

**EMPOWERING AND PROTECTING SERVICE-  
MEMBERS, VETERANS, AND THEIR FAMILIES  
IN THE CONSUMER FINANCIAL MARKETPLACE:  
A STATUS UPDATE**

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**HEARING**  
BEFORE THE  
**COMMITTEE ON**  
**BANKING, HOUSING, AND URBAN AFFAIRS**  
**UNITED STATES SENATE**  
**ONE HUNDRED TWELFTH CONGRESS**  
SECOND SESSION  
ON

A STATUS UPDATE EXAMINING THE EMPOWERMENT AND PROTECTION  
OF SERVICEMEMBERS, VETERANS, AND THEIR FAMILIES IN THE CON-  
SUMER FINANCIAL MARKETPLACE

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JUNE 26, 2012  
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**EMPOWERING AND PROTECTING SERVICE-  
MEMBERS, VETERANS, AND THEIR FAMI-  
LIES IN THE CONSUMER FINANCIAL MAR-  
KETPLACE: A STATUS UPDATE**

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**TUESDAY, JUNE 26, 2012**

U.S. SENATE,  
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,  
*Washington, DC.*

The Committee met at 10:03 a.m., in room SD-538, Dirksen Senate Office Building, Hon. Tim Johnson, Chairman of the Committee, presiding.

**OPENING STATEMENT OF CHAIRMAN TIM JOHNSON**

Chairman JOHNSON. Good morning. I call this hearing to order.

As we approach the Fourth of July and celebrate the military men and women who keep our country free, it is important for us to be reminded about the unique consumer financial challenges the military community faces. As I have often said, these issues are near and dear to me, not only as the father of a soldier, but also as a Senator from a State that has over 72,000 veterans and more than 3,400 military personnel at Ellsworth Air Force Base.

Last November, we held a hearing to examine how the military community manages its financial needs. We learned about the important role financial readiness plays in mission readiness, and we looked at tools and protections available to help the military community navigate the complex consumer financial marketplace—including the Office of Servicemember Affairs at the Consumer Financial Protection Bureau.

As a follow-up to that hearing, we are here today to receive a status update and examine the progress made to help military consumers. We will also hear about new approaches to improve financial education training for servicemembers and their families.

It is important to remember that military consumers differ from other consumers. Many servicemembers are young, have debt, and have little financial education. The military lifestyle requires frequent relocations, forcing spouses to find new employment and families to sell their homes if they have chosen to live off base. That mobile lifestyle also means they need banking services that are accessible around the world. When a servicemember deploys, he or she must be certain that family members have appropriate access to family finances in order to handle bills and other financial needs in their absence.

It was with those needs in mind that Congress created the Office of Servicemember Affairs at the CFPB, and I am proud to once again welcome to this Committee the head of that office, Assistant Director Holly Petraeus. As a military daughter, wife, and mother, Mrs. Petraeus is very qualified to lead this office, and I am grateful for the work she does on financial issues that impact the military community. She is a tireless advocate on their behalf.

Since taking on this new role, Mrs. Petraeus has visited 37 separate military installations or units, met with the senior leadership of 15 different State National Guards, and has met with 13 different State Attorneys General. Last month, I had the honor of hosting Mrs. Petraeus in South Dakota at Ellsworth Air Force Base and Camp Rapid.

We are also joined today by Colonel Paul Kantwill and Delaware Attorney General Joseph "Beau" Biden. Colonel Kantwill is the Director of Legal Policy at the Department of Defense Office of the Under Secretary for Personnel and Readiness. His office works closely with Mrs. Petraeus' office to improve the financial lives of the military community. He will discuss what the Department of Defense is doing to educate and assist servicemembers in this area. And Attorney General Biden not only brings an important State law enforcement perspective to these issues, but also the perspective of a Judge Advocate General in the Delaware Army National Guard. Welcome and thank you both for your service to our country.

