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First Annual



***Compliance University***

Trivia Smackdown

# RULES

- Break into 8 teams. Each team should have a lawyer, a compliance officer, an industry vet (5+ years experience), and a noob.
- Team designates a spokesperson. Each team is assigned a different “Team Color”.
- Each team has cards that correspond to their team color, and a marker to write their answers.
- Answers to each question must be written on the card before time is up. Time will be announced, and a 5 second warning will be given.
- Correct answers earn points.
- There are many lawyers in this group, so there may be some disagreements over the correct or “best” answer. Formal protests can be submitted in writing within 24 hours of the end of Compliance U, along with a memorandum of facts and law, and a table of supporting authority. A copy must be provided to all attendees. Protests may be instructional and, if granted, very gratifying for the author. Notwithstanding protests, anger, tears, or grants of absolution, the judge’s decisions are final, even if they turn out to be wrong.

# Question 1

The standard for **unfairness** in the Dodd-Frank Act is that an act or practice is unfair when:

- (1) It causes or is likely to cause substantial injury to consumers;
- (2) The injury is not reasonably avoidable by consumers; and
- (3) The injury is not outweighed by countervailing benefits to consumers or to competition.

What type of harm qualifies as “*substantial harm*” under the unfairness portion of UDAAP?

- A - Monetary harm
- B - A small amount of harm to a large number of people
- C - Denial of access to products or services, (e.g., discrimination)
- D - A significant risk of concrete harm (but where actual injury has not yet occurred)
- E - All of the above
- F - Answers A, B and C

# Question 1: ANSWER

The standard for **unfairness** in the Dodd-Frank Act is that an act or practice is unfair when:

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Question: What type of harm qualifies as “*substantial harm*” under the unfairness portion of UDAAP?

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- B - A small amount of harm to a large number of people
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- D - A significant risk of concrete harm (but where actual injury has *not yet* occurred)
- E - All of the above
- F - Answers A, B and C

# Question 1: Explanation

A, B, C and D are all likely enough to qualify as substantial harm. Note that actual injury is not required in every case. A significant risk of concrete harm is also sufficient. However, trivial or merely speculative harms are typically insufficient for a finding of substantial injury. Emotional impact and other more subjective types of harm also will not ordinarily amount to substantial injury. Nevertheless, in certain circumstances, such as unreasonable debt collection harassment or discriminatory conduct, emotional impacts or dignitary harms may amount to or contribute to substantial injury.

Source: [CFPB Consumer Laws and Regulations](#)

# Question 2

Which of the following examples illustrate when a consumer **cannot** reasonably avoid injury under the unfairness portion of UDAAP? (*Select all that apply...but you lose points for wrong answers*)

- A - The consumer is discriminated against
- B - The consumer is coerced into purchasing unwanted products or services
- C - Pricing of a product or service is withheld until after the consumer commits to the purchase
- D - A transaction occurs with the consumer's consent, but the consumer immediately regrets it but is not allowed to cancel the transaction
- E - The consumer could have made a much better choice, but wasn't aware of other options

# Question 2: ANSWER

Which of the following examples illustrate when a consumer **cannot** reasonably avoid injury under the unfairness portion of UDAAP? (*Select all that apply...but you lose points for wrong answers*)

A - The consumer is discriminated against

B - The consumer is coerced into purchasing unwanted products or services

C - Pricing of a product or service is withheld until after the consumer commits to the purchase

D - A transaction occurs with the consumer's consent, but the consumer immediately had regrets but was not allowed to cancel the transaction

E - The consumer could have made a much better choice, but wasn't aware of other options

## Question 2: Explanation

Consumers cannot reasonably avoid injury if the act or practice interferes with their ability to effectively make decisions or to take action to avoid injury. D is not a correct answer, because consumer regret *after* consenting to a transaction is avoidable (however, had the consumer *not consented* to the transaction, it would be a reasonably unavoidable injury). E is not correct, because the question is whether an act or practice hinders a consumer's decision-making, not whether the consumer could have made a better choice.

Source: [CFPB Consumer Laws and Regulations](#)



# Question 3

Deception occurs when:

- (1) The representation, omission, act, or practice misleads or is likely to mislead the consumer;
- (2) The consumer's interpretation of the representation, omission, act, or practice is reasonable under the circumstances; and
- (3) The misleading representation, omission, act, or practice is material.

Which one of the following statements is most accurate about deception?

