

Memo

To: American Financial Dealer Partners
From: American Financial & Automotive Services, Inc.
Date: December 21, 2017
Subject: Recent Updates to the Military Lending Act

The recent Department of Defense interpretation of the Military Lending Act (MLA) has brought an auto dealer's role as a creditor under scrutiny. We agree with the NADA's recent direction that an auto dealer who engages in sales to members of the military (or their dependents) will ultimately need to decide whether they will comply with the MLA requirements OR discontinue offering cash out financing OR discontinue selling products such as credit insurance and GAP to those military members.

Members of the military that are subject to the MLA can easily be identified by accessing the Military Lending Act Website at <https://mla.dmdc.osd.mil/mla/#/home>.

If a dealer chooses to comply with the MLA on a go forward, they will be required to adhere to additional duties found in section 32 under the code of federal regulations (CFR). Most notably will be the Mandatory Loan Disclosures required under 32 CFR 232.6 that, at a minimum, requires the following (or some verbiage that is substantially similar) to be disclosed orally and in writing:

A statement of the Military Annual Percentage Rate (MAPR) applicable to the extension of consumer credit;

Model statement. A statement substantially similar to the following statement may be used for the purpose of paragraph (a)(1) of this section: "Federal law provides important protections to members of the Armed Forces and their dependents relating to extensions of consumer credit. In general, the cost of consumer credit to a member of the Armed Forces and his or her dependent may not exceed an annual percentage rate of 36 percent. This rate must include, as applicable to the credit transaction or account: The costs associated with credit insurance premiums; fees for ancillary products sold in connection with the credit transaction; any application fee charged (other than certain application fees for specified credit transactions or accounts); and any participation fee charged (other than certain participation fees for a credit card account)."

In addition, a proper MAPR calculation is critical to ensure compliance. The MAPR is an additional calculation beyond the truth in lending APR dealers disclose to every customer. MAPR normally has fewer fees excluded and applicable ancillary product sales pricing included, but the MLA requirements make an accurate calculation a difficult proposition. A dealer's partnering lending institutions may be able to assist with precise and compliant calculations.

This above information and the related content found in outside suggested sources, such as websites, are not intended to be legal advice and is for informational purposes only. Please note that there are some states that have regulations specifically protecting the military from discrimination. We strongly suggest you discuss MLA compliance with your local legal counsel before embarking on or withholding sales to any covered person.

For additional questions or concerns, please contact your personal legal counsel or your Dealership Development Manager.