

Military Lending Act Protections Amended



About the Author...



Martin T. (Marty) Mitchell, CRCM has over 18 years of experience in the regulatory compliance field. After retiring from a successful career as a U.S. Army officer, he served as a commissioned federal compliance examiner with the FDIC evaluating financial institution compliance with consumer protection laws and regulations. He also served at the FDIC Washington DC Headquarters. During his tenure with Capital One, he led the design and implemen-

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The purpose of this regulation is to impose limitations on the costs and terms of certain defined extensions of consumer credit to service members and their dependents and to provide additional consumer disclosures for such transactions.

The Department of Defense (DOD) issued a final rule amending the implementing regulations of the Military Lending Act (MLA). Congress passed the MLA in 2006 to provide specific protections for active duty service members and their dependents in consumer credit transactions. The final rule amends the MLA regulation to expand specific protections provided to service members and their families and addresses a wider range of credit products that fell outside of the scope of the DOD's existing regulation.

The MLA caps the Military Annual Percentage Rate (MAPR) on covered transactions at 36 percent, requires disclosures to alert service members and their dependents of their rights, and prohibits creditors from requiring arbitration in the event of a dispute, among many other protections. Following is a summary of provisions in the final rule.

Defines "consumer credit" consistently with credit that is subject to the protections of the Truth-in-Lending Act (TILA).

Under the final rule, MLA protections apply to any "credit offered or extended to a covered borrower primarily for personal, family, or household purposes, and that is subject to a finance charge or payable by a written agreement in more than four installments." As a result, the DOD's final rule applies to all forms of vehicle title loans, installment loans, unsecured open-end lines of credit, payday loans, refund anticipation loans, credit cards, and deposit advance loans.

The final rule also mandates that finance charges under Regulation Z, which implements the TILA, and other charges covered as interest under the MLA be included in the 36 percent MAPR. Pursuant to the final rule, the following fees or charges are required to be included in the MAPR, even if they would not be considered finance charges under Regulation Z:

- Credit insurance premiums and fees for debt cancellation or debt suspension agreements;
- Fees for credit-related ancillary products sold in connection with

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tation of their corporate level mortgage compliance program through a period of business closures, multiple acquisitions, and intense regulatory scrutiny. With PBS, Marty served the largest most complex clients nationwide. For the past six years, he has led the compliance consulting division.

Marty and his colleague Robert (Bob) Mullenbach are in attendance at LEND360. They'd welcome your call or text to their cell phones if you'd like to discuss further.

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- the credit transaction or account;
- Finance charges associated with the consumer credit; and
- Certain application fees and participation fees, including annual fees.

Extends MLA protections to a wider range of credit products, including credit cards.

The rule extends the coverage of the MLA to include credit cards, but excludes from the calculation of the MAPR certain credit card fees that are bona fide and reasonable for that type of fee. A credit card issuer can continue to charge a periodic interest rate of up to the 36 percent limit under the MLA cap, plus one or more additional fees that carry reasonable costs tied to specific products or services. The provisions related to credit cards are effective on October 3, 2017.

Permits creditors to use two methods to ascertain whether a consumer is a covered borrower for purposes of the regulation's protections.

Under the final rule, creditors are granted a safe harbor if they use either or both of the two methods — the MLA database (maintained by the DOD) or consumer reports from a nationwide consumer credit reporting agency — to verify borrower status and comply with recordkeeping requirements. Creditors may rely on the initial covered borrower check for up to 60 days after a firm offer of credit is extended to the borrower.

Modifies the existing rule on rolling over, renewing or refinancing consumer credit.

In particular, the final rule prohibits all rollovers, renewals or refinances of payday loan transactions or other deferred presentment transactions by creditors other than banks, thrifts or

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credit unions.

Modifies the disclosures that a creditor must provide to a covered borrower to be consistent with TILA.

The final rule requires a creditor to provide a “statement of the MAPR” applicable to the extension of consumer credit, any disclosures required by Regulation Z, and a clear description of the payment obligation of the covered borrower.

Prohibits mandatory arbitration clauses and other abusive practices.

The final rule prohibits creditors from requiring servicemembers and their dependents to submit to arbitration or waive their rights under the Servicemembers Civil Relief Act, or imposing onerous legal notice requirements in the case of a dispute.

Subjects creditors to civil liability and administrative enforcement for MLA violations.

The final rule implements enforcement provisions that permit covered borrowers to recover damages from a creditor who violates a requirement of the MLA and authorizes applicable agencies to enforce the requirements of the MLA.

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