

Military Lending Act: Timeline, New Rules, and Issues

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New rules under the Military Lending Act (MLA) that change the definition of consumer credit for covered servicemembers and dependents will apply to transactions or accounts that are established on or after October 3, 2016. These rules may have an impact on the regulatory burdens for businesses that provide credit products to the military and may also affect military readiness.

Legislative Timeline and Existing Rules

The MLA was enacted with the [National Defense Authorization Act for Fiscal Year 2007](#). The impetus for the law was to protect servicemembers from certain "predatory" lending practices as identified in a [congressionally mandated DOD study](#). The MLA prescribes limitations on terms for consumer credit extended to covered servicemembers and dependents, including a Military Annual Percentage Rate (MAPR) limit of 36% on certain credit products. Creditors must provide specific disclosures about loan rates and certain lending practices are banned.

The law gave DOD authority to determine scope as it applied to various credit products. The final MLA regulations were [published on August 31, 2007](#) and went into effect on October 1, 2007. In defining "consumer credit," DOD initially identified the following loan products as problematic:

- closed-end payday loans with terms of 91 days or fewer and amount financed is \$2,000 or less;
- closed-end auto-title loans with terms of 181 days or fewer; and,
- closed-end tax refund anticipation loans.

As the restrictions were implemented, consumer advocacy groups argued that these consumer credit products were too narrowly defined, and thus did not provide adequate protections for military servicemembers. During Senate hearings in 2013, [witnesses stated](#) that better rules and enforcement under the MLA were needed because lenders were finding new ways to structure these loans to circumvent consumer protections under the MLA.

The MLA was subsequently amended by Congress in sections 661-663 of the [National Defense Authorization Act for Fiscal Year 2013](#). The 2013 act 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 MLA also required DOD to conduct regular reviews of the regulations. The [House Report](#) accompanying the bill asked DOD to conduct a study to

determine if changes to the 2007 rules were necessary.

New MLA Rules

The [DOD's 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. The new rules expand the definition of consumer credit and add additional requirements for lenders. The new definition of covered consumer credit is,

Credit offered or extended to a covered borrower primarily for personal, family, or household purposes, and that is (i) subject to finance charge or (ii) payable by a written agreement in more than four installments.

The rules require lender compliance for consumer credit established on or after October 3, 2016. Credit card accounts under an open-ended consumer credit plan will remain exempt from the definition of consumer credit until October 3, 2017.

Whereas the rules previously defined a narrow set of products, the new rules will apply to a broader range of open-end and closed-end credit products and a broader range of businesses that offer these products. The new rules also include 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](#), (2) a report from a nationwide consumer reporting agency.

Concerns and Issues for Congress

Consumer advocacy groups are generally in favor of the new rules that impose stricter limitations on creditors. These groups feel that the new rules will improve financial stability for servicemembers and their families. During the public comment period, the proposed rules were supported by Attorneys General of 22 states and most of the over 200 consumer and civil rights organizations that submitted comments.

Nevertheless, more than 350 groups consisting of trade associations, banks, credit unions, and other businesses submitted comments expressing concerns or opposition to the new rules. In particular, those in opposition felt the new MLA interest-rate restrictions could limit the range of products available to servicemembers, resulting in unmet needs and financial hardships. Some lenders expressed concerns that the use of the [DMDC MLA database](#) to conduct covered-borrower checks would create undue burdens for their businesses. They have also suggested that more time is needed to adjust their practices to conform to the new rules. DOD estimates that the new regulations could impose about \$106 million in costs for the credit industry in the first year as they adapt their products and systems to comply with the new requirements.

The Department [has estimated](#) that the new rules could lead to annual DOD savings of \$14-\$33 million per year if involuntary separations due to financial distress are reduced. Financial insolvency can lead to a suspension or revocation of a servicemember's security clearance and potentially other disciplinary action. At the individual level this type of disciplinary action can harm or even end a military career. DOD estimates that 8.5% of all involuntary separations are due to security clearance issues tied to financial distress. From the DOD's perspective, the loss of a warfighter can create critical capability gaps for deployed units resulting in additional costs incurred to recruit and train replacements. Although the new rules could reduce the potential for servicemembers to fall into costly "debt traps," they could also result in higher rates of financial insolvency if the availability of emergency credit options are reduced for those individuals.