- A - It is limited to where a consumer has already been intentionally misled.
- B - It is limited to where a consumer has already been unintentionally misled.
- C - It may occur when an act or practice is likely to mislead, even though it hasn't happened yet
- D - Written disclosures that correct a misleading statement prevents deception

# Question 3: ANSWER

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- (2) The consumer's interpretation of the representation, omission, act, or practice is reasonable under the circumstances; and
- (3) The misleading representation, omission, act, or practice is material.

Which one of the following statements is most accurate about the deception portion of UDAAP?

- A - It is limited to where a consumer has already been intentionally misled.
- B - It is limited to where a consumer has already been unintentionally misled.
- C - It may occur when an act or practice is likely to mislead, even though it hasn't happened yet
- D - Written disclosures that correct a misleading statement prevents deception

# Question 3: Explanation

Explanation: A and B are not the best answer because deception can occur if it is *likely to mislead* consumers, even if a consumer has not actually been misled. D is not the best answer because a deceptive act or practice may not be cured by subsequent truthful disclosures. Disclosures may help avoid deception, but the context of the entire advertisement must be examined to determine whether the overall net impression of the act or practice is deceptive. Disclosures are not helpful if the consumer can't find them, is directed away from them, or is told they're unimportant

Source: [CFPB Consumer Laws and Regulations](#)

# Question 4

Which one of the following is **not** a “covered borrower” under the Military Lending Act?

- A - A member of the Army, Navy, Marines or Air Force who is serving on active duty
- B - The spouse of an active duty member of the Coast Guard
- C - The elderly parents of an active duty member of the armed forces who are enjoying their empty nest in a senior living community
- D - The minor child of an active duty Marine who took out a loan the day before enlisting

# Question 4: Answer

Which one of the following are not a “covered borrower” under the Military Lending Act?

A - A member of the Army, Navy, Marines or Air Force who is serving on active duty.

B - The spouse of an active duty member of the Coast Guard.

C - The elderly parents of an active duty member of the armed forces who are enjoying their senior living community.

D - The minor child of an active duty Marine who took out a loan the day before enlisting.

# Question 4: Explanation

A and B are examples of covered borrowers because they are active duty in the armed forces, or the spouse of an active duty member. D is also a covered borrower because they are a minor child of an active member of the armed forces. The fact that the parent took out a loan prior to enlistment is irrelevant to whether the minor is a covered borrower. C is the correct answer because parents are dependents only if they are “dependent on him for over one-half of his support and residing in his household”.

Sources: [32 CFR § 232.3](#) (see definition of “covered borrower”), then [10 USC 1072\(2\)](#) for the explanation of “dependents”. Also see [CFPB summary of the MLA](#) and Federal Reserve [Consumer Compliance Handbook](#) on MLA.

# Question 5

The FTC Act makes it unlawful for any \_\_\_\_\_, \_\_\_\_\_, or \_\_\_\_\_ “to disseminate, or cause to be disseminated, any false advertisement” in commerce, and it authorizes the Commission to sue the \_\_\_\_\_, \_\_\_\_\_, or \_\_\_\_\_ when it “is engaged in, or is about to engage in” [false advertising].

A - Person, partnership, or corporation

B - Partnership, limited liability company, or corporation

C - Partnership, corporation, or other legal entity

# Question 5: ANSWER

The FTC Act makes it unlawful for any **PERSON, PARTNERSHIP, or CORPORATION** “to disseminate, or cause to be disseminated, any false advertisement” in commerce, and authorizes the Commission to sue the **PERSON, PARTNERSHIP, or CORPORATION** when it “is engaged in, or is about to engage in” [false advertising].

**A - Person, partnership, or corporation**

B - Partnership, limited liability company, or corporation

C - Partnership, corporation, or other legal entity



# Question 5: Explanation

[15 USC § 52\(a\)](#) makes it unlawful for any ***person, partnership, or corporation*** to engage in false advertising. And [15 USC § 53\(a\)](#) allows the FTC to “bring suit in a district court of the United States or in the United States court of any Territory, to enjoin the dissemination or the causing of the dissemination of [UDAP] advertisement.”

