



**Cities for
FINANCIAL
EMPOWERMENT
Coalition**

Co-chairs

New York City

San Francisco

The Cities for Financial Empowerment Coalitions' Comments on
Limitations on Terms of Consumer Credit
Extended to Service Members and Dependents

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Submitted to the
Department of Defense
(Docket ID DoD-2013-OS-0133)

August 1, 2013

The Cities for Financial Empowerment (CFE) Coalition writes to urge the Department of Defense (DoD) to revise its regulations implementing the Military Lending Act (MLA) to ensure that service members and their families are protected from the full range of abusive lending practices that trap them in cycles of debt.

The CFE Coalition is a network of cities, large and small, across the nation representing over 19 million people, committed to aggressively and creatively leveraging local opportunities, resources, and powers to improve the financial health of our residents. Expanding the vision of how municipal government can serve its citizens and create pathways for financial stability, CFE members design and implement large-scale programs to expand access to mainstream banking, wealth-building opportunities, and high-quality financial education and counseling. CFE members spearhead an array of innovative programs to connect residents who are disenfranchised from the mainstream banking system to affordable financial services through both specialized account-based bank access programs and "Bank On" campaigns.

Through our financial counseling and education programs and other programs that provide assistance for those struggling with high levels of debt and financial instability, CFE members have seen the devastating impacts that predatory lending can have on our residents, including service members, their families, and veterans. To address these concerning lending practices, members of the CFE Coalition are engaged in programmatic, policy and regulatory approaches to curbing the damage to our residents' financial security inflicted by payday lenders, vehicle title lenders, and other predatory lenders. For example, a number of CFE cities have been working directly to counteract or prevent the corrosive effects of payday lending and vehicle title lending in our communities by enacting strong local protections, advocating in our state legislatures to prevent or curb predatory lending practices, or using local enforcement authority to help address illegal payday loans. Several CFE cities have also worked with financial institutions to develop and promote safe, affordable small-dollar loans as an alternative to payday loans.

Informed by this broad experience on the ground in cities around the country, CFE members are concerned that predatory lending practices targeted at active duty service members and their families are affecting the financial stability of our residents, thereby undermining our myriad financial empowerment efforts. Abusive lending to service members and their families also has broader national implications. A 2006 DoD report 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.”¹ The local effects coupled with these national implications make clear the imperative to protect service members from predatory lending.

Seeking to address this serious problem, Congress enacted the Military Lending Act (MLA) in 2007, which created important protections aimed at stopping abusive lending practices to active duty service members and their families.² The MLA has been largely successful in reducing the problems active service members encounter with the types of credit covered under DoD’s implementing regulations.³ However, the MLA is not currently living up to its full potential because its applicability is limited by the narrowly defined scope of the types of “consumer credit” subject to protections. Under current regulations, MLA protections are limited to just three categories of consumer credit and are further constrained by a number of additional criteria within each category.⁴

The DoD should take steps to ensure the full gamut of abusive lending products targeted at service members and their families residing in cities across the country are subject to full MLA protections. Consistent regulation of the array of financially destabilizing consumer credit products targeted at members of the military and their families is necessary to ensure lenders do not exploit loopholes to get around these important protections. However, there are a number of problematic products that fall outside of the MLA’s current definition, including the following key examples.

- Payday lenders and vehicle title lenders should not be permitted to evade MLA protections by structuring products to get around the MLA definition of “consumer credit.” Under current regulations, a payday loan is only subject to MLA protections if the loan amount is \$2,000 or less, if it is structured as closed-end credit, and if the term is 91 days or fewer, and a vehicle title loan is only covered if it is structured as closed-end credit for a term of 181 or less.⁵ DoD should consider amending the current limits to the applicability of the MLA based on loan term, maximum loan amount and loan structure to ensure service members and their families are protected from the full range of usurious payday-like short-term loans and vehicle title loans.
- Deferred deposit advance loans and other similarly structured high-cost payday-lending type products offered by mainstream financial institutions should be subject to full MLA protections. Though typically structured as open-end credit and therefore not subject to MLA protections, direct deposit advance loans not only share a nearly identical structure to payday loans, they also have been found to trap consumers in similar cycles of debt. Research has demonstrated that, like typical payday loans, direct deposit advance loans often trap borrowers in high-interest debt for months at a time. The Consumer Financial Protection Bureau found that more than half of all deposit advance users end up borrowing more than \$3,000 and tend to be indebted more than 40 percent of the year.⁶ Given that a typical 12-day deposit advance loan carries an APR of over 300 percent⁷, these loans are often a serious drain on households’ limited resources that can affect their financial stability. These products, which mirror the problematic characteristics of closed-end payday loans, should be subject to the very same protections.

We also encourage DoD to consider additional changes to ensure the MLA protections are uniformly applied to the full range of deleterious products targeted at members of the military and that the regulations do not permit lenders to structure products in ways that specifically evade these important protections.

We look forward to continuing to provide our on-the-ground perspective to inform your efforts to protect service members and their families residing in localities around the country from abusive lending practices that trap them in cycles of debt.

Respectfully,



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Co-Chair, CFE Coalition



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Treasurer
City and County of San Francisco
Co-Chair, CFE Coalition

¹ Department of Defense, *Report On Predatory Lending Practices Directed at Members of the Armed Forces and Their Dependents*, August 9, 2006

² 10 U.S.C. § 987

³ Consumer Federation of America, *The Military Lending Act Five Years Later: Impact on Servicemembers, the High-Cost Small Dollar Loan Market, and the Campaign against Predatory Lending*, May 29, 2012

⁴ The definition of “consumer credit” in 32 CFR Part 232.3 includes only three specific types of loans: (1) payday loans that are structured as closed-end credit, with a maximum loan amount of \$2,000 and maximum loan term of 91 days; (2) vehicle title loans that are structured as closed-end credit with a maximum loan term of 181 days; and (3) refund anticipation loans structured as closed-end credit.

⁵ 32 CFR Part 232.3

⁶ Consumer Financial Protection Bureau. “Payday Loans and Deposit Advance Products: A White Paper of Initial Data Findings,” April 2013. Available online at

http://files.consumerfinance.gov/f/201304_cfpb_payday-dap-whitepaper.pdf

⁷ Ibid., CFPB White Paper