

December 14, 2017

Hon. Randal Quarles
Vice Chair, Supervision
Federal Reserve Board of Governors

Hon. Maureen Ohlhausen
Acting Chairman
Federal Trade Commission

Hon. Joseph Otting
Comptroller
Office of the Comptroller of the Currency

Hon. J. Mark McWatters
Chairman
National Credit Union Administration

Hon. Martin Gruenberg
Chairman
Federal Deposit Insurance Corporation

Mr. Paul Kantwill
Assistant Director, Servicemember Affairs
Consumer Financial Protection Bureau

Re: Agency Commitments to Military Lending Act Enforcement

Dear Governor Quarles, Chairman Ohlhausen, Comptroller Otting, Chairman McWatters, Chairman Gruenberg, and Assistant Director Kantwill:

The 2013 Defense Authorization Bill enacted by Congress and signed into law by the President assigned enforcement of the Military Lending Act (MLA) to your agencies.¹ We applaud both the Trump and the Obama Administrations for their strong support of the MLA. Most recently, Secretary of Defense James Mattis demonstrated this support by denying the request from the American Bankers Association and other financial industry lobbyists seeking to avoid complying with key provisions of this law.²

We write to request information about your agencies' commitment to enforcing this law and protecting military families from illegal conduct.

Background

In recent decades, the spread of predatory lending, combined with increased demands on servicemembers and their families due to the conflicts in Iraq and Afghanistan, raised concerns about how triple-digit interest rate loans were impacting servicemembers and their families.³ There has also been significant concern about aggressive targeting of the military community by unscrupulous lenders. According to a 2005 study that examined the density of payday lenders in 20 states, researchers found that even when considering other variables such as income and ethnicity, the counties and zip codes that had the greatest overrepresentation of payday lenders tended to have a common characteristic: a close proximity to military installations. The authors

¹ Specifically, agencies charged with enforcing the Truth in Lending Act are also charged with enforcing the Military Lending Act. <http://bit.ly/2AwNSxR>

² Letter from the Department of Defense to the American Bankers Association, denying request for delayed implementation, September 26, 2017. <http://bit.ly/2Aojh4J>

³ Consumer Federation of America, The Military Lending Act Five Years later, Jean Ann Fox, 2012, <http://bit.ly/2xruPae>

noted that “payday lenders crowd around the gates of military bases like bears on a trout stream.”⁴

In 2006, at the request of Congress, the Department of Defense published a report on predatory lending practices directed at members of the armed forces and their dependents. It found that “predatory lending undermines military readiness, harms the morale of troops and their families, and adds to the cost of fielding an all volunteer fighting force.”⁵

In response to this crisis, the Military Lending Act was implemented on a bipartisan basis. It included an 36% annual rate cap for loans made to covered servicemembers and their dependents, prohibited securing loans in ways that might harm servicemembers, and restricted the use of forced arbitration.⁶

As noted earlier, Congress enacted legislation to extend enforcement authorities. In 2013, the Consumer Financial Protection Bureau (CFPB) identified serious violations of law by Cash America, a publicly-traded financial services company. Cash America was not only engaging in “robo-signing,” which refers to improper preparation of legal documents that may involve tampering with signatures and notarizing documents using unauthorized procedures, but was also exceeding the 36% interest rate cap required by the Military Lending Act on certain loans given to servicemembers. Cash America was ordered to pay up to \$14 million in refunds and a \$5 million fine for violating the law and for destroying records in advance of the CFPB’s examination.⁷

While the MLA and the implementing rules, finalized by the Department of Defense in 2007, reduced the availability of some types of high cost lending, a 2013 report by the Consumer Federation of America found that over half of servicemembers lived in states where high-cost lending was still widely available and not subject to the MLA’s 36% rate cap.⁸ Based on this analysis, the report recommended that the Department of Defense expand the definition of covered consumer credit in the MLA rule to include all forms of high cost credit commonly available to servicemembers and their dependents.⁹

In 2015, the Department of Defense updated regulations to close loopholes in the MLA, ensuring that servicemembers and their dependents would be protected from predatory lenders.¹⁰

⁴ Steven M. Graves & Christopher L. Peterson: Predatory Lending and the Military: The Law and Geography of “Payday” Loans in Military Towns, 66 OHIO ST. L.J. 653, 672, 2005, pg. 824. <http://bit.ly/2zuR4Mk>

⁵ Department of Defense, Report On Predatory Lending Practices Directed at Members of the Armed Forces and Their Dependents, August 9, 2006, p. 9. <http://bit.ly/2gZ4LZe>

⁶ Consumer Federation of America, The Military Lending Act Five Years later, Jean Ann Fox, 2012, pg. 4. <http://bit.ly/2xruPae>

⁷ Statement of Rohit Chopra before the Senate Armed Services Committee’s Personnel Subcommittee. February 14, 2017. <http://bit.ly/2jfw0Uu>

⁸ Consumer Federation of America, Policy Brief: Gaps in the Military Lending Act Leave Many Service Members Vulnerable to Abusive Lending Practices, July 2013, pg.1. <http://bit.ly/2hi61XS>

⁹ Id.

¹⁰ Consumer Federation of America, What People are Saying: The MLA Final Rule, August 2015. <http://bit.ly/2xgyKFD>

Ascertaining Your Commitment

We respectfully request both quantitative and qualitative information about steps your agency has taken to enforce and ensure compliance with the Military Lending Act.

- (1) Has your agency filed any complaints in federal court or through administrative proceedings alleging violations of the Military Lending Act? If so, please provide details.
- (2) For agencies with supervisory authority, in how many supervisory examinations have you required corrective action to be taken with respect to Military Lending Act compliance? Please provide details on your supervisory findings and required corrective actions.
- (3) The Consumer Financial Protection Bureau's Office of Servicemember Affairs has been charged by Congress with "coordinat[ing] efforts among Federal and State agencies, as appropriate, regarding consumer protection measures relating to consumer financial products and services offered to, or used by, service members and their families."¹¹

What specific steps have you taken to work with the Office of Servicemember Affairs to detect and deter violations of the Military Lending Act for financial institutions under your jurisdiction?

Thank you in advance for your response. We would appreciate a response to this request by December 21, 2017.

Respectfully submitted,

Consumer Federation of America
The Retired Enlisted Association
National Military Family Association
Air Force Sergeants Association
Chief Warrant & Warrant Officers Association, U. S. Coast Guard
Commissioned Officers Association of the U.S. Public Health Service

cc: Hon. James N. Mattis, Secretary of Defense
Members of the Senate Committee on Armed Services
Members of the House Committee on Armed Services
Members of the Senate Committee on Banking, Housing, and Urban Affairs
Members of the House Committee on Financial Services
Agency Inspectors General

¹¹ Dodd-Frank Act Section 1013(e) <http://bit.ly/2ykBShx>