# Question 6

According to the Federal Trade Commission Act, individuals can be held individually accountable for a company's misconduct if the individual (*pick one*):

- A - Formulated, directed, controlled, had the authority to control, or participated in the wrongful acts and practices of the company
- B - Was employed by the company when the wrongdoing happened
- C - Failed to stop the wrongdoing when they had actual knowledge of it
- D - Failed to comply with the Whistleblower Protection Enhancement Act of 2012, which would have shielded them from accountability and criminal prosecution

# Question 6: ANSWER

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D - Failed to comply with the Whistleblower Protection Enhancement Act of 2012, which would have shielded them from accountability and criminal prosecution

# Question 6: Explanation

The FTC can investigate any “person, partnership, or corporation” (except banks and a few other exceptions). [15 USC § 46](#). D is not the correct answer because the Whistleblower Protection Act (WPA) ([5 USC § 2302\(b\)\(8\)](#)) protects *Federal employees* from retaliation for making protected disclosures, and punishes supervisors who retaliate against Whistleblowers.

# Question 7

Fill in the blanks (*hint: the two phrases are not the same*):

“In some instances...the CEO *is the company* – many FTC cases involve fraudulent or deceptive conduct by small, closely held companies that essentially serve as the \_\_\_\_\_ *[two words]* of their CEO or principal. In other instances, fraudsters open and shutter companies to stay one step ahead of law enforcement, or undertake unlawful practices using multiple companies that operate as a \_\_\_\_\_ *[two words]*. In these circumstances, I support naming the CEO or principal because doing so is necessary to obtain effective relief and protect consumers going forward.”

# Question 7: ANSWER

Fill in the blanks (*hint: the two phrases are not the same*):

“In some instances...the CEO is the company – many FTC cases involve fraudulent or deceptive conduct by small, closely held companies that essentially serve as the **ALTER EGOS** of their CEO or principal. In other instances, fraudsters open and shutter companies to stay one step ahead of law enforcement, or undertake unlawful practices using multiple companies that operate as a **COMMON ENTERPRISE**. In these circumstances, I support naming the CEO or principal because doing so is necessary to obtain effective relief and protect consumers going forward.”

# Question 7: Explanation

[Concurring Statement of Commissioner Christine S. Wilson \(R\), FTC v. Progressive Leasing, LLC File No. 182 3127](#)

# Question 8

Fill in the blanks:

“[I]t is appropriate to charge officers and directors personally when there is reason to believe that they have meaningfully \_\_\_\_\_ in unlawful conduct, or \_\_\_\_\_ turned a blind eye toward their subordinates doing the same.”



# Question 8: ANSWER

Fill in the blanks:

“[I]t is appropriate to charge officers and directors personally when there is reason to believe that they have meaningfully **PARTICIPATED** in unlawful conduct, or **NEGLIGENTLY** turned a blind eye toward their subordinates doing the same.”

# Question 8: Explanation

[Dissenting Statement of Commissioner Rohit Chopra \(D\), \*In re\* Facebook, Inc. Commission File No. 1823109](#)

# Question 9

Fill in the blank:

“In considering whether naming senior leaders is necessary for a settlement to achieve specific and general deterrence, I am particularly interested not only in the evidence of the leaders’ involvement and knowledge but also in the extent to which the alleged law violations permeated a core aspect of the business and whether the corporate culture is one of \_\_\_\_\_.”

# Question 9: ANSWER

Fill in the blank:

“In considering whether naming senior leaders is necessary for a settlement to achieve specific and general deterrence, I am particularly interested not only in the evidence of the leaders’ involvement and knowledge but also in the extent to which the alleged law violations permeated a core aspect of the business and whether the corporate culture is one of **COMPLIANCE**.”

# Question 9: Explanation

[Dissenting Statement of Commissioner Rebecca Kelly Slaughter \(D\),  
Regarding FTC v. Progressive Leasing Commission File No. 1823127](#)

# Question 10

Which federal agency recently proclaimed that it is "*the principal regulator responsible for administering the federal consumer financial laws*"?

A - CSBS

D - FTC

G - BBB

B - FTC

E - NCUA

H - CFPB

C - OCC

F - NCUA

I - FDIC

# Question 10: ANSWER

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# Question 10: Explanation

The CFPB calls itself "*the principal regulator responsible for administering the federal consumer financial laws*", and will start publishing Consumer Financial Protection Circulars "*to provide guidance to other agencies with consumer financial protection responsibilities on how the CFPB intends to enforce consumer financial law.*"

Source: [Press release](#) about the circular, and the [first circular](#) issued.



# Question 11

The CFPB, in a recent interpretive ruling, reminded states that they have broad authority to bring civil enforcement actions under what federal law?

