

January 7, 2019

Federal Trade Commission
Office of the Secretary
600 Pennsylvania Avenue, NW
Suite CC-5610 (Annex B)
Washington, DC 20580

Re: *Military Credit Monitoring Rulemaking, Matter No. R811007*

To Whom It May Concern:

The American Financial Services Association (AFSA)¹ submits this letter in response to the Federal Trade Commission's (FTC) request for comment on a proposed rule to implement the credit monitoring provisions applicable to active duty military consumers in section 302 of the Economic Growth, Regulatory Relief, and Consumer Protection Act, which amends the Fair Credit Reporting Act (FCRA). This section requires nationwide consumer reporting agencies to provide free electronic credit monitoring service to active duty military consumers. Our letter includes a general request and a specific recommendation for the proposed rule.

In general, while AFSA believes that this law and implementing regulation will be beneficial to many Americans currently serving their country, our request is that the FTC ensure that the restrictions in the rule do not lead to unintended consequences. AFSA appreciates the courage and sacrifices made by members of the armed forces—and their families—and wishes to ensure, as a matter of public policy, that service members enjoy the same full access to the credit markets as their civilian counterparts.

The restrictions laid out in the proposed section 609.3(d) limit the consumer reporting agencies' use and disclosure of information they collect from consumers as a result of a consumer's request to obtain the free electronic credit monitoring service. AFSA understands that the FTC wants to restrict "secondary" use and disclosure of information collected from active duty military consumers seeking to obtain free electronic credit monitoring service.

While these restrictions may be appropriate, AFSA believes that the FTC should ensure that none of the restrictions prevent the study of the use of credit by members of the military. Specifically, AFSA has encouraged the Department of Defense (DOD) to study the effect that the Military Lending Act (MLA) regulations are having on the availability of credit.

It would be useful to the DOD, service members, lawmakers, and industry to gather empirical data to assess the impact the 2015 regulations have had on credit availability. Last year, AFSA asked the consumer reporting agencies to provide a snapshot of credit availability before and after the regulations' October 2016 effective date. A before-and-after snapshot would demonstrate whether service members could obtain installment loans before the regulation went into effect, but were unable to do so afterwards.

¹ Founded in 1916, AFSA is the national trade association for the consumer credit industry, protecting access to credit and consumer choice. AFSA members provide consumers with many kinds of credit, including traditional installment loans, mortgages, direct and indirect vehicle financing, payment cards, and retail sales finance.

We ask that the FTC not only ensure that its regulations do not prevent such a study, but also that the FTC encourage the DOD to grant permission to the consumer reporting agencies to pull this type of data from the MLA database. Previously, the credit bureaus asked for permission to do a data run, but the DOD denied the request. The DOD cited privacy concerns as the reason for the denial. AFSA believes that as long as the credit bureaus anonymize the data, service members' privacy will be protected.

In addition to our general request, we have one specific recommendation. The proposed rule specifies that acceptable documents to show proof of active duty include: (1) a copy of the consumer's active duty military orders; (2) a copy of a certification of active duty status issued by the DOD; (3) a method or service approved by the DOD; or (4) a certification of active duty status approved by the nationwide consumer reporting agency. Methods for determining active duty status should also include a letter from the consumer's commanding officer, which is an appropriate indicator of military service.

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Thank you for the opportunity to share our views. Please contact me by phone, 202-466-8616, or email, bhimpler@afsamail.org, with any questions.

Sincerely,



Bill Himpler

President-elect

American Financial Services Association