

Helping Credit Unions  
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# Military Lending Act: How it Impacts Credit Unions



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## CFPB – A Snapshot of Servicemember Complaints

- As of 2015, CFPB received almost 2,500 complaints from servicemembers, veterans and dependents about high-cost consumer credit.
- 50% of those complaints were related to debt collection (credit cards, medical and payday loans topped the subject list).
- 16% of complaints were related to Mortgages.



# CFPB - Servicemembers

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The CFPB advertises and encourages servicemembers to reach out to them with any complaints.

## YOUR STORIES

The servicemembers we work for aren't statistics in uniform. When they contact the CFPB for help, we learn more about how companies act in the market and how bad actions hurt military families. These stories matter.




When a servicemember couldn't get anywhere with his mortgage lender, [Captain Jamison helped him submit a complaint.](#)



Harry spoke up when he noticed his son struggling with a car loan; [he ended up helping thousands of servicemembers.](#)

### Stories from real people

 [See more stories.](#)

 [Share your story.](#)

 [Submit a complaint.](#)

## Bringing actions against bad actors

As of April 2015, we've recovered millions in relief for servicemembers from companies that targeted them with scams or illegal practices.

[CFPB Orders Servicemember Auto Loan Company to Pay \\$3.28 Million for Illegal Debt Collection Tactics \(Oct 2015\)](#)

[CFPB Takes Action Against Military Allotment Processor \(Apr 2015\)](#)

[CFPB Takes Action Against Mortgage Lender for Deceptive Advertising \(Apr 2015\)](#)

[\\$2.5 million from illegal debt collection practices \(Dec 2014\)](#)

[CFPB takes action against payday lender for illegally overcharging servicemembers \(Nov. 2013\)](#)

[See all our actions against companies targeting servicemembers](#)



# Department of Defense – Military Lending Act



# DOD – Military Lending Act

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Effective Date: **October 1, 2015.**

Effective Compliance for Loans: **October 3, 2016**

Effective Compliance for Credit Cards: **October 3, 2017**

## **Summary**

- Rules expanded the coverage to include additional loans.
- Amended the requirements for assessing who is a “covered borrower” under the rule.
- Amended the disclosures requirements to be provided to covered borrowers.



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## Does the MLA apply?

- Coverage of the MLA applies to a borrower who is determined to be “covered” **at the time they become obligated on a credit transaction** or established an account.
- There is no requirement to monitor “covered” status for loans, determination is made at the time of consummation.
- The credit union does not have to look backwards at the loans currently in portfolio to determine if a borrower is covered.





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## Covered Borrower

- *At the time the consumer becomes obligated....*
  - **Is a member of the armed forces, serving on active duty, active Guard or Reserve duty.**
  - **Dependents** of the above; spouse, child (under 21 or 23 if full time student or no age limit if there is a mental/physical incapacity); could also be a parent or in-law (if supported by servicemember); another adult in legal custody of the servicemember.



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## Safe Harbor – Covered Borrower

- Assessing a covered borrower from either the MLA database or a consumer report from a CRA.
  - <https://www.dmdc.osd.mil/mla/welcome.xhtml>
  - Credit union responsible for determining covered borrower status for borrower/co-borrower.
  - Time periods for determination
    - When member initiates transaction or 30 days prior;
    - At application or 30 days prior; or
    - 60 days from processing firm offer of credit.
  - Credit union must retain documentation with the loan file.





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**“Consumer Credit”** – will now be generally consistent with Regulation Z;

- 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.



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## Loan Coverage

- Payday loans
- Vehicle title loans
- Refund anticipation loans
- Deposit advance loans
- Installment loans
- Unsecured open-end lines of credit
- Credit cards
- Refinance of an auto loan
- Refinance of a loan on personal property



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## Excluded Loans

- A residential mortgage (credit transaction secured by an interest in a dwelling – includes purchases, refinances, initial construction, home equity, HELOC or reverse mortgage).
- Any credit transaction intended to finance the **purchase** of a vehicle when the credit is secured by the vehicle being purchased.
- Any credit transaction intended to finance the purchase of personal property when the credit is **secured by the property being purchased**.
- Any credit transaction that is exempt under Regulation Z.
- Any credit transaction for a non-covered borrower (by using a method and complying with recordkeeping requirements outlined in the Act).