- A - Fair Credit Reporting Act
- B - Truth in Lending Act
- C - Dodd Frank Act
- D - Consumer Financial Protection Act

# Question 11: ANSWER

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A - Fair Credit Reporting Act

B - Truth in Lending Act

C - Dodd Frank Act

D - Consumer Financial Protection Act

# Question 11: Explanation

The CFPB recently reminded states they can bring civil enforcement actions for violations of several different federal laws. The law that grants states such authority is found in the Consumer Financial Protection Act of 2010 (“CFPA”), allowing states to enforce not only the CFPA’s UDAAP, but also “*prohibition on covered persons and service providers violating other enumerated Federal consumer financial laws,*” including the Fair Credit Reporting Act and the Truth in Lending Act.

Source: Interpretive ruling [here](#).

# Question 12

Who is pictured here?

A - Michelle Lujan Grisham,

*Governor of New Mexico*

B - Debra Haaland,

*US Secretary of the Interior*

C - Demi Moore, *Actress* (born in Rosewell, NM)

D - Zixta Q. Martinez, *CFPB Deputy Director*



# Question 12

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D - Zixta Q. Martinez, *CFPB Deputy Director*



# Question 12: Explanation

Deputy Director Zixta Martinez recently gave the Keynote Address at the Consumer Federation of America's 2022 Consumer Assembly, where she said the CFPB was digging into why payday lenders aren't offering fee-free extension plans, and added, "We are also – to be sure – continuing to assess payday loan and small dollar credit practices more broadly." She also said that consumer groups "have raised concerns about the rise of ... "rent-a-bank" schemes in the installment space...[the] CFPB hears you, we share your concerns, and we are taking a close look at this issue.

Source: [Keynote Transcript \(via CFPB\)](#)

# Question 13

Which of the following statements are true (select all that apply...*points deducted for wrong answers*)?

- A - Facebook prohibits paid ads for all non-bank loan products
- B - Google prohibits paid ads for loans above 36% that must be repaid within 90 days
- C - Snap prohibits ads for payday loans or predatory lending
- D - TikTok has no restrictions on ads for payday lending, or short term loans, as long as the ads conform to TikTok's general content terms

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# Question 13: Explanation

Facebook's [policy](#): “Ads may not promote payday loans, paycheck advances, bail bonds, or any short-term loans intended to cover someone's expenses until their next payday. Short term loan refers to a loan of 90 days or less.”

Google's current [policy](#): “Personal loans with an APR over 36%” are not allowed.

Snap's [policy](#) says no “payday loans or predatory lending” ads.

TikTok has no prohibitions on payday or short term loans as long as they're not misleading (see [policy](#)).

# Question 14

You just started a new job at the CFPB, and Director Chopra sent you this TikTok video asking you to give him your top concern, in ten words or less, with this video.

PS, you are not allowed to ask Director Chopra for additional information. All you have is this...



TikTok  
@cash.flow

Who wants to be  
my sugar daddy?

# Question 14: ANSWER

Is this UDAAP?

Is there an “endorsement”?

# Question 14: Explanation

Marketing strategies have changed, and continue to evolve as the internet, websites, social media and other apps evolve. While the application of statutes and regulations might not evolve as quickly as new technology, existing laws still can and will be applied by regulators.

One place you probably do NOT want your questionable ads (or those of your vendors) to be highlighted is in major news publications like this:

NY Post: [Sketchy TikTok Ads Push High Interest Payday Loans](#)

# Question 15:

Which one of the following is not currently an FTC Commissioner...



**A**



**B**



**C**



**D**



**E**

...and what is the name of the current Commissioner not pictured?

# Question 15:

Which one of the following is not currently an FTC Commissioner...



A



B



C



D



E

...and what is the name of the current Commissioner not pictured?

**Rebecca Kelly Slaughter**

# Question 15: Explanation

Rohit Chopra served as FTC Commissioner from May 2018 to Oct 2021. He was confirmed to the CFPB by a Senate vote of 50-48 (two Rs didn't vote). Before the FTC, he helped launch the CFPB, and served as Assistant Director overseeing the Bureau's student loan efforts. He holds a BA from Harvard and MBA from Wharton.

Source: [CFPB Bio](#)

*Not pictured:* Rebecca Slaughter. Before joining the FTC, she served as Chief Counsel to Senator Schumer (D-NY). She received a BA in Anthropology *magna cum laude* and her JD from Yale (also served as an editor on the Yale Law Journal).

