

AFR Memo on Servicemembers, the Military Lending Act, and the CFPB

October 1st marked the 4th anniversary of implementation of the [Military Lending Act \(MLA\)](#). Passage of the MLA was a recognition of the serious harm abusive consumer financial products do to our service members. It was an important step. But MLA rules are narrowly focused, and the problem has persisted.

In 2006, the Department of Defense (DoD) issued a [“Report on Predatory Lending Practices Directed at Members of the Armed Forces and Their Dependents,”](#) which concluded 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.” In surveys conducted by DoD last year, personal finances ranked second on the list of causes of stress for servicemembers, second only to career concerns. Financial problems are now the top cause of revocation of military security clearances.

The Consumer Financial Protection Bureau – once it is fully up and running with a Director in place – will have the mandate and the tools to take on the range of abusive lending targeting servicemembers and all consumers. And in addition to its general consumer protection mission, it has a particular responsibility to protect servicemembers.

Unfortunately, [Republican leaders in Congress](#) have pledged to impede the CFPB’s work by blocking the nomination of any Director unless the Bureau is first dramatically weakened. Without a Director, the CFPB does not have full authority over the non banks - like payday lenders, student lenders and more - that are among the major sources of problems on and around bases.

About the Military Lending Act

The MLA barred predatory lenders from gouging military families with high-cost credit such as payday loans that trap borrowers in debt and typically carry 400 percent annual interest rates. The MLA capped annual interest rates for consumer credit to military borrowers at 36 percent including all fees and charges, credit insurance premiums and other ancillary charges. The law prohibits loans to servicemembers secured by checks, electronic access to bank accounts and vehicle titles. Rules adopted in 2007 by the Department of Defense (DoD) to implement the MLA narrowly defined covered credit as payday loans, vehicle title loans, and tax refund anticipation loans. The DoD definitions of “covered credit” did not extend the protections of the MLA to credit cards, overdraft loans, military installment loans or any forms of open-end credit. Mortgages and auto purchase loans are also exempt under the law.

- Under a provision of the National Defense Authorization Act for Fiscal Year 2006, the Department of Defense issued its [“Report on Predatory Lending Practices Directed at Members of the Armed Forces and Their Dependents,”](#) and estimated that 17 percent of military personnel used payday loans

The Consumer Financial Protection Bureau and Servicemembers

Office of Service Member Affairs

The legislation creating CFPB specifically required it to establish an Office of Servicemember Affairs (OSA). The office has been up and running since January with Holly Petraeus directing its work. The OSA was created “to educate and empower servicemembers and their families to make better-informed decisions regarding consumer financial products and services; to coordinate with CFPB’s Consumer Response function to monitor consumer complaints by servicemembers and their families; and to coordinate efforts among Federal and State agencies, as appropriate, regarding consumer protection measures relating to consumer financial products and services offered to, or used by, servicemembers and their families.”

Protections for servicemembers; what a fully up and running CFPB with a Director in place can do

For servicemembers who want to buy a home, or protect the home they have bought: The CFPB will, for the first time, provide ongoing federal oversight of both nonbank companies and banks in the mortgage market, and protect borrowers from unfair, deceptive or other illegal mortgage lending practices. The CFPB is taking steps to consolidate and simplify with plain language two overlapping and sometimes inconsistent federal mortgage forms. In addition, the CFPB will work with the Department of Defense and the

Department of Justice to ensure compliance with the Servicemembers Civil Relief Act (SCRA), which applies only mortgages and other forms of debt incurred prior to active duty service. Unfortunately, there have been repeated reports of violations of the SCRA resulting in servicemembers illegally losing their homes.

