



WASHINGTON, D.C.

99 M Street SE
Suite 300
Washington, D.C. 20003-3799

Phone: 202-638-5777

Fax: 202-638-7734

September 20, 2018

Mr. Andrew Cohen
Office of Financial Readiness at Office of Under Secretary of Defense
1000 Defense Pentagon
Washington, DC 20301

Re: Withdrawal of Question & Answer 2 from the Guidance to the Department of Defense's Military Lending Act Regulation

On behalf of America's credit unions, I am writing the Department of Defense (DoD) regarding withdrawal of Question and Answer 2 (QA2) from DoD's guidance to the Military Lending Act (MLA) regulation. The Credit Union National Association (CUNA) represents America's credit unions and their 110 million members.

Since the MLA Regulation¹ was adopted in 2015, the DoD has twice issued guidance—the Interpretive Rule in 2016² and amendments to the Interpretive Rule in 2017³—in an effort to clarify confusion with aspects of the regulation. In general, the Interpretive Rule as issued in 2016 and amended in 2017 has been beneficial to credit unions, as it provides answers to long-standing questions among creditors.

However, while some of the 2017 revisions to the Interpretive Rule are helpful, aspects of the 2017 changes are problematic, including QA2, which addresses certain credit extended for the purchase of a motor vehicle or personal property. Specifically, the revised answer to Question 2 indicates that a credit transaction that also finances a credit-related product or service—such as GAP or credit insurance—rather than a product or service expressly related to the motor vehicle or personal property would not qualify for exemption from the requirements of the MLA Regulation.⁴

As we have conveyed to the DoD previously, this language in the revised guidance is harmful and seemingly inconsistent with a common reading of the regulatory text. In addition to the likely financial harm this additional language will have on servicemembers, it has already lead to uncertainty and confusion in the market. Therefore, we urge the DoD to immediately withdraw in its entirety QA2.

¹ 80 Fed. Reg. 43,560 (July 22, 2015).

² 81 Fed. Reg. 58,840 (Aug. 26, 2016).

³ 82 Fed. Reg. 58,739 (Dec. 14, 2017).

⁴ 82 Fed. Reg. at 58,740.

CUNA and other financial trade associations have been pressuring the DoD to address QA2 since it was issued late last year. We were glad to hear that the DoD has agreed to a “fix” to QA2 and has provided that change to the Office of Management and Budget for review prior to publication in the Federal Register. However, it is unclear why it has taken so many months to push this innocuous change through the process.

With hurricane season upon us, it is now more important than ever that the problematic language of QA2 be corrected. GAP insurance is an important tool for protecting a critical asset when unforeseen circumstances—such as a major storm—arise. We are fearful that the current treatment of GAP insurance as described in the 2017 Interpretive Rule may result in a lack of coverage, which could lead to major financial challenges for servicemembers and their families that sustain physical damage from a storm.

On behalf of America’s credit unions and their 110 million members, thank you for the reviewing our ongoing concern regarding QA2. We appreciate the DoD’s agreement to address the issue but are concerned with the protracted process. If you have questions about our comments, please do not hesitate to contact us.

Sincerely,

A handwritten signature in blue ink that reads "Luke Martone". The signature is written in a cursive, flowing style.

Luke Martone
Senior Director of Advocacy & Counsel

Cc: Director Mick Mulvaney, Office of Management and Budget