



DEPARTMENT OF DEFENSE RELEASES MILITARY LENDING ACT GUIDANCE

Today the Department of Defense ("DoD") published an interpretative rule in the form of questions and answers to respond to industry questions under the final rule implementing expansive changes to the Military Lending Act regulations (MLA Rule). The MLA Rule was effective October 1, 2015, but applies only to transactions consummated or established after October 3, 2016 for credit products subject to the MLA Rule other than credit cards and after October 3, 2017 for credit cards. The MLA Rule expands MLA coverage to additional products, including credit cards, private student loans and certain installment loans.

The guidance addresses questions relating to the scope of the MLA Rules coverage, including whether secured loans for the purchase of personal property that also extend additional credit qualify for the exception for credit to finance the purchase of personal property when the credit is secured by the property being purchased. The DoD responds that such credit does not fall within the purchase money exception. Several questions relate to the treatment of fees on open-end credit, including whether creditors are permitted to waive fees in order to prevent a borrower from being assessed a military annual percentage rate in excess of 36% during that billing cycle; to which the DoD responds yes. The DoD responds to questions regarding oral disclosure, including stating that a generic oral description of the payment obligation may be provided to satisfy the obligation to give a description of the payment obligation. The DoD answers several questions relating to the limitation in section 232.8(e) on a creditor using a check or other method of access to a deposit, savings or other financial account maintained by the covered borrower, including stating that Section 232.8(e) does not prohibit a covered borrower from authorizing automatically recurring payments, provided that such recurring payments comply with other laws, such as the Electronic Fund Transfer Act and its implementing regulations.

The interpretations are effective upon publication in the Federal Register. The guidance is available at:

<https://www.federalregister.gov/articles/2016/08/26/2016-20486/military-lending-act-limitations-on-terms-of-consumer-credit-extended-to-service-members-and>

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