

**From:** [McGill, Yolanda \(CFPB\)](#)  
**To:** [Morgan, Hallee \(CFPB\)](#); [Silberman, David \(CFPB\)](#)  
**Cc:** [Cochran, Kelly \(CFPB\)](#); [Campbell, Patrick \(CFPB\)](#)  
**Subject:** MLA Monthly Digest September 2018  
**Date:** Tuesday, October 02, 2018 10:42:25 AM  
**Attachments:** [MLA Monthly Digest September 2018.doc](#)

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Good morning,

Attached is the MLA digest for September 2018, please let me know if you have any questions or concerns.

**Yolanda D. McGill**

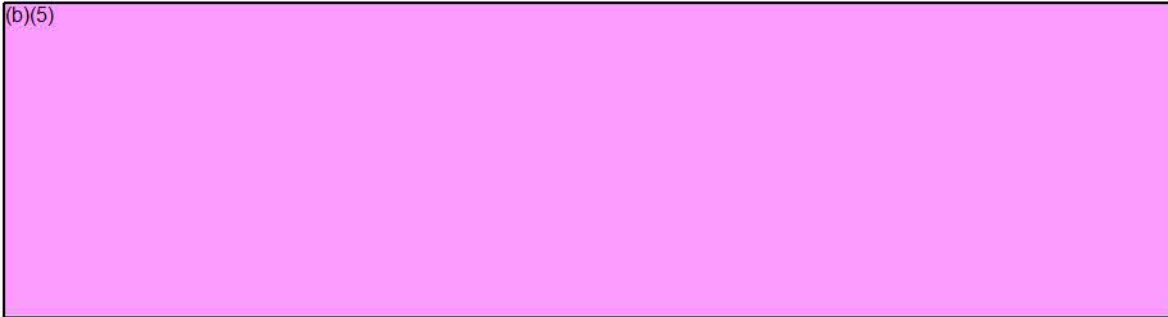
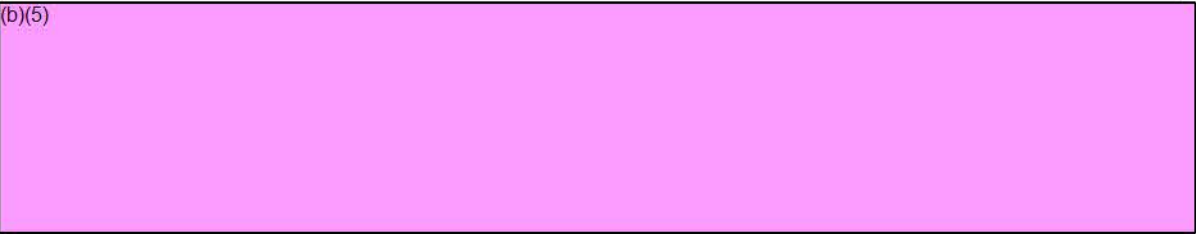
(b)(6)

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## MLA Monthly Digest – September 2018

This document provides a summary of the Bureau’s engagement with external stakeholders on matters concerning the Military Lending Act (MLA) during September 2018. Regulations staff compiled the summary in consultation with other Bureau offices, and are available to provide additional information and to answer questions as needed.

### Summary

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- (b)(5) 
- On August 17, Congresswoman Rosen, along with 12 other members of Congress, wrote to Acting Director Mulvaney to ask that the Bureau continue its supervision of lenders with respect to the MLA.

**From:** [McGill, Yolanda \(CFPB\)](#)  
**To:** [Silberman, David \(CFPB\)](#); [Morgan, Hallee \(CFPB\)](#)  
**Cc:** [Cochran, Kelly \(CFPB\)](#); [Campbell, Patrick \(CFPB\)](#)  
**Subject:** MLA Monthly Digest\_November 2018  
**Date:** Monday, December 03, 2018 5:33:26 PM  
**Attachments:** [MLA Monthly Digest\\_November 2018.doc](#)

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Good afternoon,

Attached is the MLA digest for November 2018, please let me know if you have any questions or concerns.

**Yolanda D. McGill**  
Managing Counsel  
Office of Regulations  
Bureau of Consumer Financial Protection

(b)(6)

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## MLA Monthly Digest – November 2018

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### Summary

- On **October 26th, 2018**, the Bureau received a letter from 11 state Attorneys General, different from the previous letter from 33 AGs, stating they “are concerned about MLA compliance and protecting our military personnel.” They are requesting “a conference call or in-person meeting with the necessary senior officials, from both the Department of Defense and Bureau of Consumer Financial Protection, to discuss the MLA and how we can protect our military personnel while we wait for Congress to specify regulatory and enforcement authority.”
- On **November 21<sup>st</sup>, 2018**, the Bureau, in response to Congressional inquiries from the House and the Senate, delivered a letter stating that it is the Bureau’s position that the Bureau does not have a clear grant of authority from Congress to continue examining for MLA compliance and that the Bureau will cease exercising such authority. The Bureau sent concurrent notification the MLA working group, including members from DOD, Federal Reserve, OCC, FDIC and the FTC.
- On **November 21<sup>st</sup>, 2018**, the minority of the Senate Banking Committee published a [report](#) criticizing the Bureau for “Abandoning Consumer Protections for Servicemembers and Borrowers,” specifically mentioning the Bureau’s suspension of “routine examinations designed to identify violations of the MLA.”
- On **November 16<sup>th</sup>, 2018**, the Bureau received a press inquiry from Newsday regarding a press conference held by Senator Chuck Schumer (D-NY) “calling on the bureau to resume proactive check-ups on lenders who ‘target’ military, including with exorbitant fees and interest rates.”
- On **November 15<sup>th</sup>, 2018**, the Bureau received a Freedom of Information Act request for documents related to the Bureau’s supervisory activities relating the MLA and any MLA-related “guidance, instruction, templates, manuals, or examination procedures.”