Source: [FTC Bio](#)





# Question 16

The FTC recently issued a policy statement warning companies against using illegal dark patterns. What does the FTC mean by “dark patterns”?

- A - Advertising that makes disclosures difficult to read because they're hidden, too small, difficult to find, or have very low contrast in order to blend into the website's background color
- B - Tricking consumers into signing up for subscription programs or trapping them when they try to cancel
- C - Using advertisements that discriminate against people of color
- D - All of the above
- E - Answers A and B

# Question 16: ANSWER

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C - Using advertisements that discriminate against people of color

D - All of the above

E - Answers A and B

# Question 16: Explanation

The FTC hosted a workshop in April 2021 to “examine digital ‘dark patterns’, a term that has been used to describe a range of potentially manipulative user interface designs used on websites and mobile apps.

Source: [Bringing Dark Patterns to Light: An FTC Workshop](#)

Source: [FTC Enforcement Policy Statement](#)

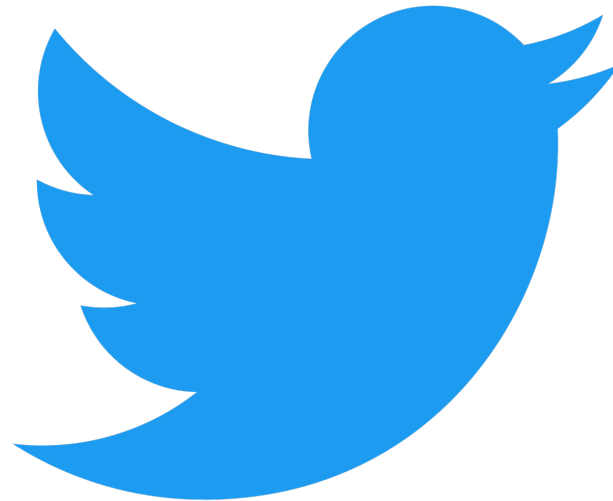
# Question 17

Who recently agreed to pay a \$150 million civil penalty for violating a prior FTC consent order for allegedly deceiving its users about how the company would use their nonpublic contact information, like telephone numbers and email addresses, *even though they disclosed such use in their privacy policy?*

# Question 17: ANSWER

Who just agreed to pay a \$150 million civil penalty for violating a prior FTC consent order for allegedly deceiving its users about how the company would use their nonpublic contact information, like telephone numbers and email addresses, even though they disclosed such use in their privacy policy?

**TWITTER**



# Question 17: Explanation

The FTC's announcement suggests that including an explicit notice of uses of customer personal data in a privacy policy may not be sufficient. In 2013, Twitter began asking users to provide either a phone number or email address to improve account security. From 2014 to 2019, more than 140 million Twitter users provided their phone numbers or email addresses after the company told them this information would help secure their accounts. The FTC alleged ([complaint](#) filed by DOJ) that Twitter failed to mention that it would also use this info to allow advertisers to target specific ads to specific consumers by matching the information with data they already had or obtained from data broker.

Twitter's [privacy policy](#) (2015) stated: “ We may use your contact information to send you information about our Services, **to market to you**, to help prevent spam, fraud, or abuse, and to help others find your account, including through third-party services and client applications. You may use your settings for email and mobile notifications to control notifications you receive from the Twitter Services...”

# Question 18

In October 2021, the FTC approved changes to a certain rule from 2003. The rule requires the development and implementation of a program that consists of the administrative, technical, and physical safeguards to access, collect, distribute, possess, protect, store, use, transmit, dispose of, and otherwise handle customer information.

What is the name of the rule, and to whom does it apply?

# Question 18: ANSWER

In October 2021, the FTC approved changes to a certain rule from 2003. The rule requires the development and implementation of a program that consists of the administrative, technical, and physical safeguards to access, collect, distribute, possess, protect, store, use, transmit, dispose of, and otherwise handle customer information.

What is the name of the rule, and to whom does it apply?

