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July 2013

The Honorable Charles Timothy Hagel
Secretary of Defense
U.S. Department of Defense
1000 Defense Pentagon
Washington, DC 20301-3010

Re: Limitations on Terms of Consumer Credit Extended to Service Members and Dependents Docket ID: DoD-2013-OS-0133

Dear Mr. Secretary,

I am writing on behalf of Woodstock Institute in response to the Department of Defense's advanced notice of proposed rulemaking (ANPR) regarding enhancement of the Military Lending Act (MLA) protections that apply to consumer credit extended to members of the Armed Forces and their dependents. This ANPR was posted to the Federal Register on June 17, 2013. Ensuring that service members are protected from predatory lending is crucial to their financial security and military readiness. The MLA product definitions laid out in 2007 do not cover all products available in the market today. Illinois is home to over 18,000 active duty service members and while the MLA has successfully protected them and their families from some harmful financial products, its limited coverage leaves military families susceptible to many high-cost loans. We strongly encourage the Department of Defense to expand the Act to include all forms of credit under the Truth in Lending Act to ensure that full protection is provided.

About Woodstock Institute

Woodstock Institute is a leading nonprofit research and policy organization in the areas of fair lending, wealth creation, and financial systems reform. Woodstock Institute works locally and nationally to create a financial system in which lower-wealth persons and communities of color can safely borrow, save, and build wealth so that they can achieve economic security and community prosperity. We conduct research on financial products and practices, promote effective state and federal policies, convene a coalition of community investment stakeholders working to improve access to credit, and help people use our work to understand the issues and develop and implement solutions.

Background

Given serious concerns surrounding high-cost lending to service members, Congress passed the MLA in 2007. The Act limits the annual percentage rate (APR) of short-term, small-dollar loans offered to service members to 36 percent. It also prevents lenders from securing loans with a post-dated check or electronic access to a service member's bank account, or voluntary military allotment. The MLA protections apply only to a certain set of financial products: closed-end payday loans for \$2,000 or less with terms of 91 days or less; closed-end auto title loans with terms of 181 days or less; and, closed-end tax refund anticipation loans.

While these regulations have curtailed many of the worst industry practices, the protections do not cover all of the high-cost products that are currently available, leaving military personnel and their families still vulnerable to a wide range of predatory loans. Payday and installment loans with terms longer than 91 days or for more than \$2,000 are not covered by the MLA.

Illinois Perspective

In Illinois, there are several high-cost products allowed under state law that are not covered by the MLA, including: payday installment loans; small consumer loans; and, auto title loans. Revisions made to Illinois' Payday Loan Reform Act (PLRA) and Consumer Installment Loan Act (CILA) in 2010 created different types of financial products, including payday installment loans for which lenders can charge up to 400 percent APR. As loans with terms longer than 91 days, payday installment loans are not covered by the MLA. Small consumer loans are installment loans with terms of 180 or more days for which lenders can charge up to 99 percent APR. There is no rate cap or maximum term for auto title loans in Illinois. By 2012, shorter-term payday loans constituted only 14 percent of the consumer loan market share, while payday installment loans and small consumer loans and auto title loans made up 76 percent and 10 percent of the market, respectively.¹ Given the limited scope of the MLA, this means that 86 percent of the high-cost, small-dollar loans offered in Illinois are not subject to the 36 percent interest and fee cap for military families.

Expand the Military Lending Act

Like Illinois, there are at least ten other states that permit payday and other high-cost loans that are not covered by the MLA, and at least 12 other states that permit auto title loans that are not covered. As noted above, these loans are often longer-term and have APRs much higher than 36 percent. All service members should be protected, regardless of the state in which they live. In order to best protect all service members, the Department of Defense should eliminate its narrow product definitions and apply the 36 percent Military APR limit, and additional protections, to all consumer credit products covered by the Truth in Lending Act.² We also encourage DoD to apply these important prohibitions and protections to overdraft programs and rent-to-own transactions.

Conclusion

Woodstock Institute commends Congress and the Department of Defense for their work to protect military families from usurious and predatory financial products. The Military Lending Act couples a strong rate cap with other protections to ensure that loans are safe and affordable. Because the current MLA product definitions do not cover all products available in the market today and half of active duty service members live in states where some high-cost credit products are not covered by the MLA, it is imperative that the Department act quickly to expand the MLA to include a much broader set of credit products. We support swift action to remedy the problems and create a lending environment in which members of the Armed Forces can access safe credit products. We thank you for the opportunity to comment.

Sincerely,



Dory Rand, President
Woodstock Institute

¹Illinois Trends Report – All Consumer Loans Through September 2012. Prepared by Veritec Solutions for the Illinois Department of Financial and Professional Regulations.

² Subject to the MLA's statutory exclusions listed under 10 U.S.C. §987(i)(6).