**From:** [Campbell, Patrick \(CFPB\)](#)  
**To:** ["Cohen, Andrew H CIV OSD OUSD P-R \(US\)"; "Trucco, Monica A CIV OSD OUSD P-R \(US\)"; "Cleveland Harris, Renee C CIV OSD OUSD P-R \(US\)"; \(b\)\(6\)](#)  
[\(b\)\(6\)](#)  
[\(b\)\(6\)](#) ["Goldberg, Joseph"; "Reynolds, Carole L."; Morgan, Hallee \(CFPB\); McGill, Yolanda \(CFPB\); Campbell, Patrick \(CFPB\)"; Parker Rose, Cheryl \(CFPB\)](#)  
**Cc:** [Parker Rose, Cheryl \(CFPB\)](#)  
**Subject:** Bureau's supervisory authority and the MLA  
**Date:** Wednesday, November 21, 2018 11:56:56 AM  
**Attachments:** [2018.11.21 MM to Lamb Jones Rosen et al MLA.pdf](#)

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Whitaker (FDIC)  
Singleton (FDIC)  
Jaeger (FDIC)

Good morning fellow MLA working group members.

Attached is a letter from our Acting Director to Congress answering recent questions about the Bureau's supervisory authority and the Military Lending Act (MLA).

As you will read in the letter, it is the Bureau's position that the Bureau does not have a clear grant of that authority from Congress to continue examining for MLA compliance and that the Bureau will cease exercising such authority.

The Acting Director has committed to enforcing the MLA both when violations are uncovered during the normal enforcement process, and when potential violations are identified during examinations for compliance with Federal consumer financial laws. The Acting Director also stated he strongly supports legislation to grant the Bureau authority to supervise for MLA compliance.

I have no doubt that there will be questions about this announcement, please don't hesitate to reach to us. Please share this letter with the relevant folks at each of your agencies.

I hope everyone has a fun and safe Thanksgiving,

Patrick Campbell  
Acting Assistant Director  
Office of Servicemember Affairs  
Bureau of Consumer Financial Protection

(b)(6)

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Bureau of Consumer Financial Protection  
1700 G Street NW  
Washington, D.C. 20552



November 21, 2018

The Honorable Conor Lamb  
U.S. House of Representatives  
2332 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Walter B. Jones  
U.S. House of Representatives  
2333 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Jacky Rosen  
U.S. House of Representatives  
413 Cannon House Office Building  
Washington, D.C. 20515

Dear Congressman Lamb, Congressman Jones, and Congresswoman Rosen:

Thank you for your letter regarding the Bureau of Consumer Financial Protection's (Bureau's) supervisory authority and the Military Lending Act (MLA).

Soon after President Trump appointed me as Acting Director of the Bureau, as part of my commitment to execute the laws as written, I began a review of all of the Bureau's practices to ensure they are, in fact, authorized by law. In the course of that review, I found that it was not clear the Congress had given the Bureau statutory authority to conduct examinations for compliance with the MLA. Upon further analysis, I have concluded that the better reading of the relevant statutory provisions is that the Bureau does not have such authority, and, accordingly, should cease exercising such authority without a clear grant of that authority from Congress.

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I am committed to supporting servicemembers and their families, just as I have been throughout my public service. I will do everything I can within the bounds of the law to protect them. **That effort includes enforcing the MLA both when violations are uncovered during the normal enforcement process, and when potential violations are identified during examinations for compliance with Federal consumer financial laws, all of which the law currently permits.** I do not believe, however, that the law permits the Bureau to launch examinations specifically to look for MLA violations or impose supervisory (as opposed to enforcement) remedies. That is why I would strongly support legislation to grant the Bureau authority to supervise for MLA compliance.

But, my desire in this regard does not absolve me of my duty to execute the laws as written. To ignore the limits of the Bureau's statutory authority in service of a policy goal I favor would erode the rule of law. It would give me, an unelected bureaucrat, power that rightfully belongs to the American people and their elected representatives, such as you.

Under its prior Director, the Bureau determined to commence MLA examinations because the MLA had been amended to provide the Bureau with certain *enforcement* authority. Those amendments to the MLA did not, however, provide the Bureau with *supervisory* authority with respect to that statute, and the Bureau's supervisory authority is clearly distinct from its enforcement authority under the Bureau's organic statute, Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act (DFA).<sup>1</sup> Thus, any authority to conduct examinations for compliance with the MLA would need to be found in the DFA.

Based on a careful reading, I do not believe that the DFA is properly understood to provide such authority. Under the DFA, the Bureau's supervision authority is described in sections 1024(b)(1) (relating to nondepository institutions) and 1025(b)(1) (relating to large depository

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<sup>1</sup> The nature and scope of the Bureau's supervisory authorities are generally established in subtitle B of Title X, and the nature and scope of its enforcement authorities in subtitle E. The scope of the Bureau's enforcement powers is broader than that of its supervisory powers in various respects. For instance, the Bureau may enforce the law against, but may not supervise, non-depository financial institutions that are not: mortgage originators, brokers, or servicers; larger participants, as defined by Bureau rule, in a market for consumer financial products or services (such as consumer debt collection); originators of private student loans; payday lenders; or those the Bureau has reasonable cause to determine, by order after notice and opportunity to respond, have engaged or are engaging in conduct that poses risks to consumers in the offering or provision of consumer financial products or services. 12 U.S.C. 5514(a)(1).