In closing, I would like to recognize our veterans and the thousands of servicemembers who continue to serve in harm's way in defense of our country. I am grateful for their service and to their families for supporting them. Throughout my time in Congress, it has been my highest priority to assist our servicemembers and veterans. As Chairman of the Senate Military Construction and VA Appropriations Subcommittee as well as the Senate Banking Committee, I will continue to work to ensure servicemembers and veterans have the resources they need and protections they deserve.

With that, I turn to Ranking Member Shelby for his opening statement.

#### **STATEMENT OF SENATOR RICHARD C. SHELBY**

Senator SHELBY. Thank you, Mr. Chairman.

Today the Committee will continue its oversight of the available protections for our servicemembers, veterans, and their families in the consumer financial marketplace. This Committee held a hearing last November to examine this important issue. During that hearing we heard about the unique financial problems that confront servicemembers and their families.

One problem is the disruption caused by overseas deployments and other relocations. When Permanent Change of Station orders, or PCS orders, are issued, servicemembers are required to move, even if they owe more on their mortgage than their home is worth. Under such circumstances, servicemembers are faced with continuing to pay a mortgage for a house they no longer live in or defaulting on their loans, which they do not want to do.

At our last hearing, we were told that this problem is compounded by the fact that a servicemember would not be able to

qualify for a loan modification or a short sale if the servicemember was not yet delinquent. In response to this challenging problem, several agencies have recently taken action. The Federal Housing Finance Agency has announced that it will allow a servicemember who is given PCS orders and is current on a Fannie Mae or Freddie Mac mortgage to qualify for a short sale. The FHFA policy change will also allow Fannie and Freddie to waive any deficiency judgment against the military borrower.

In conjunction with this announcement, our Nation's banking regulators also issued guidance on how mortgage servicers should treat military members who are struggling under the weight of PCS-related moves and mortgage debt. Today I would like to hear from the Bureau of Consumer Financial Protection about how this guidance will help our Nation's servicemembers who face these difficult choices when they receive PCS orders.

Last November, this Committee also heard about violations of the Servicemembers Civil Relief Act by two of our Nation's largest banks. We heard that these banks violated this law by foreclosing on members of the military while they were on active duty. This is the sort of problem no military member should have to worry about while fighting overseas.

Presently, the Department of Justice is undertaking a review of several large mortgage servicers to determine if any other violations of the act have occurred. Accordingly, I hope to learn whether additional violations have been uncovered as part of this review and whether the affected servicemembers have received the remedies to which they are entitled.

Mr. Chairman, during the last hearing I stated that while often there appears to be very little upon which our respective sides can agree, there is complete agreement, I believe, on our joint commitment to supporting our men and women in uniform. This hearing I believe is a demonstration of our continuing and just commitment.

Thank you.

Chairman JOHNSON. Thank you, Senator Shelby.

Are there any other Members who wish to make a brief opening statement? Senator Reed.

#### **STATEMENT OF SENATOR JACK REED**

Senator REED. Well, thank you very much, Mr. Chairman and Ranking Member Shelby, for holding this hearing, and welcome to our witnesses. I am particularly delighted that Holly Petraeus is here. One of the more satisfying efforts that I undertook in the Dodd-Frank debate was helping to create the Office of Servicemember Affairs, and you are doing a superb job running that organization. Thank you very much.

We all understand that our soldiers, sailors, marines, airmen, and Coast Guard are all making a huge sacrifice for the country, and we have to respond by protecting their best interests and the interests of their families. And, again, I will echo Senator Shelby's comments about the recent settlement with FHFA and others in terms of providing protections for servicemembers who are on orders but cannot sell their house because they are underwater. And

I hope that this new practice will materially aid members throughout the military, so thank you for that.

