



Military Lending Act: Rules, Enforcement, and Servicemember Financial Stability

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The Military Lending Act (MLA, 10 U.S.C. §987) regulates commercial lending practices and products offered to military servicemembers and their dependents. The Department of Defense (DOD) implements the provisions of this act and the Consumer Financial Protection Bureau (CFPB) oversees and enforces consumer protection laws and regulations. Some have argued that Military Lending Act rules place undue regulatory burdens on businesses that provide credit products. Others have argued that these rules provide important servicemember protections from abusive financial practices and, in turn, have a positive impact on military readiness.

Legislative Timeline and Existing Rules

The MLA was enacted by the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2007. The impetus for the law was a perceived need to protect military personnel from certain *predatory lending practices*. These are defined by Congress as “an unfair or abusive loan or credit sale transaction or collection practice”; they were characterized by DOD in a 2006 congressionally mandated study as the use of affinity or deceptive marketing techniques to sell high-fee/interest rate, short-term, or installment loans primarily to young and inexperienced military borrowers. The MLA prescribes limitations on terms for consumer credit extended to covered servicemembers and dependents and bans certain lending practices. Under this law creditors may not exceed an annual percentage rate (APR) of 36% interest on consumer credit, and must provide specific disclosures about loan rates (e.g., statement of the APR and clear description of payment obligations).

The law gave DOD authority to determine the scope of the law as it applied to various credit products. The MLA regulations went into effect on October 1, 2007, and covered a limited range of closed-end credit products (e.g., payday, auto-title, and tax refund anticipation loans). As these regulations were implemented, consumer advocacy groups argued that the narrow definition of consumer credit products

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did not provide adequate protections for military servicemembers. During Senate hearings in 2013, witnesses stated that better MLA rules and enforcement were needed because lenders were finding ways to structure loans to circumvent consumer protections.

The MLA was subsequently amended by Congress in Sections 661-663 of the NDAA for FY2013. This amendment included a civil liability provision that would permit a covered borrower to recover damages from any creditor violating a requirement of the MLA and authorized the agencies specified in the Truth in Lending Act (TILA), as amended, to enforce those requirements. Section 661 of the FY2013 NDAA also required DOD to conduct regular reviews of the regulations. The conference report accompanying the bill directed DOD to conduct a study to determine if changes to the 2007 rules were necessary; DOD's report was released in April 2014.

2016 MLA Rules

DOD's 2014 study found that the limited definition of consumer credit in the 2007 rules allowed for marketplace adaptations that weakened the intended protections for servicemembers and their families. In September 2014, DOD published a proposal to amend its MLA regulation, and on July 22, 2015, published its final rules implementing the MLA.

Whereas the rules previously defined a narrow set of products, the new rules applied to a broader range of closed-end credit products and also extended regulations to open-end products (e.g., credit cards), thereby affecting a larger number of businesses offering these products. The new rules also included a *safe harbor* provision that requires creditors to verify that an individual is a covered borrower through one or both of the following mechanisms (1) electronically through the Defense Manpower Data Center (DMDC) MLA database, and/or (2) a report from a nationwide consumer reporting agency. The rules required lender compliance for consumer credit established on or after October 3, 2016, and for credit card accounts under an open-ended consumer credit plan on or after October 3, 2017.

Concerns and Issues for Congress

Lenders and advocates for the consumer credit industry argue that MLA rules impose undue regulatory burdens and compliance costs on their businesses. In addition, they note that the rules limit the potential range of consumer credit products available to servicemembers, which could result in unmet needs and financial hardships. Although the MLA rules protect servicemembers from certain high-interest credit products, they could also result in higher rates of financial insolvency if fewer emergency credit options are available for those individuals.

On the other hand, DOD reports that servicemembers generally have access to low-cost loans through banks and credit unions operating on military bases, and interest-free loans and grants from nonprofit charitable organizations (e.g., Army Emergency Relief, Navy-Marine Corps Relief Society, Air Force Aid Society, and Coast Guard Mutual Assistance.) In addition, consumer and military advocacy groups generally favor stronger regulations, oversight, and enforcement to protect military borrowers. These groups feel that requiring greater transparency in lending rates and placing limits on interest rates can help servicemembers and their families make more informed and less risky financial decisions. Financial insolvency can lead to suspension or revocation of a servicemember's security clearance and can potentially lead to other disciplinary action. At the individual level this type of disciplinary action can harm or even end a military career. DOD has estimated that 80% of security clearance revocations are due to financial distress and up to 4,703 separations each year are related to financial distress. From DOD's perspective, the loss of a security clearance or the separation of a member can create critical capability gaps for deployed units, resulting in additional costs incurred to recruit and train replacements.

Another area of congressional consideration includes the statutory scope of CFPB's authority to oversee and enforce MLA compliance. Beyond financial market regulation and enforcement, Congress may consider the effectiveness of other existing mechanisms to improve financial stability for military servicemembers and their families. For example, statute (10 U.S.C. §992) requires financial literacy training for servicemembers including "information on any financial services marketing practices that are particularly prevalent at that military installation and in the vicinity."

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