

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515**

December 13, 2018

Mr. James Stewart  
Office of the Undersecretary for Personnel and Readiness  
Department of Defense  
The Pentagon  
Washington, DC 22202

Dear Mr. Stewart:

We are writing to encourage a full withdrawal of "Question and Answer 2" (Q&A 2) of the Department of Defense's (the Department) Interpretive Rule published on December 14, 2017 and entitled "Military Lending Act Limitations on Terms of Consumer Credit Extended to Service Members and Dependents."

As you know, the Interpretive Rule intended to clarify the treatment of credit insurance and other products such as guaranteed asset protection (GAP) under the Military Lending Act (MLA). However, we are concerned that in doing so the Department has curtailed access to these optional products that many service members and their families rely on to help them manage the financial risks associated with owning an automobile.

Many automobile dealers offer service members and non-military customers the opportunity to purchase GAP and similar products when financing a motor vehicle purchase. For those who do elect to use these products, the cost is typically rolled into the principal balance of the vehicle finance agreement. GAP covers the difference between the amount a borrower owes to the lender and the amount paid by auto insurance when a vehicle is stolen or destroyed. Without voluntary protection products like GAP, service members and their families can find themselves still paying hundreds of dollars a month for a vehicle that they can no longer drive – resulting in financial hardship and worry that detracts from the military readiness the MLA was designed to promote.

The Interpretive Rule, specifically Q&A 2, has in effect eliminated the option for service members and their families to purchase GAP, credit insurance, and other similar products. This is troubling given that when Congress passed the MLA, it expressly exempted from the definition of "consumer credit" a credit transaction intended to "finance the purchase of a motor vehicle when the credit is secured by the vehicle being purchased." The Q&A 2 within the Department's Interpretive Rule upends this longstanding exemption under the MLA.



We understand that the Department has acknowledged the concerns associated with Q&A 2 and is reviewing this Interpretive Rule. Given our shared desire to ensure a vibrant financial services marketplace for our service members, we request that the Department resolve this matter as expeditiously as possible by working with OIRA to affect a straightforward withdrawal of Q&A 2.

Sincerely,



Warren Davidson  
Member of Congress



Scott Tipton  
Member of Congress



Roger Williams  
Member of Congress



Bill Posey  
Member of Congress



Ted Budd  
Member of Congress



Lee Zeldin  
Member of Congress



Alex X. Mooney  
Member of Congress

cc:

Hon. Mick Mulvaney, Director, Office of  
Management and Budget

Hon. Neomi Rao, Administrator, Office of  
Information and Regulatory Affairs

Hon. Larry Kudlow, Director, National  
Economic Council





## **GAP Vignettes**

### **GAP purchased**

- Brandon is an E3 rank serving in the Marines and is stationed at Twenty nine Palms Marine Corp Base in California. He financed a Hyundai Genesis with GAP product for a total of \$18,756.91. Subsequently, Brandon totaled his car when he hit a deer while driving on the highway. Primary insurance paid \$13,751 and GAP product paid \$2,969, leaving a zero balance owed.
- John is an E3 rank in the Air Force based in Scott Air Force Base in Belleville, Illinois. He financed a Pontiac G6 with GAP product for a total of \$8,197.50. Subsequently, he was involved in a rear-end collision while making a left turn. Primary insurance paid \$4,356 and GAP product paid \$2,645, leaving a zero balance owed.
- Allison is an E2 rank serving in the Army and is stationed at Fort Drum located in Watertown New York. She financed a Mitsubishi Outlander with GAP product for a total of \$14,806. Afterwards, Allison totaled her vehicle when she was rear-ended in a traffic accident. Unfortunately, she did not have primary insurance at time of the loss; however, GAP product proceeds reduced her outstanding deficiency by \$2,929.
- Beth is an E3 rank in the Army stationed at Fort Bragg located in North Carolina. She financed a Dodge Charger with GAP product for a total of \$19,037. Later, his vehicle was totaled when she was rear-ended while stopped at a traffic light. Primary insurance paid \$10,525 and GAP product paid \$4,868, leaving a zero balance owed.
- Steve is an E4 rank in the Navy stationed at the Coronado Naval Base located near San Diego, California. He financed a Ford F-150 with GAP product for a total of \$25,030. Subsequently, his truck was totaled in a traffic accident. Primary insurance paid \$17,140 and GAP product paid \$4,616, leaving a zero balance owed.

### **GAP not purchased**

- Brad is an E2 rank in the Army stationed at Fort Carson located in Colorado Springs, Colorado. He financed a Nissan Altima for \$14,787 and did not purchase GAP product. Subsequently, his vehicle was totaled in a multiple-car traffic accident. As a result of his accident, primary insurance paid \$8,338, leaving a remaining balance owed of \$4,759. Since Brad did not purchase GAP, Brad suffered over a \$4,700 loss.
- Randy is an E3 rank in the Maines stationed at Camp Pendleton located in Oceanside, California. He financed a Nissan 350Z for \$17,565 and elected to not purchase GAP product. Afterwards, his car was totaled while driving in poor road conditions. As a result of his accident, primary insurance paid \$9,398, leaving a remaining balance owed of \$6,531. Since Randy did not purchase GAP, he incurred over a \$6,500 loss.



- Dan is an E3 rank serving in the Army stationed at Fort Drum located in Watertown, New York. He financed a Dodge Nitro for \$17,087 and did not purchase GAP product. Afterwards, he totaled his vehicle when he was rear-ended in a traffic accident. As a result of his accident, primary insurance paid \$12,064, leaving a remaining balance owed of \$3,029. Since Dan did not purchase GAP, he suffered over a \$3,000 loss.
- Gregory is an E7 rank in the Navy serving at the Naval Station in Pearl Harbor located in Honolulu, Hawaii. He financed an Infiniti G25 for \$24,345, and did not purchase GAP product. Subsequently, his vehicle was totaled in a traffic accident. As a result of his accident, primary insurance paid \$18,636, leaving a remaining balance owed of \$2,193. Since Gregory did not purchase GAP, he suffered over a \$2,100 loss.





### Summary Bullet Points

- If GAP product is purchased average GAP benefit of nearly \$3,100
- If GAP product is not purchased average outstanding principal balance owed after primary insurance is roughly \$2,400
- Since recent MLA changes for contracts purchased in 2018 without GAP have realized an average outstanding principal balance of around \$2,800, after primary insurance proceeds.

	# of Contract Purchases	Avg Principal Balance at Date of Loss	Avg GAP Benefit after Primary Insurance	Avg Remaining Principal Balance after Primary Insurance (no GAP benefit)
Contract Purchases with GAP Product	1,193	\$ 16,094	\$ 3,079	
Contract Purchases with No GAP Product	283	\$ 13,718		\$ 2,404

*Note: includes contract dates from 2015 through 2017, Totaled account with Date of Loss through Nov 2018, and primary insurance proceeds received*

### Since Recent MLA Changes (2018 contract purchases and with total insurance loss)

	# of Contract Purchases	Avg Principal Balance at Date of Loss	Avg GAP Benefit after Primary Insurance	Avg Remaining Principal Balance after Primary Insurance (no GAP benefit)
Contract Purchases with GAP Product				
Contract Purchases with No GAP Product	82	\$ 15,930		\$ 2,822

*Note: includes contract dates from Jan 2018 through Nov 2018, Totaled account with Date of Loss through Nov 2018, and primary insurance proceeds received*