Colonel Kantwill, thank you for being here. You are every day protecting active-duty men and women who are serving the country. We have included in the Defense Authorization Act, because we have jurisdiction under what is known as the Military Lending Act, provisions that we hope will provide you further leverage. We passed legislation, for example, that tried to cap lending at 36 percent for active-duty personnel. Some wily folks decided that since you defined it as “closed-ended lending,” they would make it open-ended lending and lower the ceiling. Well, open-ended lending is now going to be subject to the cap, too. So we continue to try to work with you to provide you the tools necessary to protect the service men and women and anybody who has had the privilege of commanding or being an XO of an infantry company understands some of the practices that servicemembers are faced with, and what you do to protect them is absolutely vital.

We are also working to aid in terms of providing extensions in benefits for other housing protections under the Servicemembers Civil Relief Act. One is to ensure that surviving spouses of military personnel are also protected from foreclosure. We have foreclosure protections for active-duty service men and women, but I cannot think of anything more disconcerting than to have a spouse lose a servicemember and then be subject immediately to foreclosure. So we are trying to fix that, and also make it easier to get out of the rental contract and move back on base when you get housing. So there are lots of things we can do and should do.

Finally, let me commend Attorney General Biden. No one has led the effort to protect service men and women at the State level—and not just service men and women. Your active participation in the mortgage settlement by the AGs has been inspiring. I think it comes from the fact that not only have you served, but I think one of the first times we met, you were in Iraq, Captain Biden, and so thank you for your service.

Thank you.

Chairman JOHNSON. Thank you all.

I want to remind my colleagues that the record will be open for the next 7 days for opening statements and any other materials you would like to submit. Now I will briefly introduce our witnesses.

Mrs. Holly Petraeus is Assistant Director for Servicemember Affairs at the Consumer Financial Protection Bureau.

Colonel Paul Kantwill is Director of Legal Policy in the Office of the Under Secretary for Personnel and Readiness at the Department of Defense.

The Honorable Joseph R. “Beau” Biden III, currently serves as Delaware Attorney General and is a major in the Delaware Army National Guard’s Judge Advocate General Corps.

I thank you again for being here today. I would ask each witness to please keep your remarks to 5 minutes, and your full written statement will be included in the hearing records.

Ms. Petraeus, you may proceed with your testimony.



**STATEMENT OF HOLLISTER K. PETRAEUS, ASSISTANT DIRECTOR, OFFICE OF SERVICEMEMBER AFFAIRS, CONSUMER FINANCIAL PROTECTION BUREAU**

Ms. PETRAEUS. Chairman Johnson, Ranking Member Shelby, and distinguished Members of the Committee, thank you for the opportunity to speak with you today about the Office of Servicemember Affairs at the Consumer Financial Protection Bureau, or as we call it “CFPB.”

In the 7 months since I first testified here, I have traveled to 27 military installations across the country. Just last month, Chairman Johnson was kind enough to invite me to South Dakota to visit Ellsworth Air Force Base and to meet with members of the South Dakota National Guard. Senator Tester also invited me to Montana in January, where we visited the Montana Guard and Malmstrom Air Force Base.

During my travels I keep hearing about certain hot-button items. For example, in almost every town hall I conduct, housing concerns come up. Active-duty servicemembers who own underwater homes are faced with a true dilemma when they receive Permanent Change of Station, or PCS orders and have to move. What do they do when they cannot sell the house for enough to pay it off?

Many of them have not been getting the timely assistance or accurate information they need. They have been: told they had to be delinquent before they could qualify for help and even advised to skip payments; asked to waive their rights under the Servicemembers Civil Relief Act; stalled with repeated demands for loan documents; routed to a different person with each call; denied SCRA protections; listed as failing to respond while deployed; and given information about foreclosure alternatives too late to do any good.

I am pleased to report that some progress has been made this year. A recent settlement between the Federal Government, 49 States, and the five largest mortgage servicers addressed SCRA issues and provided some short-sale opportunities and deficiency waivers for servicemembers with PCS orders.

