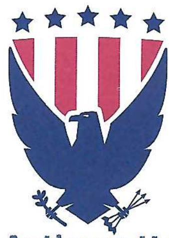

DCUC
DEFENSE CREDIT UNION COUNCIL

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July 17, 2020

The Honorable Jack Reed
United States Senator
728 Hart Senate Office Building
Washington, D.C. 20510

Re: Concerns with Veterans and Consumers Fair Credit Act (S. 2833)

Dear Senator Reed:

On behalf of America's 181 Defense Credit Unions and over 25 million members, I am writing to express our ongoing concerns regarding the unintended consequences created by the Military Lending Act and the potential of duplicating these issues in the Veterans and Consumers Fair Credit Act (S. 2833). While we are thankful for many of the changes in the bill, particularly the express exemptions for loans made by federal credit unions along with transferring MLA rulemaking authority from DoD to the CFPB, we remain concerned with restrictions on indirect lending as they relate to the auto purchasing process. The Defense Credit Union Council advocates for all defense credit unions located on every United States military installation around the world and champions the financial safety and inclusion of our military members as our top advocacy goal.

Indirect lending restrictions can negatively impact the financial health of our military families. Historic and current trends indicate that most military members finance their vehicles directly through the dealership. In fact, this is how many 18-20 year olds conduct their auto purchases. Unfortunately, as a consequence of the MLA, virtually all auto dealerships no longer offer a GAP (Guaranteed Asset Protection) product to military as a result of DoD rulemaking. This is discriminatory since non-military members are offered a choice during the sales presentation while military members are left on their own. The majority drive off the lot without credit protection.

While military can still purchase a GAP product after the purchase, DoD assumed military members were financially saavy enough to protect their loans and would find the time in their busy lives to take this additional step. Yet, many remain vulnerable and, as a result, have to find funds to repay the difference between the insurance settlement and the value of the loan when their auto is damaged or stolen. On average, a military member is faced with finding $3,500 to $7,000 to pay off the note or roll the negative equity into a new loan. The irony is that the MLA actually forced the very people its aimed to protect into the arms of the financial predators that credit unions guard against.

The aftermath of Hurricanes Florence and Michael in 2018 led to exact scenario described above when thousands of automobiles were lost or damaged in the storms. The outcry as people suddenly found themselves in more debt caused DoD to finally reverse its interpretive rule last February. We hope to avoid this same scenario in future legislation before the Congress.

Currently, the MLA exempts two loan types: "(A) a residential mortgage, or (B) a loan procured in the course of purchasing a car or other personal property, when that loan is offered for the express purpose of financing the purchase and is secured by the car or personal property procured." These loans are described as direct loans.

However, the amendment does not address the larger segment of indirect auto loans, which is typically how most Americans purchase automobiles. Indirect auto loans could only be exempted from the MLA if they fall under MLA's existing subparagraph (B), which the amendment does not change. Through its interpretive rules, DOD has made it very difficult for indirect auto loans to qualify under subparagraph (B) particularly when there is a lack of clarity around add-on products for auto purchase loans. Without an exemption, the MLA prohibits a security interest from being taken in the car being purchased with the loan made by an auto dealer. The lack of taking a security interest creates a safety and soundness issue for many credit unions. Consequently, it is the military member who ultimately suffers.

To resolve this issue, we recommend changes to subparagraph (B), such as removing "for the express purpose of financing the purchase," as that is the language DOD has relied on in all its problematic interpretations. We also recommend changing the language of the federal credit union loan exemption to cover loans made or purchased by a federal credit union. Subparagraph (C) would read:

> ''(C) a loan made or purchased by a Federal credit union, as that term is defined in section 101 of the Federal Credit Union Act (12 U.S.C. 11 1752), subject to the usury limit provided under section 107(5)(A) of the Federal Credit Union 13 Act (12 U.S.C. 1757(5)(A)), as implemented by the National Credit Union Administration Board."

Finally, while we applaud the move or MLA rule-making authority from the DoD to the CFPB, we believe the NCUA would be better suited to develop appropriately balanced MLA rules. The NCUA is similarly focused on issues of consumer protection and financial inclusion while better understanding the safety and soundness concerns of its members. This could be done in concert with the FDIC and other financial regulators.

Thank you once again for inserting language in S. 2833 that exempts loans made by federal credit unions with interest rates at or below NCUA's usury cap and moving rule-making from DoD to the CFPB. As part of our ongoing commitment to securing our members' financial well-being, the Defense Credit Union Council hopes we can help improve financial legislation as we continue to support our Nation's military, their families, and communities. This is how we serve over 25 million consumers who comprise our membership.

If there is anything more we can do to provide additional information on this or other important measures, please let us know. My office can be reached at (202) 734-5007 or at ahernandez@dcuc.org.

Sincerely,

Anthony R. Hernandez