



Federal Deposit Insurance Corporation
550 17th Street NW, Washington, D.C. 20429-9990

Financial Institution Letter
FIL-37-2015
September 8, 2015

Final Rule: Military Lending Act

Summary: The Department of Defense (DOD) issued a final rule amending the implementing regulations of the Military Lending Act of 2006 (MLA). The final rule expands specific protections provided to service members and their families under the MLA and addresses a wider range of credit products than the DOD's previous regulation. FDIC-supervised institutions and other creditors must comply with the rule for new covered transactions beginning **October 3, 2016**. For credit extended in a new credit card account under an open-end consumer credit plan, compliance is required beginning **October 3, 2017**.

Statement of Applicability to Institutions Under \$1 Billion in Total Assets: This Financial Institution Letter applies to all FDIC-supervised financial institutions.

Distribution:

FDIC-Supervised Institutions

Suggested Routing:

Chief Executive Officer
Chief Compliance Officer
Chief Lending Officer

Related Topics:

Military Lending Act Regulation, 32 CFR Part 232

Attachment:

[Final Rule: Military Lending Act](#)

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Note:

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Highlights:

The final rule:

- Extends MLA protections, including the 36 percent Military Annual Percentage Rate (MAPR) cap, to a wider range of credit products, including credit cards.
- Modifies the MAPR to include fees for credit-related ancillary products sold in connection with the credit transaction, finance charges associated with consumer credit, and certain application and participation fees. Also, for credit cards, the MAPR excludes certain fees if bona fide and reasonable.
- Provides a safe harbor for creditors ascertaining whether a consumer is covered by the final rule's protections.
- Modifies the existing prohibition on rolling over, renewing or refinancing consumer credit.
- Subjects creditors to civil liability and administrative enforcement for MLA violations.

Issuance of Final Rule Implementing the Military Lending Act

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 regulation¹ 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.

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 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

¹ 32 CFR Part 232.

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 are allowed to 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 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 service members 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.

Link: Federal Register Notice <http://www.gpo.gov/fdsys/pkg/FR-2015-07-22/pdf/2015-17480.pdf>