attached to client file. Audit these recordings to ensure policies are adhered to and verification calls are clean. If they are not, file audit evaluation form, conduct discipline and demonstrate risk mitigation. Put policies in place to deter this behavior.
- Auditing the compliance verification calls is KEY. Strong disciplinary actions (documented) are warranted to demonstrate UDAAP Compliance and risk mitigation.
- If audit shows non-compliant (dirty recordings), pull a larger sampling. If more are found, make immediate changes within that department and document. Recall those clients and procure clean verifications or dump those sales, refund the clients or resell them correctly.
- Floor supervision and oversight. Real time compliance evaluations need to be conducted routinely and filed with the agent's employee file. Make them specific, date stamp them, sign by all parties and file. Make copies of non-compliant audits and store separately for easy access.
- Audit the floor supervisors and managers every week. Be investigative. If they are violating, it won't likely be overt, so be Covert. The key is to manage risks not discipline everyone to death.
- Pull random samplings of customer service calls. Review client files. Oversee the CS Team regularly and audit them as you would sales personnel. Check the email records and create policies for filing all correspondence with consumers. Any problem files need to be addressed immediately.
- Create customer service policies regarding call back times, live answer calls and respond swiftly to every inquiry. Delays equal problems. File regular audit forms on the CS Team.

- Negotiations needs to be audited daily and weekly to ensure that your services aren't being misrepresented. Dealing with creditors can be stressful and emotional. This is an automatic weakness. Audit these calls for compliance and file documentation regularly. INSPECT what you EXPECT.
- Audit bank drafting department and ensure that calls for rescheduled payments aren't being overlooked. Big area of complaint is over drafting consumers. Any fees in question need to be addressed immediately.
- Record ALL critical or complaint based calls for archive and ensure that policies are in place that keeps the agent in check. Customer is always right.
- REVIEW and SCRUTINIZE ALL SCRIPTS USED FOR UDAAP COMPLIANCE.

Organizational charts, including those related to affiliate relationships and work processes.

- Clearly define all relationships and ensure that the client understands your relationships as they pertain to them.
- Affiliate relationships need to be clearly understood by the consumer (affiliates, brokers, front-end/back end, banking/SPA, Lead Gen). If the client misunderstands your network, they are likely to get suspicious, which opens up questions unnecessarily. Transparency is critical. You cannot duck this radar.
- Clearly document all relationships corporate wiki style and file. Regulators will need to understand your operation. Transparency goes a long way with regulating entities.
- Workflow charts need to be diagramed and filed. Start at the beginning of the process and document all workflow with associated policies for each cog.

Agreements with affiliates and third parties that interact with consumers on behalf of the entity.

- Agreements need to be filed. Simple. File all your agreements with every company you do business with, clearly demonstrating your concern for symbiotic compliance. Add clauses with compliance statements.

Consumer complaint files.

- EVERY complaint needs IMMEDIATE PRIORITY.
- Record every complaint call or customer service call relating to a complaint.
- Document every step.
- Customer is ALWAYS right. Create a liberal refund policy if amicable resolve cannot be reached. Consider having a mediator to help resolve those complaints from a 3rd party perspective. DOCUMENT EVERYTHING. The CFPB is a complaint based system. One HOT complaint can trigger action.

Documentation related to software development and testing, as applicable

Watch the CFPB UDAAP Compliance Training for Detailed Insights and a presentation from Michael Thurmann from Loeb and Loeb on Complaint Handling and Mitigation and CFPB Movements.

<http://www.mstarsinc.com/udaapcompliancetraining.html>