- **BofA, Morgan Stanley Settle Claims on Military Foreclosures**

Justin Blum (Bloomberg)
May 26, 2011

“Bank of America Corp. and Morgan Stanley units will pay \$22.4 million to resolve U.S. allegations that they improperly foreclosed on active-duty soldiers, including some who suffered severe injuries, without first obtaining court orders. The Bank of America unit will pay \$20 million to settle a lawsuit alleging improper foreclosure on about 160 members of the military between 2006 and 2009, the Justice Department said in a statement today. Morgan Stanley’s Saxon Mortgage Services Inc. unit will pay \$2.35 million to resolve a lawsuit alleging it improperly foreclosed on 17 service members from 2006 to 2009.” [Click here for more.](#)

For servicemembers with student loans: The CFPB will have the ability to regulate private student lenders and fight unfair, deceptive, and abusive acts or practices aimed at servicemembers and their spouses. For-profit colleges are taking millions of dollars in federal student aid money by recruiting and enrolling members of the military, veterans and their families, with dubious results.

- **For-Profit Colleges, Vulnerable G.I.’s**

Hollister K. Petraeus (Washington Post op-ed)
September 21, 2011

“Military personnel and their families are finding themselves under siege from for-profit colleges. A number of these schools focus on members of the armed forces with aggressive and often misleading marketing, and then provide little academic, administrative or counseling support once the students are enrolled. Vast sums are involved: between 2006 and 2010, the money received in military education benefits by just 20 for-profit companies soared to an estimated \$521.2 million from \$66.6 million.” [Click here for more.](#)

For servicemembers caught by unexpected overdraft fees: The CFPB will prevent evasion of rules that give consumers a real choice as to whether to join expensive debit overdraft programs so that they are not unknowingly charged unnecessary fees. The CFPB will have the authority to write new rules if necessary to prevent overdraft abuses.

- **Bank overdraft fees burden local soldier in Iraq**

WKRN-TV (Nashville, TN CBS affiliate)
May 28, 2009

“... Local soldier Taylor Foster saw overdraft fees from his bank bloom to over \$500 while serving in Iraq. Besides the interest that banks make off of money sitting in their vaults, bank fees, like overdraft fees, provide them with billions in revenue each year..... He's serving in Iraq and needed \$300 in supplies, but didn't have the cash, according to his mother Allyson Foster. ...Foster used a military card tied to his Bank of America debit card, but he already had 15 pending charges. He had enough money to cover those charges. Instead of his bank taking those pending charges out first, they took out the \$300 he spent on supplies first, which overdrew his account. Some of the pending charges were as little as 6 cents, but he was charged \$35 for every transaction for a total of \$560.” [Click here for more.](#)

For servicemembers using alternative financial services: The CFPB will establish robust federal supervision and oversight over payday lenders and larger participants in other financial service markets, such as car title lenders and check cashers. The CFPB will combat abusive practices that harm consumers, helping young people avoid hidden fees and keep more money in their wallets.

- While stationed at Camp Pendleton in CA, **Joshua Brack, a former Marine** got a loan from a lender that targets military personnel. The lender advertised "build valuable credit with Omni." The main reason Cpl. Brack decided to do business with them was to improve his credit score. He paid off the loan early. "I was stationed at Camp Pendleton, California, being a young marine right out of high school I didn't have a credit history or a score

established and I was looking to build my credit,” said **Joshua Brack**, a former Marine now living in Springfield, MO. “I had seen a local ad for a military loan company and it said ‘build valuable credit.’...[but in the end] The company told me that they only reported *negative* credit.”

For servicemembers with credit cards: The CFPB will prevent evasion of the Credit CARD Act of 2009, which bans arbitrary rate hikes on existing balances and other unfair practices. It is important to make sure interest rates are clear, particularly for rates being charged to servicemembers who have used credit cards to get by when times are tight.

Empowering servicemembers to make smart financial choices by promoting financial literacy and financial capability: The CFPB promotes consumer financial literacy and capability with a dedicated office focused on ensuring that the CFPB’s expertise and research are used to help raise awareness, educate and empower consumers to avoid unfair practices, and make the best financial choices for themselves.