

REGULATORY ALERT

NATIONAL CREDIT UNION ADMINISTRATION
1775 DUKE STREET, ALEXANDRIA, VA 22314

DATE: October 2007 **NO.:** 07-RA-08

TO: Federally Insured Credit Unions

SUBJECT: Department of Defense Final Rule, 32 C.F.R. Part 232
“Limitations on Terms of Consumer Credit Extended to Service
Members and Dependents”

ENCL: 32 C.F.R. Part 232

Dear Board of Directors:

We are advising credit unions about a new regulation the Department of Defense (DoD) published that places additional requirements on lenders offering certain specific types of short term, closed end, consumer loan products to members of the military and their dependents. DoD developed the new rule as required by the John Warner National Defense Authorization Act for Fiscal Year 2007. The new rule becomes effective October 1, 2007.

DoD has published the enclosed final rule stipulating the terms of certain credit extensions to active duty service members and their dependents (“covered borrowers”). The rule applies to all financial institutions engaged in the business of extending consumer credit and their assignees. The final rule applies to “consumer credit,” which the DoD defines as “payday loans,” “vehicle title loans,” and “tax refund anticipation loans” that meets specific parameters. For these defined transactions with covered borrowers (“covered transactions”), the DoD rule:

- Limits interest to a 36 percent “military annual percentage rate (MAPR)” that comprises all fees and charges, including those for single premium credit insurance and other ancillary products (i.e., those not directly related to the cost of borrowing) sold in connection with the transaction; and
- Requires that certain oral and written loan disclosures be provided before the issuance of the covered transaction.¹

¹ Credit unions offering “consumer credit,” as defined by DoD, to “covered borrowers” will need to comply with the both the new rule mandating the disclosure of the MAPR and all other existing lending regulations, such as disclosing the Annual Percentage Rate in accordance with Regulation Z.

The DoD rule provides:

- The language for applicable consumer disclosures;
- The method for calculating the MAPR (as opposed to the Truth in Lending Act APR);
- The maximum amount and types of fees that may be charged; and
- A “safe harbor” for identifying covered borrowers, including a model borrower identification statement that creditors may use.

The DoD rule prohibits implementing certain loan terms such as:

- requiring mandatory arbitration;
- requiring borrowers to sign a waiver of legal rights;
- requiring unreasonable notice requirements as a condition for legal action;
- requiring payment by allotment; and
- requiring prepayment penalties.

The rule further limits or restricts:

- rollovers and refinancings; and
- the use of a check or other method of access to a covered borrower’s account.

Creditors offering any covered transactions are subject to criminal and civil penalties if they violate the rule. Moreover, consumer credit contracts that are not in compliance with the rule will be deemed void from inception.

The final rule will take effect on October 1, 2007. It will apply to covered transactions that are consummated on or after that date. All creditors that offer any covered transactions are expected to be in full compliance by October 1, 2007.

If you should have any questions about how to interpret these requirements, we recommend you contact appropriate legal counsel.

Sincerely,

/s/

JoAnn Johnson
Chairman

Enclosure