



August 31, 2016

By electronic delivery to:

The Honorable Daniel K. Tarullo
Chairman, FFIEC and
Member
Board of Governors of the Federal Reserve System
20th Street and C Street, NW
Washington, DC 20441
kommaly.k.beasley@frb.gov

The Honorable Martin J. Gruenberg,
Vice Chairman, FFIEC and
Chairman
Federal Deposit Insurance Corporation
20th Street and C Street, NW
Washington, DC 20551
mgruenberg@fdic.gov

The Honorable Richard Cordray
Director
Bureau of Consumer Financial Protection
1275 First Street, NE
Washington, DC 20002
Derek.conrad@cfpb.gov

The Honorable Thomas J. Curry
Comptroller
Office of the Comptroller of the Currency
400 7th Street, SW, Mail Stop 3E-218
Washington, DC 20219
Thomas.curry@occ.treas.gov

The Honorable Rick Metsger
Chairman
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314
bmmetsger@ncua.gov .

Re: Agency examination of compliance with the Military Lending Act Rule

Ladies and Gentlemen:

The undersigned trade associations (Associations) appreciate the time and attention you and your staffs have given to consider our concerns and questions about the Department of Defense's (DoD) amendments to the Military Lending Act Rule (MLA Rule). The MLA Rule expands significantly the types of accounts the MLA covers so that many depository institutions that previously did not offer covered products must now comply. In addition, important issues remain unresolved as we approach the October 3 compliance deadline which is just over a month away.

Given the delays associated with clarifying the Rule and setting up systems to ascertain military status – and the severe penalties for MLA violations – we urge the Agencies to provide *express* assurances that MLA examinations will be limited to inquiries about the status of preparations to comply and that examiners will postpone transactional testing for compliance until after March 3, 2017 – giving industry six months to implement and test its MLA compliance systems. We believe that this approach is

not only fair and practical, but will help to ensure that military personnel, their spouses and dependents continue to have access to depository institution credit products they need and value. Depository institutions are more likely to continue to make loans available to covered borrowers if they have assurances that supervisory review will reflect consideration of these factors.

Shortly after the MLA Rule was published on July 22, 2015, the industry approached DoD through multiple channels, raising concerns about the meaning of certain provisions in the MLA Rule and about the ability of depository institutions to continue to offer covered products to servicemembers and their spouses and dependents. DoD's response was to direct us to the federal agencies responsible for enforcing the regulation.

Accordingly, after consulting our collective members, we developed a list of issues and provided it to the government agencies responsible for enforcement for consideration in their development of examination guidance. The Associations presented the issues to the FDIC, Federal Reserve Board, Comptroller of the Currency, and the National Credit Union Administration (Agencies) at a December 8, 2015 meeting held at the FDIC. The Agencies indicated they could not interpret DoD's rule but agreed to pass on our concerns to the DoD.

We continued to urge DoD to address industry concerns and on March 15, 2016 met with DoD staff. During that meeting DoD acknowledged the need for clarifications. Following that meeting, on April 7, 2016, the Associations submitted suggested language to amend the regulation and on April 15, 2016 sent a letter encouraging DoD to make the changes through publication for comment of an interim final rule. We subsequently met with DoD on June 23, 2016 and again on August 2, 2016. DoD's interpretive rule was published in the *Federal Register* on August 26, 2016.

Without clear guidance on how to interpret and comply with several requirements of the Rule, depository institutions have been unable to finalize and test their MLA compliance policies and programs. Similarly, the Agencies have been unable to publish examination procedures, which depository institutions review to confirm their understanding of a new regulation and ensure their implementation plans conform to supervisory expectations. While we appreciate DoD's responsiveness to industry concerns and the issuance of the interpretive rule, our members need time to review, interpret, and implement the recently published interpretive rule, implement changes, make and test operational adjustments, and train staff.

In addition, many depository institutions must rely on the credit bureaus to ascertain military status of loan applicants. While this is the preferred method, the MLA solution project timeline between DoD, the credit bureaus, and the industry was significantly delayed.¹ This has left lenders with a

¹ Early in November, 2015, the DoD began publicizing its plans to establish a system as outlined by the regulation that would allow military status information to be available through the three nationwide credit bureaus, a practical and necessary system for lenders to verify military status of applicants. DoD held appreciated status updates through weekly conference calls through most of the year. However, credit bureaus could not share final technical specifications and system coding with lenders to begin final production mapping and conduct "live testing" with real data until the contracts between the DoD and the nationwide credit bureaus were negotiated and executed. Originally anticipated to occur in February, 2016 to allow sufficient time to implement and test the system prior to the compliance

significantly condensed time period to test their systems and train personnel, which comes with great risk.

We also note that severe penalties apply for violations of the regulation. For example, in addition to actual and statutory damages, the entire loan is void if any provision is violated.

We look forward to working with you to ensure that supervision is applied consistently with the objective of achieving compliance without disrupting covered borrowers' access to safe and sustainable depository institution credit.

Please contact Nessa Feddis at nfeddis@aba.com or 202 663 5433 for further information.

American Bankers Association

Association of Military Banks of America

Consumer Bankers Association

Credit Union National Association

Financial Services Roundtable

Independent Community Bankers of America

National Association of Federal Credit Unions

deadline, they were not signed until mid-July. We understand that credit bureaus do not expect to be able to provide military status information to depository institutions until mid-September. This leaves very little time to train staff and vendors and to test their systems across business lines.