

Vaishali Rao Reviews Operational Lessons Provided by the CFPB's Application of the 'Abusive' Acts Prohibition under Dodd-Frank

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In a *Law360* Expert Analysis, Hinshaw partner Vaishali Rao reviews practical lessons offered by the Consumer Financial Protection Bureau's handling of the Dodd-Frank Act's prohibition on 'abusive' acts or practices. In particular, Rao reviews a recent CFPB symposium of legal experts and practitioners, which considered the bureau's application of the abusive standard over the course of its close to 10-year existence.

Rao provides nine key takeaways from the symposium discussion, relevant for businesses that offer a financial product or service.

1. No one agrees on how 'abusive' should be used, but one simple test (the "Grandma" test) still exists
2. What consumers understand about your product or service matters
3. A product's profits should not be dependent on a loophole
4. Offering a product to consumers who need quick access to money or credit increases exposure to an abusive claim
5. If you are litigating an abusive claim against the CFPB, you are in it past the pleading stage
6. The bureau may issue guidance on the parameters of 'abusive'
7. The future of abusive claims may relate to data, privacy or tech
8. When unsure, consider testing the waters with a functional regulator
9. Determining the appropriate balance of risk to reward requires judgment

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"What Does 'Abusive' Really Mean Under Dodd-Frank?" was published by *Law360*, July 25, 2019

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