And last week the Federal Housing Finance Authority, which oversees Fannie Mae and Freddie Mac, announced that PCS orders are a qualifying hardship for a short sale and that a servicemember on PCS orders with a Fannie or Freddie loan for a property purchased on or before June 30, 2012, will not be asked to make a financial contribution to receive the short sale or be liable for the difference between the short sale amount and the original mortgage amount.

I have also worked with the Department of the Treasury, and now military homeowners who have to move because of PCS orders are eligible for a HAMP Tier 1 mortgage loan modification, provided they intend to come back to their house and do not buy another house elsewhere. I was really pleased to see this change from requirements that the home be owner-occupied.

Also last week, the CFPB, along with the prudential regulators—the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, and the National Credit Union Administration—issued supervisory guidance alerting mortgage servicers that military

homeowners with PCS orders should get accurate and clear information from their mortgage servicers early enough to make informed decisions that will minimize damage to their financial readiness. We were very glad to have all the prudential regulators see the importance of this guidance and collaborate with us on it.

Now, on another issue: you may recall that I testified in November about aggressive marketing to military personnel and their families by certain institutions of higher education—pushing not only enrollment, but also expensive private student loans. CFPB’s Office of Students posted on our Web site, ConsumerFinance.gov, a beta version “Know Before You Owe” financial aid shopping sheet to help prospective students determine the costs of their college degree and compare financial aid offers, and asked for comments on how to improve it. They have also developed a Student Debt Repayment Assistant to help borrowers learn their options when repaying educational loans.

On the same topic, on April 27th I was honored to go to Fort Stewart, Georgia, when the President signed an Executive Order establishing principles of excellence for educational institutions serving the military. The order directed the Departments of Defense, Veterans Affairs, and Education, in consultation with the CFPB and the Attorney General, to take steps to ensure that servicemembers, veterans, and their families can get the information they need about the schools where they spend their education benefits.

When I last appeared before you, I was taking a look at the financial education given by the military at basic training. My office is now developing a short financial education curriculum to be delivered via smartphone or computer during the Delayed Entry Program, or DEP, when an individual has committed to the military but has not yet gone to boot camp. A recruit in DEP has more time and less stress than at basic training and we think will better retain some “just-enough and just-in-time” financial lessons.

Finally, I would like to highlight a few more of the consumer issues that I have heard about.

The first is aggressive and deceptive tactics by debt collectors targeting members of the military.

The second concerns abuses connected with the veterans benefit known as Aid and Attendance. I have heard about an increasing number of individuals and companies that use Aid and Attendance as a hook to sell their services to elderly veterans.

And one final area of concern is loans marketed to the military, some with very high interest rates.

In conclusion, the CFPB’s Office of Servicemember Affairs is working hard on financial education and consumer-protection measures for our military personnel and their families, and it is our honor to serve them through our work.

Thank you for the opportunity to testify before the Committee. Chairman JOHNSON. Thank you, Mrs. Petraeus. Colonel Kantwill, you may proceed.

**STATEMENT OF COLONEL PAUL KANTWILL, DIRECTOR, OFFICE OF LEGAL POLICY, OFFICE OF THE UNDER SECRETARY OF DEFENSE (PERSONNEL & READINESS), DEPARTMENT OF DEFENSE**

Colonel KANTWILL. Good morning, Chairman Johnson, Ranking Member Shelby, and Members of the Committee. It is a great day to be a soldier. It is always a great day to be a soldier. And it is an honor to appear before you this morning and represent the Department of Defense and all of our great men and women in uniform.

It is a pleasure to testify before you regarding the consumer financial issues we see affecting servicemembers and their families and the Department's response thereto. I serve currently, as was noted earlier, as the Director of Legal Policy at OSD, but my perspective on these issues will also be that of a practitioner and a servicemembers' advocate. I am a career active-duty Army Judge Advocate with more than 22 years of experience, and my primary motivation in many tours of duty across the globe and in active theaters of operation has been to provide first-class legal support to our troops and their families.

