Welcome to the Military Lending Act Roundtable

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The contents of this presentation are intended to provide you with a general understanding of the subject matter. However, it is not intended to provide legal, accounting, or other professional advice and should not be relied on as such.
This Is a Big Deal

- Special (well deserved) status of servicemembers and their families
  - Remember your existing SCRA obligations!

- CFPB attention and resources
  - Servicemembers Affairs, Hollister Petraeus

- Compliance, Transaction and Reputation Risks
Wider Scope

• The new DoD regulations (32 CFR Part 232) amend the Military Lending Act of 2006 and adds additional protections for military borrowers and their dependents
• Not just directed at bottom dwelling lenders anymore
• Now covers most loans, including credit cards
Other Changes

• Modifies the MAPR to include fees for credit-related ancillary products sold in connection with the credit transaction, finance charges associated with consumer credit, and certain application and participation fees. Also, for credit cards, the MAPR excludes certain fees if bona fide and reasonable.

• Provides a safe harbor for creditors ascertaining whether a consumer is covered by the final rule's protections.

• Subjects creditors to civil liability and administrative enforcement for MLA violations.
Covered Loans

• Payday loans
• Vehicle Title loans
• Tax Refund anticipation loans
• Private Student loans
• Closed end loans i.e. installment loans
• Overdraft Lines of Credit
• Unsecured open-end lines of credit
• Credit card Accounts
Loans Which are NOT Covered

• Residential mortgage loans secured by a dwelling
  – Including construction loans
• Refinanced loans
• HELOCs an Reverse mortgages
• PMSI personal or vehicle loans
• Loans exempted from Reg Z
Credit Cards

• The rule extends the coverage to include credit cards.

• You can continue to charge a periodic interest rate of up to the 36 percent limit under the MLA cap, plus one or more additional fees that carry reasonable costs tied to specific products or services.

• Remember, the provisions related to credit cards are effective on October 3, 2017.
Compliance Dates

• You must comply with the rule for new covered transactions beginning October 3, 2016.

• For credit extended in a new credit card account under an open-end consumer credit plan, compliance is required beginning October 3, 2017.
Who Is Covered?

• Covered Borrower is defined to include any member of the armed forces who is on active duty, or active guard or reserve duty, or any of their dependents.

• How will you know?

• You can use the covered borrower identification statement until October 3, 2016
Who Is Covered?

• Two verification methods after 10/3/16
• Creditors are granted a safe harbor if they use either or both of the two methods to verify borrower status and comply with recordkeeping requirements:
  – MLA database (https://www.dmdc.osd.mil/mla/welcome.xhtml)
  – Consumer reports from a nationwide consumer credit reporting agency —.
• Creditors are allowed to rely on the initial covered borrower check for up to 60 days after a firm offer of credit is extended to the borrower.
Timing Is Everything

- The rule does not cover existing loans or members who become eligible for the protection AFTER the loan is consummated.

- Does not require a continuous monitoring of the borrower’s status.
Familiar Definition

• MLA protections apply to 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."
MAPR

- MLA caps the Military Annual Percentage Rate (MAPR) on covered transactions at 36 percent.
- For open end loans the MAPR limit applies for each billing cycle.
- For closed end loans the MAPR limit applies at time of consummation.
More MAPR

- Finance charges under Regulation Z and other charges covered as interest under the MLA must be included in the 36 percent MAPR.
- The following fees or charges are required to be included in the MAPR, 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 in connection with the credit transaction or account;
  - Finance charges associated with the consumer credit; and
  - Certain application fees and participation fees, including annual fees.
Exceptions

• Payday Alternative Loans
  – The application fee is exempted for FCUs provided it is only charged once every 12 months

• Bona Fide Credit Card fees
  – application fee, annual fee and cash advance fee (other than a periodic rate)
  – Must be “reasonable” by comparison
  – Safe harbor determination method
Additional Disclosure

• The final rule requires a creditor to provide a written "statement of the MAPR" applicable to the extension of consumer credit, any disclosures required by Reg Z, and a clear description of the payment obligation of the covered borrower.

• You may satisfy the requirement of providing by describing the charges the credit union may impose.
Wait! There’s More

• The credit union must verbally provide a statement of the MAPR and the description of the payment obligation or provide a toll-free number to deliver the verbal disclosures to the covered borrower.
Goodbye Arbitration

• The final rule prohibits creditors from requiring service members and their dependents to submit to arbitration or waive their rights under the Servicemembers Civil Relief Act, or imposing complicated legal notice requirements in the case of a dispute.

• Other prohibited practices include requiring payroll allotment as a condition of credit.
Cross Collateral Issues

• You are allowed to take a security interest in funds deposited AFTER the loan is created.
• Standard cross collateral clauses have a very wide application and may violate the MLA.
• Check with local counsel.......now.
The MLA Has Teeth

• The final rule implements enforcement provisions that permit covered borrowers to recover damages from a creditor who violates a requirement of the MLA and authorizes applicable agencies to enforce the requirements of the MLA.

• Actual and punitive damages, void the contract, attorneys fees

• Criminal penalties for knowing violations
QUESTIONS?