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October 22, 2007

Advisory Announcing the Department of Defense Final Rule on Limitations on Consumer Credit Extended to Service Members and Dependents

The Department of Defense (DoD) has published the final rule that stipulates the terms of certain credit extensions to active duty service members and their dependents (“covered borrowers”). The rule applies to all persons 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 meet 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 sold in connection with the transaction; and
- Requires that certain oral and written loan disclosures be provided before the issuance of the covered transaction.

The DoD rule provides:

- The 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:

- mandatory arbitration;



- waiver of legal rights;
- unreasonable notice requirements as a condition for legal action;
- payment by allotment; and
- 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 went into effect on October 1, 2007. It applies 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 that date. The Kentucky Office of Financial Institutions will monitor compliance with this ruling during our routine examinations.

For details on this rule see the following link:

<http://a257.g.akamaitech.net/7/257/2422/01jan20071800/edocket.access.gpo.gov/2007/pdf/07-4264.pdf>.

Very Truly Yours,

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