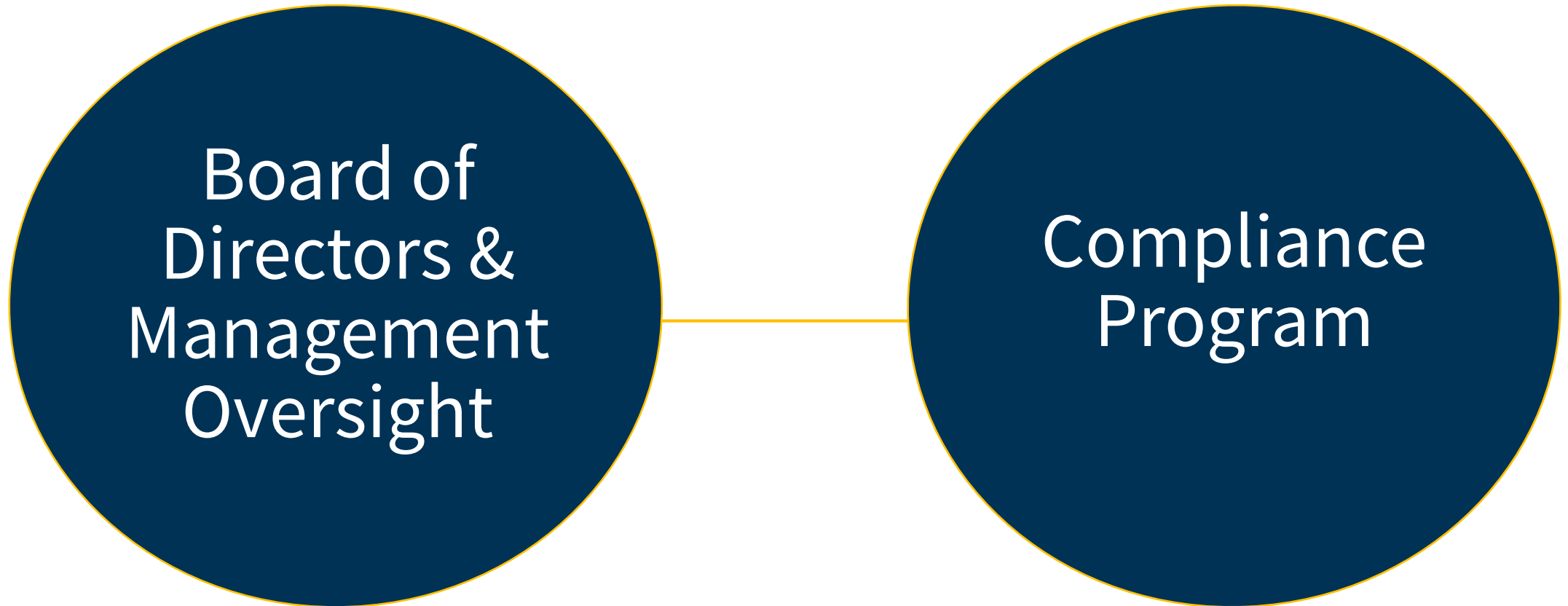


# Consumer Protection

# Disclaimer

*This presentation expresses the views and opinions of an individual FDIC employee, which may not reflect the official positions of the FDIC and are not binding on the FDIC, its Board of Directors, or any Board member. The information contained in this presentation may become outdated, superseded, or may be revised, modified, revoked, or suspended.*

