

PART 232—LIMITATIONS ON TERMS OF CONSUMER CREDIT EXTENDED TO SERVICE MEMBERS AND DEPENDENTS

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AUTHORITY: 10 U.S.C. 987.

SOURCE: 72 FR 50591, August 31, 2007, unless otherwise noted.

§ 232.1 Authority, purpose, and coverage.

(a) *Authority.* This part is issued by the Department of Defense to implement 10 U.S.C. 987.

(b) *Purpose.* The purpose of this part is to impose limitations on the cost and terms of certain defined extensions of consumer credit to Service members and their dependents, and to provide additional consumer disclosures for such transactions.

(c) *Coverage.* This part defines the types of consumer credit transactions, creditors, and borrowers covered by the regulation, consistent with the provisions of 10 U.S.C. 987. In addition, the regulation:

(1) Provides the maximum allowable amount of all charges, and the types of charges, that may be associated with a covered extension of consumer credit;

(2) Requires creditors to disclose to covered borrowers the cost of the transaction as a total dollar amount and as an annualized percentage rate referred to as the Military Annual Percentage Rate or MAPR, which must be disclosed before the borrower becomes obligated on the transaction. The disclosures required by this regulation differ from and are in addition to the disclosures that must be provided to consumers under the Federal Truth in Lending Act;

(3) Provides for the method creditors shall use in calculating the MAPR, and;

(4) Contains such other criteria and limitations as the Secretary of Defense has determined appropriate, consistent with the provisions of 10 U.S.C. 987.

§ 232.2 Applicability.

This part applies to consumer credit extended by creditors to a covered borrower, as those terms are defined in this part.

§ 232.3 Definitions.

Terms used in this part are defined as follows:

(a) *Closed-end credit* means consumer credit other than “open-end credit” as that term is defined in Regulation Z (Truth in Lending), 12 CFR part 226.

(b) *Consumer credit* means closed-end credit offered or extended to a covered borrower primarily for personal, family or household purposes, as described in paragraph (b)(1) of this section.

(1) Except as provided in paragraph (b)(2) of this section, consumer credit means the following transactions:

(i) *Payday loans.* Closed-end credit with a term of 91 days or fewer in which the amount financed does not exceed \$2,000 and the covered borrower:

(A) Receives funds from and incurs interest and/or is charged a fee by a creditor, and contemporaneously with the receipt of funds, provides a check or other payment instrument to the creditor who agrees with the covered borrower not to deposit or present the check or payment instrument for more than one day, or;

(B) Receives funds from and incurs interest and/or is charged a fee by a creditor, and contemporaneously with the receipt of funds, authorizes the creditor to initiate a debit or debits to the covered borrower’s deposit account (by electronic fund transfer or remotely created check) after one or more days. This provision does not apply to any right of a depository institution under statute or common law to offset indebtedness against funds on deposit in the event of the covered borrower’s delinquency or default.

(ii) *Vehicle title loans.* Closed-end credit with a term of 181 days or fewer that is secured by the title to a motor

vehicle, that has been registered for use on public roads and owned by a covered borrower, other than a purchase money transaction described in paragraph (b)(2)(ii) of this section.

(iii) *Tax refund anticipation loans.* Closed-end credit in which the covered borrower expressly grants the creditor the right to receive all or part of the borrower's income tax refund or expressly agrees to repay the loan with the proceeds of the borrower's refund.

(2) For purposes of this part, consumer credit does not mean:

(i) Residential mortgages, which are any credit transactions secured by an interest in the covered borrower's dwelling, including transactions to finance the purchase or initial construction of a dwelling, refinance transactions, home equity loans or lines of credit, and reverse mortgages;

(ii) Any credit transaction to finance the purchase or lease of a motor vehicle when the credit is secured by the vehicle being purchased or leased;

(iii) Any credit transaction to finance the purchase of personal property when the credit is secured by the property being purchased;

(iv) Credit secured by a qualified retirement account as defined in the Internal Revenue Code; and

(v) Any other credit transaction that is not consumer credit extended by a creditor, is an exempt transaction, or is not otherwise subject to disclosure requirements for purposes of Regulation Z (Truth in Lending), 12 CFR part 226.

(c) *Covered borrower* means a person with the following status at the time he or she becomes obligated on a consumer credit transaction covered by this part:

(1) A regular or reserve member of the Army, Navy, Marine Corps, Air Force, or Coast Guard, serving on active duty under a call or order that does not specify a period of 30 days or fewer, or such a member serving on Active Guard and Reserve duty as that term is defined in 10 U.S.C. 101(d)(6), or

(2) The member's spouse, the member's child defined in 38 U.S.C. 101(4), or an individual for whom the member provided more than one-half of the individual's support for 180 days imme-

diately preceding an extension of consumer credit covered by this part.

(d) *Credit* means the right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment.

