POLITICS

The New York Times

Mulvaney Looks to Weaken Oversight of Military Lending

By Glenn Thrush

Aug. 10, 2018

The Trump administration is planning to suspend routine examinations of lenders for violations of the Military Lending Act, which was devised to protect military service members and their families from financial fraud, predatory loans and credit card gouging, according to internal agency documents.

Mick Mulvaney, the interim director of the Consumer Financial Protection Bureau, intends to scrap the use of so-called supervisory examinations of lenders, arguing that such proactive oversight is not explicitly laid out in the legislation, the main consumer measure protecting active-duty service members, according to a two-page draft of the change.

The agency's move comes as a Senate committee prepares to vote on the nomination of Kathleen Kraninger to succeed Mr. Mulvaney as chief of the consumer watchdog, which is responsible for protecting consumers from financial abuse.

The proposal surprised advocates for military families, who have urged the government to use its powers to crack down harder on unscrupulous lenders. The consumer bureau conducted dozens of investigations into payday and other lenders during the Obama administration without any significant legal opposition, and no lenders are currently challenging its oversight based on the law, according to administration officials.

The bureau will still bring individual cases against lenders who are found to charge in excess of the annual interest rate cap of 36 percent mandated under the law, and continue to supervise lenders under other statutes. But it will scrap supervisory examinations, which are the most powerful tool for proactively uncovering abuses and patterns of illegal practices by companies suspected of wrongdoing, former consumer bureau enforcement officials said.

John Czwartacki, a spokesman for Mr. Mulvaney, said the rule change came from a top-to-bottom review of the bureau's procedures geared at curtailing what the administration, along with lending industry executives, have criticized as overly aggressive enforcement by the bureau's first director, Richard Cordray.

The agency's supervisory exams have been critical in uncovering previous instances of wrongdoing and led to several of its biggest fines. In 2014, the bureau fined one of the largest payday lenders in the country, Ace Cash Express, $10 million after determining the company, based in Texas, steered low-income borrowers, including those in the military, into a succession of financially damaging high-interest loans.

Instead of conducting examinations that might find similar patterns, the bureau will now rely solely on complaints funneled through its website, hotlines, the military and people who believe they have been victims of abuse.

"It will go from a proactive system to something that is completely reactive," said Christopher L. Peterson, a University of Utah law professor who served in a variety of top positions at the bureau from 2012 to 2016. "Over time, it is going to have a real impact on the lives of these people who devote their lives to the service of our country."

Mr. Czwartacki, who said Mr. Mulvaney is urging Congress to quickly pass a measure that would give him the power to resume supervisory examinations, noted that the agency's goal was "to protect service members, but we also have to abide by the law."

"We are 100 percent committed to seeing that happens," he added.

But the banking and payday industries are likely to fight any such legislation and quick passage is anything but guaranteed. The industry has been lobbying to loosen enforcement for years, in part by trying to exempt an array of fees from the 36 percent rate cap.

Industry groups, while expressing broad support for protecting members of the military from financial predators, have tried to chip away at restrictions imposed on lenders under the law. In June 2017, the Consumer Bankers Association, a trade association that represents banks, sent the Defense Department a lengthy list of changes to the law that would benefit its membership.

“It’s basically about greed,” said Senator Jack Reed, Democrat of Rhode Island, who is a co-sponsor of the bill. “The industry has been pushing for this because they want to make more than 36 percent — I mean, who needs more than 36 percent to make a profit?”

“We need a constant and systematic review of these companies — not just individual cases brought by the executive officer of a unit, reporting one incident at a time,” said Mr. Reed, who observed financial abuses firsthand when he served as a company commander in the 82nd Airborne Division in Fort Bragg, N.C. in the 1970s.

Many service members enter the military in their late teens or early 20s with little credit history, and are often targeted by auto loan financiers, credit card companies and retail stores that hide high financing costs behind low down payments and short-term teaser rates.

Over the last decade, Department of Defense studies have found that military members, their families and veterans are four times as likely to be targeted by unscrupulous lenders. Money woes, the studies also found, are a significant source of morale problems among service members.

Since its creation under the Obama administration in 2011, the consumer agency has returned more than $130 million to service members, veterans and their families and handled more than 72,000 complaints per year, according to the agency.

The first head of the board’s service member lending division was Holly Petraeus, who worked with the Pentagon to close loopholes in the law, resulting in a slate of rules changes in 2015 that restricted the amounts and rates of auto, payday and tax-refund anticipation loans.

“When I drive down the strip outside a military installation and count 20 fast-cash lenders in less than four miles, that’s not a convenience, that’s a problem,” she said in a news release at the time.

Correction: *August 13, 2018*
Earlier versions of this article misidentified the Consumer Bankers Association. It is a trade association that represents only banks, and not auto, payday and other retail lenders.

A version of this article appears in print on Aug. 11, 2018, on Page B4 of the New York edition with the headline: Consumer Bureau Eyes Halt on Military Lender Checks