# Compliance Management System

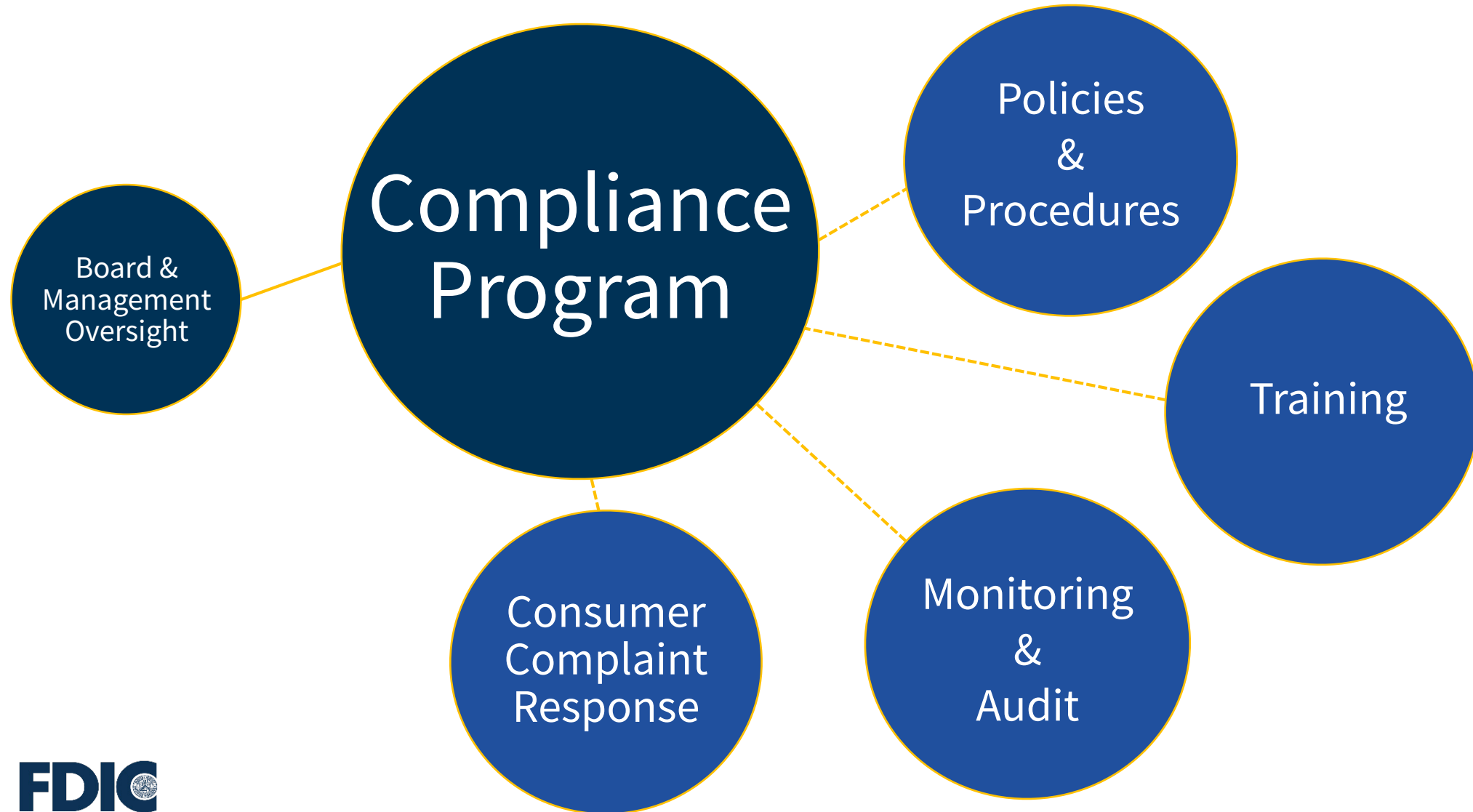


# Compliance Management System

- Board of Directors and Management Oversight
  - Active Board and management
  - Complete risk assessments
  - Involve compliance personnel
  - Third-party oversight and due diligence



# Compliance Management System



# Consumer Protection

- Trending Topics
  - Financial Technology (FinTech)
  - Fair Lending
  - Unfair or Deceptive Acts or Practices (UDAP)
  - Flood Insurance
  - Community Reinvestment Act (CRA)

# FinTech Products / Services

- Lending
  - Marketplace / Digital
- Deposits
  - Mobile or Online-only Deposit Products
- Artificial Intelligence / Machine Learning
  - Operational Uses
  - Alternative Data



# FinTech

- Identify Applicable Laws and Regulations
- Review Significant Complaints and Litigations
- Testing / Simulations





# FinTech Recent Cases

- Promotional Offers
- Dispute Handling



# Fair Lending Risk

- Fair Lending Inherent Risk
  - Built into the operations
  - Can be present in lending products, services, markets, demographics, and operations of the institution



