



Partner Lucy Morris participates in CFPB symposium panel on the term “abusive” in UDAAP

June 26th, 2019

On June 25, the Consumer Financial Protection Bureau (CFPB) held the first [symposium](#) in its series, focusing on the term “abusive” in unfair, deceptive, and abusive acts and practices (UDAAP). The symposium, held at the CFPB’s D.C. office and live streamed, featured opening remarks by CFPB Director Kathleen Kraninger, followed by two panels. The first panel was moderated by Tom Pahl, CFPB Policy Associate Director, Research, Markets and Regulation, with presentations and a panel discussion by academic experts from several law schools. The second panel, “Abusiveness in Practice,” was moderated by David Bleicken, CFPB Deputy Associate Director, Supervision, Enforcement and Fair Lending, with presentations and a panel discussion by attorney practitioners including Hudson Cook Partner [Lucy Morris](#).

As reported by *insideARM*, the attorney panel’s primary discussion was about whether there is a need to clarify “abusive” considering what is available right now. Lucy stated that the majority of court decisions on this issue were decided on a motion to dismiss, which is not a definitive decision on the merits that provides clarity on the term’s definition. She mentioned that there are also very few cases that allege abusive acts and practices but don’t allege deceptive and misleading acts and practices, making it difficult to differentiate the terms through court decisions.

According to an article in *Law360*, although Dodd-Frank does contain a four-pronged definition of what it means by an abusive act or practice, it’s difficult to understand how that definition works in practice because just a fraction of CFPB enforcement actions have alleged abusiveness, and almost all of those have done so while also alleging unfairness and deception. “The enforcement cases to date have not shown how abusiveness is different from unfairness or deception, and they have been inconsistent at times in applying different abuse prongs to similar facts and circumstances,” said Lucy. “The result is that enforcement can appear arbitrary and results-oriented.”

Several articles summarizing the symposium can be found here:

[InsideARM](#)

[DS News](#)

[Law360](#) (subscription only)

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