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Statement on Proposed Department of Defense Predatory Lending Regulations

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We have frequently commended the Department of Defense for concluding that payday and other high-cost loans are harmful and abusive, and support the Pentagon's commitment to protecting its military families from financial exploitation. However, the regulations they have proposed in attempting to carry out the landmark Military Lending Act include loopholes that will allow payday and other predatory lenders to tweak their products and continue trapping borrowers into high-cost loans. The proposed regulations also inexplicably exempt some high-cost loans that have been criticized by the Pentagon and are covered under the law, such as military installment loans.

A rigorously enforced 36 percent cap on annual interest rates, which was legislated by Congress in the Military Lending Act, would prevent predatory lenders from gouging military borrowers. However, the proposed regulations are so narrowly defined that abusive lenders will still have the opportunity to market a number of high-cost loan products carrying well over 36 percent interest. The regulations as written will actually undermine the Pentagon's attempt to protect the quality of life of military families and the military readiness of the armed forces.

The Military Lending Act prohibits high-cost installment loans, but the proposed regulations would allow them. Payday lenders have marketed such loans in states where their narrowly-defined payday product is prohibited. The regulations would also allow open-ended credit products over 36 percent interest, making the rate cap meaningless for all but a very specific type of loan. Expensive military installment loans, credit cards, and bounce loans would also be permitted under the proposed rules. Despite Congress' clear intent to prevent credit insurance "packing" by installment lenders – a well known dodge to avoid interest rate caps – this would be permitted under the proposed rules.

The Military Lending Act was enacted as part of the John Warner National Defense Authorization Act last fall, after the Department of Defense reported its predatory lending crisis to Congress. A bipartisan amendment to the Authorization Act sponsored by Senators Jim Talent and Bill Nelson caps rates for credit at 36 percent annual interest, including fees and credit insurance premiums.

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Among other protections, it prohibits loans based on personal checks, on electronic access to bank accounts, on car titles, or on wage allotments. The law applies to all forms of credit except for home and auto loans.

While the Consumer Federation of America, the Center for Responsible Lending and the National Consumer Law Center strongly agree that the narrowly defined payday loans, car title loans and refund anticipation loans covered in the regulations do harm military families, we are concerned that the rules as written will leave these service members vulnerable to other types of loans at higher than 36 percent interest.

We urge the Department of Defense to follow three basic principles in crafting Military Lending Act rules: (a) the primary goal should be to protect our servicemen and women, and, in doing so, our national security; (b) protect against high-cost lending, irrespective of what creditor issues it, or what form the credit takes; and (c) impose the 36 percent annual rate cap to include all fees and costs of credit. We hope that the Department of Defense will improve the proposed rules to follow these guidelines and provide the protections intended by Congress.

These loans would be allowed under the Department of Defense's proposed regulations:

- Advance America offered an open-end loan in Pennsylvania that included a $149 monthly "participation fee" plus a nominal interest of 6 percent. The effective annual interest on a $500 loan is 364 percent. This would be permitted under the proposed rules.
- Most payday lenders in Illinois now structure their triple-digit interest loans with terms that exceed the 120-day definition of Illinois law. This would be permitted under the proposed rules.
- A sailor reported getting a subprime credit card from a South Dakota bank that imposed $294.60 in fees for $84.85 in purchases after just two months. This open-end credit card cost over 2,000 percent interest. This would be permitted under the proposed rules.
- First Bank of Delaware offers 350 percent internet installment loans through PurposeLoans.com. These loans could be offered to Service Members if the payment period is extended from 6 to 13 weeks under the proposed rules.
- In asking Congress for action last fall, Admiral Charles Abbot, director of the Navy-Marine Corp Relief Society, testified before the Senate Banking Committee that an installment loan from a California company cost a Service member $30,000 to repay $5,000 over a ten year period.