# Fair Lending Risk

- Examples of Inherent Risk
  - Demographic composition of your institution's trade area or market area
  - Discretion in any aspect of the lending process
    - Pricing
    - Underwriting
    - Products offered to applicants

# Fair Lending – Social Media / Online Advertising

- General and targeted advertising
  - Ensure criteria used to target advertisements do not exclude or discourage on a prohibited basis
  - Ensure content of the advertisement does not exclude or discourage consumers on a prohibited basis
  - Review and consider for fair lending risks just as you should with any other form of advertising



# Fair Lending Recent Cases

- Age-based policies and practices
- Indirect lending



## Section 5 of the FTC Act (UDAP)

- Prohibits Unfair or Deceptive Acts or Practices
  - Unfairness and deception are independent of each other
  - Act or practice may be unfair or deceptive, or both
  - Covers all products, services, industries, and stages of the product life cycle
  - Applies to consumer and commercial transactions alike

# UDAP - Unfair

- Unfair Acts or Practices
  - Likely to cause substantial injury to consumers
  - Injury cannot be reasonably avoided
  - Injury is not outweighed by countervailing benefits
  - Public policy may be considered

**UNFAIR!**

# UDAP - Deceptive

- Deceptive Acts or Practices
  - Representation, omission, or practice that misleads or is likely to mislead the consumer
  - Considered from the perspective of the reasonable consumer
  - The representation, omission, or practice must be material





# UDAP Risks

- Identify Compliance Risks / Red Flags
  - Lending and Deposit Products, Add-On Products, Third-Party Products
  - Customer Complaints / Whistleblower Referrals
  - High Levels of Fee Income (UBPR / Peer Data)
  - Incentive Compensation Programs
  - Compliance Management System Weaknesses

**“Disclose what you’ll do,  
and do what you’ve disclosed”**

# UDAP – Recent Cases

- Overdrafts
- Third Party Products



Date	Amount
09/11	1,090.75
09/14	1,085.35
09/15	1,080.36
09/16	

OVERDRAFT FEE SUMMARY		Total For This
Total Overdraft Fees		
Total Returned Item Fees		

# Flood Insurance

- Overview
  - National Flood Insurance Act of 1968 led to the creation of the National Flood Insurance Program
  - Requires sufficient flood insurance when making, increasing, renewing, and extending a loan secured by a structure located in a special flood hazard area
  - Contains certain notification, force-place insurance, and escrow requirements



# Flood Insurance

- Considerations for an effective Flood Insurance compliance program
  - Grant authority to cross departmental lines
  - Provide specific and detailed procedures
  - Incorporate detailed checklists and tools
  - Establish and maintain adequate monitoring and/or audits

**V. Lending - Flood Disaster Protection**

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**Flood Disaster Protection Act**

The National Flood Insurance Program (NFIP) is administered primarily under the National Flood Insurance Act of 1968 (1968 Act) and the Flood Disaster Protection Act of 1973 (FDPA). The 1968 Act made federally subsidized flood insurance available to owners of improved real estate or mobile homes located in special flood hazard areas (SFHA) if their community participates in the NFIP. The NFIP, administered by a department of the Federal Emergency Management Agency (FEMA) known as the Federal Insurance and Mitigation Administration (FIMA), is federally backed.

National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) and to agencies that provide government insurance or guarantees such as the Small Business Administration (SBA), Federal Housing Administration (FHA), and the Department of Veterans Affairs (VA).

The mandatory flood insurance purchase requirements of the FDPA were again significantly amended with the passage of the Biggert-Waters Flood Insurance Reform Act of 2012 (Biggert-Waters Act) and the Homeowner Flood Insurance Affordability Act of 2014 (HFIAA). These acts made changes to the flood insurance requirements.

# Flood Insurance

- Civil Money Penalties may be assessed
  - Required by statute if a pattern or practice of violations is identified
  - Orders to pay a Civil Money Penalty are public



# Community Reinvestment Act

- CRA Modernization Final Rule
  - Applicability date: January 1, 2026
    - FIL-12-2024
  - Available Training: CRA Final Rule Overview Webinar



# Reminders

- Your local Field Office is available to help
- Compliance Tool Card
- Banker Engagement Site
  - FIL-49-2023

Questions?