



Federal Deposit Insurance Corporation
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Financial Institution Letter
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CONSUMER PROTECTION: SERVICE MEMBERS

Summary: The Department of Defense (DoD) has adopted the attached final rule implementing § 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007, known as the Talent Amendment. The final rule regulates the terms of certain credit extensions to active duty service members and their dependents. The law and rules take effect October 1, 2007. Additional protections for military personnel provided by the Servicemembers Civil Relief Act and other federal laws are also discussed below.

Distribution:

FDIC-Supervised Banks (Commercial and Savings)

Suggested Routing:

Chief Executive Officer
Chief Loan Officer
Chief Compliance Officer

Related Topics:

- *Servicemembers Civil Relief Act, (50 U.S.C. App. Section 501 et seq.),*
http://www.defenselink.mil/ra/mobil/pdf/publaw108_189.pdf
- United States Army website at www.jagcnet.army.mil under the link "Legal Assistance."
- *Affordable Small-Dollar Loan Products,*
<http://www.fdic.gov/news/news/financial/2007/fil07050.html>

Attachment: Department of Defense, 32 C.F.R. Part 232, "Limitations on Terms of Consumer Credit Extended to Service Members and Dependents," Final Rule:
<http://a257.g.akamaitech.net/7/257/2422/01jan20071800/edoc.ket.access.gpo.gov/2007/pdf/07-4264.pdf>

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Highlights:

- The DoD's final rule regulates the terms of certain credit extensions to active duty service members and their dependents.
- The final rule applies to "consumer credit," which the DoD has defined as "payday loans," "vehicle title loans" and "tax refund anticipation loans." The rule:
 - Limits interest to a 36 percent "military annual percentage rate (MAPR)" that comprises all fees and charges;
 - Requires that certain oral and written loan disclosures be provided before the issuance of the covered transaction; and
 - Prohibits or limits certain terms and conditions associated with these types of consumer credit.
- FDIC-supervised depository institutions are reminded of other protections afforded to service personnel and their dependents, including:
 - The Servicemembers Civil Relief Act, which among other things caps the interest rate on credit extensions at six percent during a service

Note:

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- member's period of active duty service; and
- 10 U.S.C. 1044b, which exempts a military power of attorney from state form requirements and gives it the same force as one prepared and executed under state law.

CONSUMER PROTECTION: SERVICE MEMBERS
Department of Defense Final Rule on Limitations on Consumer Credit Extended to Service Members and Dependents (Talent Amendment)

The Department of Defense (DoD) has published the attached final rule stipulating the terms of certain credit extensions to active duty service members and their dependents (“covered borrowers”). The rule covers payday loans, motor vehicle title loans, and tax refund anticipation loans, as defined by DoD, and applies to all persons engaged in the business of extending such credit and their assignees. For these defined transactions with covered borrowers (“covered transactions”), the DoD rule:

- Limits interest to a 36 percent “military annual percentage rate (MAPR)” that comprises all fees and charges, including those for single premium credit insurance and other ancillary products sold in connection with the transaction; and
- Requires that certain oral and written loan disclosures be provided before the issuance of the covered transaction.

The DoD rule provides:

- The applicable consumer disclosures;
- The method for calculating the MAPR (as opposed to the Truth in Lending Act APR);
- The maximum amount and types of fees that may be charged; and
- A “safe harbor” for identifying covered borrowers, including a model borrower identification statement that creditors may use.

The DoD rule prohibits:

- mandatory arbitration;
- waiver of legal rights;
- unreasonable notice requirements as a condition for legal action;
- payment by allotment; and
- prepayment penalties.

The rule further limits or restricts:

- rollovers and refinancings; and
- the use of a check or other method of access to a covered borrower’s account.

Creditors offering any covered transactions are subject to criminal and civil penalties if they violate the rule. Moreover, consumer credit contracts that are not in compliance with the rule will be deemed void from inception.

The final rule will take effect on October 1, 2007, and will apply to covered transactions that are consummated on or after that date. All creditors that offer any covered transactions are expected to be in full compliance by October 1, 2007.

Sandra L. Thompson
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