I have seen, therefore, firsthand and I keep in mind daily in my present capacity that a servicemember burdened with concerns outside of the parameters of his or her mission cannot reach full combat effectiveness. I assure you this perspective is shared across the Department of Defense.

Just last month, the Department received the report of the Consumer Federation of America. The report concludes that the Military Lending Act has had the desired effect of curtailing the use of payday, vehicle title, and refund anticipation loans by servicemembers and their families. The overriding theme of the report, however, is that we have achieved much, but we have much work to do.

The CFA's findings and recommendations echo what we have been hearing from our practitioners in the field. While they concur that the act has largely stamped out the majority of abuses, they still report seeing payday loans and auto title loans charging more than the statutory cap of interest, as Senator Reed noted, or lenders modifying products or procedures to avoid falling under the act.

The use of pay allotments in consumer credit transactions remains a subject of continued discussion, and there is an increase in the use of lending over the Internet: Many of the worst sites are offshore and, therefore, outside the applicability of the act.

Yet another concern in the field is that automobile dealers, especially used-car dealers and buy-here, pay-here establishments, are using unusually high interest rate loans.

We are not, of course, out of the woods on mortgage foreclosures, and SCRA remains a very high priority.

In response to these challenges and in support of our servicemembers and their families, the Department has remained vigilant and proactive, implementing an aggressive and multifaceted financial education and training program, providing first-class legal assistance, and working with other agencies and the financial industry.

The DOD Financial Readiness Campaign is a concerted effort to enhance the financial readiness of all servicemembers and families through education, resources, programs, and protections. The campaign's goal is to alleviate financial stressors on the military to enhance family, financial, and overall mission readiness.

The Services Legal Assistance Programs have risen to the occasion, offering unprecedented legal support across all legal disciplines. The primary effort is the provision of legal assistance where it is needed most: to individual clients at the installation level. This include tip-of-the-spear services in all consumer law areas to include SCRA issues, suspect lending, and aggressive debt practices. The American Bar Association's Pro Bono Project has been invaluable to us.

The interagency process is alive and well. The Department and the services are working with the CFPB and the OSA, the Department of Justice and the Federal Trade Commission, to name just a few, to ensure that our servicemembers' voices are heard and their needs are met.

We remain engaged with the financial illiteracy. The Department has sustained engagement with industry on the SCRA and the Military Lending Act. Our close working relationship with the Financial Services Roundtable and the Housing Policy Council continues. The industry has been highly complementary of the Department's enhancements of the Defense Manpower Data Center's data base capabilities. The Department has worked closely with the Financial Roundtable and other entities to develop the Military Orders Short Form, a vehicle allowing servicemembers to invoke their SCRA protections more easily. Our work with the industry, the interagency and Congress is producing protections and benefits for military members disadvantaged by PCS orders.

In response to these concerns and developments, the Department has already undertaken efforts to acquire the best available current data from the field. Underway is the formulation of a survey to be propounded upon the experts in the field—the boots on the ground, if you will, those who work with our families on a daily basis. The results of this survey will inform the way ahead.

In conclusion, the Department is committed to our servicemembers and our families, and we remain steadfast in supporting them in every way, especially as it concerns their financial futures.

On behalf of the Department, I thank you for your assistance and your support. It is my privilege to appear here before you, and I look forward to your questions.

Chairman JOHNSON. Thank you, Colonel Kantwill.

Attorney General Biden, you may proceed.

**STATEMENT OF JOSEPH R. "BEAU" BIDEN III, ATTORNEY  
GENERAL, STATE OF DELAWARE**

Mr. BIDEN. Thank you, Mr. Chairman, and thank you, Senator Shelby and Members of the Committee. Thank you for the opportunity to share my perspective as the Attorney General of the State of Delaware, as a member of the JAG Corps, and as a veteran on the work being done to help servicemembers, veterans, and their families meet their unique consumer financial challenges. Thank

you for focusing on this issue and other needs of military families with the hearings you have held in November and today, as well as the important initiatives so many of this Committee's distinguished Members are pursuing.

