

ALL-IN APR

On October 3, 2016, the Military Lending Act (MLA) became effective. Military Lending Act regulations restrict the terms on certain consumer loans made to military personnel, their spouses, and dependents. Among other things, the act prohibited creditors from charging an interest rate higher than 36% on most types of consumer loans.

Though a 36% cap has been a common approach to regulating consumer finance in recent years, the MLA went further by including in the law a new definition of APR – the so-called Military APR or MAPR. This definition included in the calculation of APR, aspects of loan cost not covered by the Truth-in-Lending Act (TILA) definition. These additional elements included (with certain exceptions), finance charges, credit insurance premiums or fees, ancillary products sold in connection with the credit, and other fees like application or participation fees.

The example of MAPR has inspired some states to consider laws which include a similar definition of APR, commonly referred to as “All-In APR”. The potential widespread adoption of non-TILA definitions of APR has been seen by many as problematic, on the grounds that TILA is intended to promote the informed use of consumer credit through clear and unequivocal disclosures relating to the terms and costs of credit.

Annual Percentage Rate (APR) is a required disclosure of the cost of consumer credit under TILA and is a defined and well-understood term under TILA that has been the standard measure for comparing like credit products for decades. Furthermore, under Reg. Z, ancillary product fees are not considered finance charges. Thomas A. Durkin, a former Federal Reserve Senior Economist commented on this, saying,

“If ancillary products are not required as part of the credit, then the fees for them are not payment for the credit granted [,] and the fees economically are not finance charges.”

Observers note that an additional disclosure alongside TILA of an All-In APR rate, could very well be determined to violate TILA’s “clear and conspicuous” requirements, with courts and regulators prohibiting creditors from advertising and disclosing an APR term that is calculated in a way that is different to that which is laid out in Regulation Z. Regulators consider creditor’s use of an APR variant as a particularly pernicious TILA violation because such behavior undermines the universality of the term.

AFSA’S POSITION

AFSA believes the introduction of the so-called “Military APR” (“MAPR”) and other versions of All-In APR undermines TILA because it adds to the APR calculation the cost of goods, services, or insurance that are unrelated to the cost of credit, and which are not comparable from credit product to credit product.

For nearly 50 years, TILA has provided a standard of how to calculate APR, ensuring that all references to APR are consistent and require little interpretation. Until the All-In APR all creditors calculated APR the same way--the TILA way. This allowed consumers to draw conclusions as to the comparative costs of similar loan products. It also ensured consistency in disclosures relating to voluntary ancillary products. TILA benefits consumers by ensuring a single uniform disclosure of the cost of credit as well as any voluntary ancillary products.

In this way, All-In APR obscures the true cost of credit. Since its introduction, it has proved tremendously confusing for consumers, because creditors must disclose two APRs to military consumers—the All-In APR and the decades old TILA-defined APR—and creditors must still provide separate TILA disclosures relating to voluntary ancillary products.