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## Protections include:

- 36% MAPR limit (including all interest and fees associated with the loan).
- Prohibition on certain requirements, mandatory arbitration, onerous legal notice requirements, waiving rights under the Servicemembers Civil Relief Act, are just a few.
- Changing the definition of credit to bring any closed and open-end loans within the scope of the regulation, except for loans secured by real estate or a purchase-money loan, including a loan to finance the purchase of a vehicle.



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## Military Annual Percentage Rate (MAPR)

- Closed-end loans: The MAPR is calculated in the same way an APR is calculated under Regulation Z, including the fees described below:
- Open-end credit: Calculated the same as an APR under Regulation Z, including the fees described below:
  - Credit insurance premium or fee;
  - Debt cancellation or debt suspension fee;
  - Fees for ancillary products sold in connection with the transaction (credit default insurance and debt suspension plans);
  - Financial charges (except for a bona fide fee)
  - Application fee (other than FCU for short term small dollar – can only charge once in any rolling 12 month period)



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## Military Annual Percentage Rate (MAPR)

- Bona Fide Fees for Credit Card Accounts (not home secured)
  - Generally, a bona fide and reasonable fee, other than a periodic rate is not required to be included in the MAPR calculation (applies only to the extent that the charge by the credit union is a bona fide fee and reasonable for that type of fee.)
    - Credit insurance premiums or fees and fees for ancillary products are not exempt and must be included in the MAPR calculation.
    - The fees must be “**reasonable**”, meaning they would fairly allow servicemembers and their dependents to continue to have access to credit card products and limit the opportunity for a creditor to exploit the exclusion for those products.





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## Military Annual Percentage Rate (MAPR)

- Bona Fide Fees for Credit Card Accounts (not home secured)
  - **Safe Harbor** – a bona fide fee is “reasonable” if the amount of the fee is less than or equal to an average amount of a fee for the same or substantially similar products or services, charged by more than 5 creditors each of whose US credit cards in force is at least \$3 billion in an outstanding balance at any time during the 3 year period preceding the time such average is computed.
  - If one fee is “unreasonable,” all fees must be included in the MAPR calculation.



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## Mandatory Loan Disclosures

- Information required to be provided to the covered borrower before they are obligated on the transaction.
  - Statement of the MAPR applicable to the extension of credit (model statement);
  - Any disclosures required under Reg Z (this exists now)
  - A clear description of the payment obligation and a payment schedule or account opening disclosure provided pursuant to Reg Z (this exists now)
- Must be provided in writing **and** orally. However, oral requirement can be met by providing a toll-free number the borrower can use to call to receive the oral disclosures (*on application or required disclosures listed above*).



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## Model Disclosure

“Federal law provides important protections to members of the Armed Forces and their dependents relating to extensions of consumer credit. In general, the cost of consumer credit to a member of the Armed Forces and his or her dependent may not exceed an annual percentage rate of 36%. This rate must include, as applicable to the credit transaction or account: the costs associated with credit insurance premiums; fees for ancillary products sold in connection with the credit transaction; any application fee charged (other than certain application fees for specified credit transactions or accounts); and any participation fee charged (other than certain participation fees for a credit card account).”



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# Servicemembers Civil Relief Act - SCRA



## Servicemembers Civil Relief Act (SCRA)

- Originally enacted in 1940 (Soldiers' and Sailors' Civil Relief Act – SSCRA). In 2003, Servicemembers Civil Relief Act was signed to restate, clarify and revise the SSCRA.
- No federal regulator designated by Congress to develop rules or guidelines for credit unions to use. Technical law, still may prove challenges for interpretation and implementation.



## Active Duty

- **Army, Navy, Air Force, Marines, or Coast Guard** - full time duty in the active military service.
  - Reporting for basic training.
  - Full time training – boot camp, advanced training, etc.
- **National Guard** – includes service under a call to active service authorized by the President or Secretary of Defense for a period of more than 30 consecutive days for purposes of responding to a national emergency.