Along with this critically important advocacy and action of many others in Congress, your work is vital to ensuring that the concerns of family members remain a national priority. For example, the support of many of the Senators in this Committee room was instrumental in establishing the Consumer Financial Protection Bureau and within it the Office of Servicemember Affairs, which have proven to be the strong Federal partner needed by States like mine to reach the most people with the most valuable solutions. I am glad once again to be with Mrs. Petraeus, whose leadership at the OSA is driven by a personal commitment to these issues and to the families members they affect.

Since this Committee last met in November on this issue, 48 Attorneys General and I joined together with the U.S. Department of Justice and the Department of Housing and Urban Development to work collaboratively in a bipartisan fashion, as you mentioned, Senator Shelby, to collaborative reach a \$25 billion historic settlement with the Nation's five largest mortgage-servicing banks announced earlier this year. That settlement included several provisions related to the Servicemembers Civil Relief Act—the SCRA, as you know—that address some of the most significant mortgage-related issues military families face. I would not have joined this settlement without those measures being included in that settlement.

Military families have been hit especially hard by the housing crisis, as you know. They are often backed into financial corners by the realities of military life. While the SCRA and the older statutes from which it developed have provided important protections to servicemembers since the Civil War, those various incarnations of the law reflect its need to evolve. Our enforcement must evolve as we evolve.

I would like to address, if I may—we tried to address some of the most important prevalent and pressing issues they face as part of the problems facing servicemembers as we speak. Specifically, the settlement establishes three points I want to highlight.

Number one, it establishes that PCS orders must now be considered when banks or servicers are making hardship determinations about short sales, deeds in lieu, and loan modifications. Additional protections guard against inaccurate reporting of servicemembers to credit reporting agencies for using loss mitigation options in these circumstances.

Number two, the settlement increases servicemembers' access to loss mitigation options, including mandating that information and contact with SCRA-trained employees is readily available, and that servicers go beyond the requirements of the SCRA to ensure that more borrowers who are entitled to assistance before foreclosure receive it. It is critically important that people know what they are talking about when servicemembers contact them.

And, number three, the settlement states that the homes of active servicemembers deployed in combat areas cannot be foreclosed on in most instances, even if the debt was incurred after they entered military service. This was a significant expansion beyond the

terms of the current SCRA, which only provides this protection for debt incurred before entering the armed services. And this is a critically important point. It is one I dealt with when I was in Iraq, one that you are all too aware of, when you have servicemembers who are facing foreclosure and they should be focused on the mission that they are sent to achieve for our Nation.

In addition, Assistant Attorney General Tom Perez and his staff at the U.S. Department of Justice Civil Rights Division negotiated provisions that direct payments to servicemembers who experienced wrongful foreclosures and interest charged in excess of the 6 percent allowed under the SCRA. The payments will come from funds secured on top of the \$25 billion settlement.

We were able to achieve a great deal with this bipartisan settlement, but as is evident from the servicing guidelines issued by the CFPB last week, we must work to make these changes permanent. My fellow Attorneys General and I stand together across State and party lines in our commitment to vigilantly enforce the ongoing investigations of these practices. This settlement was an important step in the right direction, but just one step in that direction.

I would like to reserve the rest of my remarks and submit them for the record and answer any questions you have. Thank you for the opportunity to you have given me here today, and thank you for your focus on this critically important issue to military families and veterans.

Chairman JOHNSON. I would like to thank all of our witnesses for their testimony.

As we begin questions, I would ask the clerk to put 5 minutes on the clock for each Member.

Colonel Kantwill, when Mrs. Petraeus and I were visiting Ellsworth Air Force Base last month, concerns were raised about the impact of PCS orders. This fall, an airmen from Creech Air Force Base in Nevada will be transferred to Ellsworth to support a new MQ-9 Reaper mission. What information will they receive to address mortgage problems when they are transferred? Would you be willing to share them with my staff so that they can better serve and assist servicemembers?

