



February 20, 2007

The Honorable Dr. David S.C. Chu
Under Secretary of Defense for
Personnel and Readiness
2000 Defense
Pentagon
Washington, D.C. 20301-4000

Dear Dr. Chu:

On behalf of the Coalition for Financial Choice (CFC), I would like to take this opportunity to comment upon the Department's implementation of Section 670 of the John Warner national Defense Authorization Act for Fiscal Year 2007. As you know, Section 670, titled "Limitations of Terms of Consumer Credit Extended to Service Members and Dependents," refers to short-term, small-dollar loans.

To give you a better context for my comments, perhaps a brief description of the Coalition would be useful. The coalition was formed to *educate* key stakeholders – lawmakers and regulators, the media, the business community, and the general public – about the importance of maintaining choice and access to basic financial services for all. It also *advocates* for responsible government policies that will ensure that all Americans, not just the wealthy, have the opportunity to fully participate in our economy and society. For additional information, please visit www.coalitionforfinancialchoice.org.

The CFC is comprised of companies, trade associations and other organizations that believe that all Americans are entitled to basic fundamental rights with regard to financial services. One of the core missions of the CFC is to improve consumer protections through education, disclosure and transparency in all financial transactions. We also strongly advocate for equal access to financial services and credit for all consumers. DOD must be primarily concerned with consumer protections, not the financial services industry's self interests.

Of paramount concern to the CFC is that mainstream financial institutions – banks, credit unions, credit card companies and others – are trying to carve themselves out of any DOD provisions to implement Section 670. They see themselves as mistakenly caught up in a net where the legislative intent was actually much more limited ... alternative financial service providers such as payday lenders. In fact, in a recent letter to your office, several trade associations representing the traditional financial service industry stated, "Our primary concern is that a broad application of the legislation could have the unintended effect of harming service-members and their spouses and dependents by limiting their access to beneficial and common credit products, or increasing their cost."

The CFC has several concerns with this position. First, it seems clear that it was, in fact, the intent of Congress to severely limit, if not eliminate altogether, access to short-term credit for service members and their families. Placing such a severe cap on the interest rates that lenders can charge for their products means most alternative financial service providers will simply stop offering them to military personnel and their families altogether. It is somewhat ironic that members of the military would have denied to them the basic rights to choose the financial products that best suit their needs that all other consumers take for granted. In fact, it seems unfair, even discriminatory.

I would also point out that a very small segment of the military community actually uses these products. In fact, a 2005 poll conducted by one of the nation's leading pollsters, Penn, Schoen & Berland Associates, found that only 3.69% of active-duty military personnel have used a payday advance in the last five years.

One can certainly argue that licensed alternative financial service providers offer a valued service that these consumers use to help bridge unexpected financial gaps. There can also be little doubt that military consumers who use these products fully understood the costs associated with them as well as other obligations. Clear and full disclosure is a cornerstone of all state regulations governing these products; prices are clearly stated on signage located throughout the stores as well as on the contracts. However, that can not always be said of products offered by traditional financial services companies.

In fact, I would suggest that there is too little transparency when it comes to the fees associated with many of their products. For example, mainstream financial institutions are concerned that, if applied too broadly by the DOD, "military personnel and their spouses and dependents may lose access to popular products such as credit cards due to the fact that even a modest fee imposed in a particular month where there is a small balance may surpass the "all-in" 36% annual percentage rate limit when calculated on an annual basis." They seem to be making the same, or at least similar, argument that licensed payday loan operators made when this issue was being debated in Congress. Namely, that applying a 36% annual interest rate to a one-month fee is unworkable and unreasonable.

Similarly, they state that "military personnel and their spouses and dependents may lose access to overdraft protection" if DOD applies Section 670 too broadly. However, while millions of consumers may need overdraft protection from time to time, how many of them currently understand the associated costs? According to bankrate.com, bank overdraft fees average \$27 per bounced check. Using the same math that members of the DOD and others have used to criticize payday loans, consumers are paying the equivalent of 704% APR on a bounced check of \$100 with a corresponding fee of \$27. Yet unlike licensed payday loans, where all costs associated with the loan are in plain view for all to see, most consumers have only a vague appreciation of the true cost associated with bouncing a check.

As your office continues to develop regulations to implement Section 670 of this year's DOD authorization bill, I hope you will keep upper-most among your priorities the need for stringent consumer protections as well as the importance of access and choice. With regard to consumer protections, transparency is key. The one segment of the financial services industry that has been most transparent in its fee structure when making short-term loans to military personnel and their families has been the licensed payday loan industry. Other segments of the industry would be hard pressed to match this level of disclosure.

At the same time, we must not forget that all Americans, including military personnel and their families, are entitled to the same access to financial services. These are hardworking, intelligent individuals who know how best to address their immediate needs. They should be allowed to choose the option that makes the most sense to them, especially if that option is regulated, licensed and operates with transparency. It also is important to keep in mind that eliminating a product does not eliminate the demand for it. It is entirely possible that military personnel and their families in need of short-term, low-dollar-amount loans will seek other, possibly unlicensed, even illegal alternatives with few, if any, accompanying consumer protections. Should that come to pass, not just the licensed industry, but military personnel and their families, will suffer.

I appreciate your consideration to my comments.

Sincerely,

William Murray
Senior Vice President, Communications