## Dependent

- Protections include termination of leases, foreclosure or seizure of real property or repossession of personal property (not the 6% interest rate, unless servicemember is also obligated or the dependent applies for relief through the court).
  - Spouse
  - Child; or
  - An individual for whom the servicemember provided more than one-half of the individuals support for 180 days immediately preceding an application for relief.



## “Materially Affected”

- The SCRA applies to servicemembers on active duty and who are “materially affected” as a result of that status.
  - A servicemember on active duty is unable to protect legal rights, for example, but not being able to appear in court.
  - A servicemember is unable to meet prior financial obligations because for example, the member suffer a cut in pay on active duty.



## Coverage

The SCRA applies to the member when:

- The member is in the military service of the US.
- The member is on active duty.
- The member is materially affected or disadvantaged as a result of going on active duty.



## Interest Rate Limitation

- For loans that are incurred prior to active duty, the credit union may not charge more than a 6% *interest rate* during active duty.
- For mortgage loans, the 6% interest rate cap extends for 1 year beyond the period of military service.



## Interest Rate Limitation - Exemptions

- Does not apply to new advances on existing plans, even if established prior to active duty.
- Does not apply to new loans consummated during active duty.
- Does not apply to loans granted under the Guaranteed Student Loan Program.



## Interest Rate Calculation

- **Closed-end:** rate limitation applies to all fees, service charges, renewal charges or any other charges except for bona fide insurance. If the credit union charges the full 6%, not other fees, including a **late fee** may be charged.
- **Open-end:** fees related to the outstanding balance prior to active duty and that have not been paid when active duty begins may not be added to the account.





## Servicemember's Obligation

- The servicemember is required to provide the credit union with a written notice and a copy of military orders calling them to active duty, as well as any orders further extending military service.
- Notice **must** be provided 180 days after the date of the servicemember's termination or release from military service.
- Credit union must reduce the interest rate on any debt incurred prior to active duty as of the date on which the servicemember was called to service.



## Mortgage Protections

- If the court determines that the servicemember has been materially affected, it may stay the foreclosure proceedings or adjust the obligation to preserve the interests of all of the parties.
- The credit union will have to obtain a court order approving the sale, foreclosure or seizure of real estate if it occurs during the servicemember's military service or within 90 days after military service ends.



# MLA / SCRA – Credit Union Considerations



## Applicability – Differences between MLA/SCRA

Make sure your procedures address:

- Coverage
  - Under the SCRA, the **member** must notify the credit union of their active duty.
  - Under the SCRA, changes will be made to loans consummated prior to active duty.
  - Under the MLA, the **credit union** must determine a covered borrower.
  - Under the MLA, there is no “lookback.” Determination of coverage is made during consummation.



# MLA/SCRA Considerations

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## Applicability – Differences between MLA/SCRA

Make sure your procedures address:

- Interest Rate
  - Under the SCRA, 6% interest rate only applies to debts incurred **prior** to active duty.
  - SCRA **relief ends** when the member returns from active duty (or for mortgage related debt, 12 months following their return).
  - Under the MLA, the 36% MAPR limitation is for the life of the loan and determined at the time of consummation.



## Applicability – Differences between MLA/SCRA

Make sure your procedures address:

- Dependents
  - Under the SCRA, generally, unless they are a joint obligor on a loan, **dependents** are not entitled to receive the reduced rates.
  - The SCRA protections are also provided to servicemembers in the foreclosure process.
  - Under the MLA, **dependents** are defined differently and the protections under the Act also apply to them.



# MLA/SCRA - Test

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- **Question:** Betty Borrower is a member of the armed forces, but not on active duty and holds an auto loan from 2014 with the credit union. On January 11, 2016, Betty is ordered to service on active duty. Does the credit union need to adjust anything with that auto loan?





# MLA/SCRA - Test

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- **Answer: Under the MLA**, the credit union does not need to adjust anything related to the loan. “Covered” borrower status is only determined at the time the member is obligated on the transaction. **However, according to the SCRA**, the loan may need to be adjusted (6%) if the borrower provides documentation of active duty status to the credit union.
  
- Make sure your front line staff understand the difference.



# Questions?

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