Colonel KANTWILL. Yes, Senator, I would be happy to do that. And in direct response to the question now, I can tell you that, as I noted during my opening comments, our legal assistance authorities are doing an unbelievable job on behalf of servicemembers in the field. One of the great aspects of my current duties is the fact that I work daily with the service chiefs of legal assistance. They are also involved in many of the efforts of the CFPB and the OSA. They are tied into the industry as well. They can keep a pulse on what is happening in every respect. And they feed the information that we gather right down to the attorneys in the field.

So the legal practitioners at post camps, stations, installations, et cetera, are completely up to date on all of the developments. They have the opportunity to meet with soldiers, sailors, airmen, and marines on a regular basis, obviously assist them in their office, provide briefings when they move from installation to installation, provide pre- and post-mobilization briefings, provide pre- and post-deployment briefings as well, all with a view toward getting as much information as they possibly can to the servicemembers in

order that the servicemembers may make better and well-informed choices.

Chairman JOHNSON. Attorney General Biden, last month you and 21 other Attorneys General, including Marty Jackley from my home State, wrote to Members of the House and Senate regarding the 90/10 rule. I am a cosponsor of legislation that would close the loophole that incentivizes for-profit colleges to enroll vets and other servicemembers.

How have you seen the 90/10 issue affecting military families in Delaware? And what are you and other AGs doing to try to protect students from unfair and deceptive marketing practices?

Mr. BIDEN. Thank you, Mr. Chairman.

Number one, Jack Conway, the Attorney General from Kentucky, is leading the charge at investigating in a bipartisan, multi-State fashion for-profit colleges, not the least of which is the 90/10 rule. I joined with Jack Conway and, as you said, a number of other Attorneys General, applauding the effort by this Committee and Members of this Committee and Senator Carper in the legislation you cosponsored on the 90/10 rule specifically.

What we see in Delaware and what I see wearing my JAG hat in the military is that soldiers are marketed to in a very aggressive fashion. This is something that Mrs. Petraeus and I have discussed on a number of occasions, and she sees it as she travels the country, I am sure, and can speak to it as or more eloquently than I. But we see these folks targeting and marketing to soldiers who they know have money and access to both money as well as the GI bill.

There is no question in my mind and the part of many of my colleagues, if not all, that the 90/10 rule should be changed, and we highly support, at least those who sent the letter to you, a change in making sure that the GI bill monies are on the 90 side and not on the 10 side.

Chairman JOHNSON. Mrs. Petraeus, once again thank you for coming to South Dakota and sharing your knowledge with members of the South Dakota National Guard and the airmen at Ellsworth Air Force Base.

Military installations have either a bank or credit union onsite. What can these institutions, which have special permission to operate on military installations, do to provide better and more innovative products and services to members of the military?

Ms. PETRAEUS. Thank you for asking that. The banks and credit unions that operate on military installations do so under a contract with the Department of Defense, and part of that contract is that they provide financial education. When those contracts are up for review, certainly the Department of Defense can speak to them about improving their offerings.

My office held what we called the "Financial Fitness Forum" last December, where we asked the banks and credit unions that dealt with the military to come together and tell us about what they were doing for their military customers. And we did have about 45 credit unions and 8 banks participate in that. There were some that had some innovative, small, short-term credit products that they felt they were able to make enough of a profit on to present, which would help young servicemembers who so often have a thin

credit file or no credit file and are considered a risk for more conventional loans.

So I think there is a lot that can be done. I hope we can continue the dialog, as we did back in December, and I know the Department of Defense is also able to look at things when these banks do come up with for renewal and talk to them about what they might offer for their customers on base.

Chairman JOHNSON. Thank you.

Senator Shelby.

Senator SHELBY. Thank you, Mr. Chairman.

Mr. Biden, as the Chairman mentioned, you were part of the recent settlement with the Nation's five largest mortgage service banks. You stated in your testimony that, as part of this settlement, servicemembers who were wrongfully foreclosed upon and charged interest in excess of the limit under the Servicemembers Civil Relief Act would receive compensation for these violations.