(e) *Creditor* means a person who is engaged in the business of extending consumer credit with respect to a consumer credit transaction covered by this part. For the purposes of this section, "person" includes a natural person, organization, corporation, partnership, proprietorship, association, cooperation, estate, trust, and any other business entity and who otherwise meets the definition of "creditor" for purposes of Regulation Z.

(f) *Dwelling* means a residential structure that contains one to four units, whether or not the structure is attached to real property. The term includes an individual condominium unit, cooperative unit, mobile home, and manufactured home.

(g) *Electronic fund transfer (EFT)* has the same meaning for purposes of this part as in Regulation E (Electronic Fund Transfers) issued by the Board of Governors of the Federal Reserve System, 12 CFR part 205.

(h) *Military annual percentage rate (MAPR).* The MAPR is the cost of the consumer credit transaction expressed as an annual rate. The MAPR shall be calculated based on the costs in this definition but in all other respects it shall be calculated and disclosed following the rules used for calculating the Annual Percentage Rate (APR) for closed-end credit transactions under Regulation Z (Truth in Lending), 12 CFR part 226.

(1) The MAPR includes the following cost elements associated with the extension of consumer credit to a covered borrower if they are financed, deducted from the proceeds of the consumer credit, or otherwise required to be paid as a condition of the credit:

(i) Interest, fees, credit service charges, credit renewal charges;

(ii) Credit insurance premiums including charges for single premium credit insurance, fees for debt cancellation or debt suspension agreements; and

(iii) Fees for credit-related ancillary products sold in connection with and

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either at or before consummation of the credit transaction.

(2) The MAPR does not include:

(i) Fees or charges imposed for actual unanticipated late payments, default, delinquency, or similar occurrence;

(ii) Taxes or fees prescribed by law that actually are or will be paid to public officials for determining the existence of, or for perfecting, releasing, or satisfying a security interest;

(iii) Any tax levied on security instruments or documents evidencing indebtedness if the payment of such taxes is a requirement for recording the instrument securing the evidence of indebtedness; and

(iv) Tax return preparation fees associated with a tax refund anticipation loan, whether or not the fees are deducted from the loan proceeds.

(i) *Regulation Z* means any of the rules, regulations, or interpretations thereof, issued by the Board of Governors of the Federal Reserve System to implement the Truth in Lending Act, as amended, from time to time, including any interpretation or approval issued by an official or employee duly authorized by the Board of Governors of the Federal Reserve System to issue such interpretations or approvals. Words that are not defined in this regulation have the meanings given to them in Regulation Z (12 CFR part 226) issued by the Board of Governors of the Federal Reserve System (the "Board"), as amended from time to time, including any interpretation thereof by the Board or an official or employee of the Federal Reserve System duly authorized by the Board to issue such interpretations. Words that are not defined in this regulation or Regulation Z, or any interpretation thereof, have the meanings given to them by State or Federal law, or contract.

§ 232.4 Terms of consumer credit extended to covered borrowers.

(a) Neither a creditor who extends consumer credit to a covered borrower nor an assignee of the creditor shall require the member or dependent to pay a military annual percentage rate (MAPR) with respect to such extension of credit, except as—

(1) Agreed to under the terms of the credit agreement or promissory note;

(2) Authorized by applicable State or Federal law; and

(3) Not specifically prohibited by this part.

(b) A creditor described in paragraph (a) of this section or an assignee may not impose an MAPR greater than 36 percent in connection with an extension of consumer credit to a covered borrower.

§ 232.5 Identification of covered borrower.

(a) This part shall not apply to a consumer credit transaction if the conditions described in paragraphs (a)(1) and (a)(2) of this section are met:

(1) Prior to becoming obligated on the transaction, each applicant is provided with a clear and conspicuous "covered borrower identification statement" substantially similar to the following statement and each applicant signs the statement indicating that he or she is or is not a covered borrower:

Federal law provides important protections to active duty members of the Armed Forces and their dependents. To ensure that these protections are provided to eligible applicants, we require you to sign one of the following statements as applicable:

I AM a regular or reserve member of the Army, Navy, Marine Corps, Air Force, or Coast Guard, serving on active duty under a call or order that does not specify a period of 30 days or fewer.

I AM a dependent of a member of the Armed Forces on active duty as described above, because I am the member's spouse, the member's child under the age of eighteen years old, or I am an individual for whom the member provided more than one-half of my financial support for 180 days immediately preceding today's date.

—OR—

I AM NOT a regular or reserve member of the Army, Navy, Marine Corps, Air Force, or Coast Guard, serving on active duty under a call or order that does not specify a period of 30 days or fewer (or a dependent of such a member).

Warning: It is important to fill out this form accurately. Knowingly making a false statement on a credit application is a crime

(2) The creditor has not determined, pursuant to the optional verification procedures in paragraphs (b) or (c) of