**THE STANDARDS FOR SAFEGUARDING CUSTOMER INFORMATION (aka “THE SAFEGUARDS RULE”); “FINANCIAL INSTITUTIONS”**



# Question 18: Explanation

The Final Rule (2021) modifies the former rule in five primary ways:

1. More detailed requirements for a FI's information security ("InfoSec") program
2. Improve accountability of InfoSec program by requiring the designation of a single "Qualified Individual"
3. Certain exemptions for FI's that collect info on <5k consumers
4. Expands the definition of FI to include "finders"
5. Adds several definitions (rather than incorporate them by reference from a related FTC rule)

LIGHTNING  
ROUND

# LIGHTNING ROUND QUESTIONS AND ANSWERS

- What year was OLA established? **2005**
- Which section of the FTC Act addresses UDAP? **Section 5**
- Which law created the CFPB? **The Dodd Frank Wall Street Reform and Consumer Protection Act (or “Dodd Frank”)**
- How long is an FTC commissioner’s term? **7 years**
- What does CID stand for? **Civil Investigative Demand**

# LIGHTNING ROUND QUESTIONS AND ANSWERS

- What is the name or acronym of California's privacy act that goes into effect on Jan 1, 2023? **CPRA (California Privacy Rights Act)**
- What was the vote of the Supreme Court prohibiting the FTC from seeking equitable monetary relief such as disgorgement or restitution? **9-0**
- Who cast the tiebreaking vote to confirm Alvaro Bedoya as an FTC Commissioner? **Vice President Kamala Harris**
- Who currently chairs the House Financial Services Committee? **Maxine Waters (D-CA)**
- What is the PEI test? **Predominant Economic Interest**

# LIGHTNING ROUND QUESTIONS AND ANSWERS

- Where did Lina Khan go to law school? **Yale**
- What does ESG mean in the context of corporate compliance? **Environmental, Social, Governance**
- Who was OLA's Executive Director prior to Andrew Duke? **Mary Jackson**
- What was the vote of the Supreme Court narrowly defining an “automatic telephone dialing system” in the Facebook v Duguid case decided on April 1, 2021? **9-0**
- What is the full name of the CFPB? **Consumer Financial Protection Bureau**

# LIGHTNING ROUND QUESTIONS AND ANSWERS

- What does ISA stand for? **Income Share Agreement**
- Who is the current Attorney General of NY? **Letitia James (D)**
- Who is responsible for compliance at any company? **Everyone**
- Who is protected by D&O insurance? **Directors and Officers**
- Which regulation protects consumers when they use electronic fund transfers? **Reg E**

# LIGHTNING ROUND QUESTIONS AND ANSWERS

- In 2016, Google implemented a ban on what type of consumer loan advertising?  
**Loans above 36% APR (or Payday Loans)**
- Who was the most recent Supreme Court Justice to join the court? **Ketanji Brown Jackson**
- What does MCA stand for? **Merchant Cash Advance**
- What is the name of the federal law that allows Congress to disapprove a final rule issued by a federal agency? **The Congressional Review Act**
- Where is LEND360 being held in 2022? **Chicago, IL**

# LIGHTNING ROUND QUESTIONS AND ANSWERS

- Which section of the FTC Act did the FTC use in obtaining a \$1.27 billion judgment against AMG Capital for restitution and disgorgement that was later overturned? **13(b)**
- What is the “all in” interest rate cap under the Military Lending Act? **36%**
- What type of consent is required for communications covered by the TCPA? **Prior Express Written Consent**
- What is a TLE? **Tribal Lending Enterprise**
- What landmark case from the 2nd Circuit Court of Appeals rejected the long-standing “valid when made” rule? **Madden v Midland (or Madden)**



# LIGHTNING ROUND QUESTIONS AND ANSWERS

- Which company recently lost its “no action” letter (by its own request) from the CFPB?  
**Upstart**
- What does the acronym GRC stand for? **Governance, Risk Management, Compliance**
- What does EWA stand for? **Earned Wage Access**
- In September 2020, the California Department of Business Oversight changed its name. What is the new name, or the new acronym? **DFPI** or **Department of Financial Protection and Innovation**
- Who is this WSJ headline talking about: “*How a D.C. Bureaucrat Amassed Power Over Businesses, Banks and Consumers*”? **Rohit Chopra**

# LIGHTNING ROUND QUESTIONS AND ANSWERS

- Who currently chairs the Senate Banking Committee? **Sherrod Brown (D-OH)**
- How old is Lena Khan? **33 (born March 3, 1989)**
- In 2022, the CFPB created two new offices. Name one. **Office of Oversight (July 2022); or Office of Competition and Innovation (May 2022)**
- Who was the first director of the CFPB? **Richard Cordray**
- What does BNPL stand for? **Buy Now Pay Later**



**And The  
Winner is**