



BULLETIN #12/2020

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NADA ISSUES SUMMARY OF DOD WITHDRAWAL OF MILITARY LENDING ACT INTERPRETATION

THIS SUPPLEMENTS OUR BULLETIN #10 ISSUED ON FEBRUARY 28, 2020

DOD Grants NADA Petition to Withdraw Interpretation of Military Lending Act

As previously reported, on February 28, 2020, the Department of Defense (DOD) granted an NADA petition to withdraw a problematic 2017 interpretation of the Military Lending Act (MLA). That earlier interpretation had resulted in dealerships around the country no longer offering GAP Waiver protection and other optional credit protection products to active duty service members and their dependents.

The [attached detailed memo](#) should address many of the questions you may have regarding this matter. Here is a brief summary of the DOD action and its consequences:

- In December 2017, DOD issued an interpretation stating that, in motor vehicle sales transactions with active-duty service members and their dependents, the financing of credit-related products and services (such as premiums for GAP protection and credit insurance) along with the motor vehicle requires compliance with the MLA.
- On February 28, 2020, DOD granted the NADA petition seeking the withdrawal of this interpretation.
- In taking this action, DOD reverted back to - and thus restored - an earlier (August 2016) interpretation it had issued that stated that, in transactions with active duty service members and their dependents involving the sale of personal property other than motor vehicles, the inclusion of cash out financing requires compliance with the MLA.
- With regard to what this now-restored interpretation could mean for motor vehicle financing transactions going forward, an expert law firm (Covington) addressed this topic in an article that NADA sent to members in September 2016. It generally concludes that **financing a motor vehicle and related items should not require compliance with the MLA. This would include both costs related to the motor vehicle and credit-related costs (but not cash out financing).**
- The [attached detailed memo](#) includes the September 2016 Covington article. NOTE: While the Covington article provides a compelling analysis of this issue, it is not binding on any court, administrative agency, or other entity that may review motor vehicle financing transactions with members of the military.

The information contained above and in the attachment is offered for informational



purposes only and is not intended as legal advice. Dealers should (i) consult their legal counsel for guidance on whether and to what extent its operations are covered by the MLA, and (ii) review communications from their individual finance sources to determine their current policy for taking assignment of motor vehicle financing contracts with service member and their dependents.