



# Military Lending Act: How to Comply With the Final Rule

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- A professional services firm with three distinct business lines
  - Wealth Advisory
  - Outsourcing
  - Audit, Tax, and Consulting
- More than 4,500 employees
- Offices coast to coast
- Serve more than 1,450 financial institutions



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# Speaker Introduction

## John Misgen, CPA

- Director of Compliance with CLA for more than nine years
- Has provided regulatory compliance assistance to financial institutions ranging from less than \$5 million in assets to more than a billion in assets.
- John is part of the regulatory compliance group within CLA. The group focuses 100% of its time and resources performing compliance testing and providing regulatory compliance assistance to financial institutions
- John holds a bachelor of science degree in finance from Winona State University and earned his CPA certificate in 2008.
- John has conducted compliance training nationwide targeted to Board members and compliance experts



# Learning Objectives

- At the end of this session, you will be able to:
  - Recognize the new requirements and their impact on financial institutions
  - State when the rule changes will become effective
  - Implement changes in your lending and loan servicing functions to be in compliance with the new rules



# DOD Final Rule

- Issued in July 2015 by the Department of Defense
- Finalizes significant changes to the Military Lending Act (MLA) of 2006
  - [32 CFR Part 232](#)
- Required compliance deadlines of October 3, 2016 and 2017 dependent on the type of credit product
- Will impact all financial institutions in some manner





# Changes to the MLA

- Extends the military annual percentage rate (MAPR) cap of 36% to a wider range of credit products.
- Modifies the MAPR definition
- Provides a safe harbor
- Requires disclosures to alert service members and their dependents of their rights, and institutes additional protections
- Subjects creditors to civil liability and administrative enforcement for MLA violations



# Who is Protected?

## Covered Borrower?

- Covered member
  - active duty
  - active guard and reserve duty
- Dependent of a covered member
  - [10 U.S.C. 1072\(2\)](#) (A), (D), (E), or (I)
  - Spouse
  - Dependent child or parent
  - Legal custody



# Determination of Coverage

- At the time of obligation
- Consumer credit transactions
  - Primarily for personal, family, or household purposes
  - Subject to a finance charge; or is payable by a written agreement in more than four installments.
  - Exempt transactions



# Credit Products Covered

- 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."
  - 10/3/16: All forms of vehicle title loans, installment loans, unsecured open-end lines of credit, payday loans, refund anticipation loans, and deposit advance loans
  - 10/3/17: Credit cards



# Exempted Credit Products

- A residential mortgage
- Any credit transaction that is secured by and expressly intended to finance the purchase of:
  - a motor vehicle
  - personal property
- Any credit transaction that is an exempt transaction for the purposes of Regulation Z (other than a state exempted transaction)
- ***Any credit transaction when it is determined that a consumer is not a covered borrower by using a safe-harbor method***



# SAFE HARBOR

- Use either or both of two methods to ascertain whether a consumer is a covered borrower
  - DOD Database
  - Nationwide Consumer Reporting Agency
- Must timely create and maintains a record of the information obtained
- Determination must be made no more than 30 days prior to the date a consumer applies for a transaction.
- Can rely on info obtained at the time of prescreening



# Determining the MAPR

- 36% Cap for Covered Transactions
- Finance charges under Regulation Z
- Other charges covered as interest under the MLA, 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
  - Finance charges associated with the consumer credit
  - Certain application fees and participation fees, including annual fees



# MAPR Exclusions: Credit Cards

- Certain credit card fees, if bona fide and reasonable:
  - Examples: Application, participation, annual, balance transfer, cash advance, late payment and foreign transaction fees.
  - Optional safe harbor for a fee amount: based on specific calculations defined in the Act.
  - Credit insurance and debt protection premiums and fees as well as credit-related ancillary product fees are to be included in the MAPR calculation for credit cards regardless of whether they are bona fide and reasonable.





# MAPR Exclusions: Application Fee

- Application fee charged when making a short-term, small amount closed-end loan
  - Federal credit unions (Note that state-chartered credit unions do not qualify for this exclusion)
  - Insured depository institutions (meaning any bank or savings association the deposits of which are insured by the FDIC)
- Application fee is charged to the covered borrower not more than once in any rolling 12-month period.



# Required Disclosures

- A “statement of the MAPR” applicable to the extension of credit (in writing **and orally**)
  - Don’t need to include a numerical value or describe the total dollar amount of all charges in the MAPR
  - Model statement which may be used for the purpose of providing a statement of the MAPR
- Any disclosures required by Regulation Z (in writing), and
- A clear description of the payment obligation of the covered borrower (in writing **and orally**)



# Additional Protections

- Prohibits:
  - Waiving borrower's right to legal recourse
  - Submission to arbitration or waiving rights under the Servicemembers Civil Relief Act
  - Imposing unreasonable notice as for legal action
  - method of access to a deposit account, except for (where allowed)
    - ◇ EFT payment or direct deposit requirement
    - ◇ Security interest in funds deposited after the extension of credit in an account established in connection with the transaction
  - Requirement to establish an allotment to repay
  - Prepayment prohibitions and prepayment penalties



# Civil Liability

- Any actual damage sustained as a result, but not less than \$500 for each violation;
- Appropriate punitive damages;
- Appropriate equitable or declaratory relief; and
- Any other relief provided by law
- Costs of the action, with reasonable attorney fees
- Not if violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.



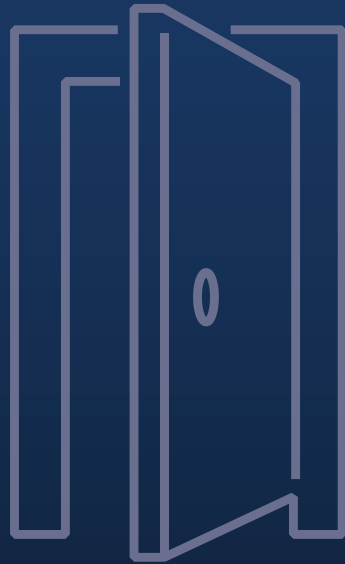
# Administrative Enforcement

- CFPB
- SCRA Protections Unaffected



# Questions?





# Thank you

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