My question today basically is: About how many servicemembers have been helped by this settlement?

Mr. BIDEN. I do not have an exact number for you, but I can get you exact numbers.

Senator SHELBY. Can you do it for the record?

Mr. BIDEN. I would have to guess what the exact number would be.

Senator SHELBY. Is it a good many?

Mr. BIDEN. It is a good many, and what we have seen is the banks, the servicing banks, have seen the writing on the wall based on being called before this Committee.

Senator SHELBY. Absolutely. What is basically—in the ball park figure, what is the total amount that has been paid out to servicemembers? If you do not know, can you furnish that for the record?

Mr. BIDEN. That is a number I would have to—I would be more comfortable getting you the exact number.

Senator SHELBY. Is it a good bit of money?

Mr. BIDEN. It is a significant amount of money, yes, sir.

Senator SHELBY. Roughly, how many total servicemembers do you expect to ultimately help?

Mr. BIDEN. We expect to help hundreds and hundreds of servicemembers and their families by way of this settlement. Servicemembers are no different than civilians. They have been greatly affected by the housing crisis. You have one-third of the American population underwater, and so this is a population no different than the civilian community that has been significantly impacted and will be benefited by this statement.

Senator SHELBY. Ms. Petraeus, the Bureau recently announced that it would delay its release of the qualified mortgage final rule until the end of this year. I believe this rule will determine who has access to mortgage credit. It could have a substantial impact on members of the military because generally members of the military, as you know well, are young, have a small credit file, and basically have few assets.

Do you have any concerns about how this rule may impact the ability of servicemembers, our soldiers, to obtain mortgage credit?



And if so, has your office expressed your concerns to the staff at the Bureau who are writing this rule? I think this is important.

Ms. PETRAEUS. Well, thank you for asking that question. We do have some very talented people on our mortgage team that are far more qualified to address the intricacies of the Qualified Mortgage Rule than I am, so I do not want to get down in the weeds and say what is not right.

I will say I work with our mortgage team quite often. We have certainly been talking to them a great deal over the past year as we tried to work out some of the protections that you mentioned that have recently come into place, both the Mortgage Servicer Guidance and also the announcement by the FHFA that they were going to provide some principal forgiveness.

So I am learning about the mortgage issues, but I would never want to put myself up as the expert at the Bureau on that. So I will defer to them. If you would like to submit us a question for the record, I would be happy to have us respond in that way.

Senator SHELBY. Well, I think that most of us as policymakers would want to make sure that our soldiers are not cutoff from credit arbitrarily or maybe unintended, but work that way. Do you have any comments?

Mr. BIDEN. One of the benefits of the settlement is that it limits the banks—the servicing banks have agreed to limit the information that they pass on to the credit bureaus that ends up having a negative impact on a soldier, sailor, airman, or marine's ability to get a house or get a credit card or any other thing that requires a credit history when they return.

So the servicing banks by way of this settlement are going to be much more careful and much more circumspect about what and where they report and whom they report it to.

Senator SHELBY. Thank you.

Colonel Kantwill, we have heard testimony today that some lenders are evading the Military Lending Act by structuring their loans as open-end credit. In its 2007 rule, the Department of Defense, as you well know, opted not to cover open-end credit products under the Military Lending Act.

Do you know what were the original reasons for excluding open-end credit products from coverage? And have any of these reasons changed?

Colonel KANTWILL. I do not know all of the reasons, Senator Shelby, but I can certainly tell you that part of it goes back to the comment that you just made, and that is the availability of credit. Everything that we do in the Department and in this industry, I think, has to be balanced in making sure that we do have some accessibility to credit for people who may not otherwise qualify.

Senator SHELBY. Soldiers and their families have got to live like all of us, and under difficult circumstances.

Colonel KANTWILL. Yes, sir, absolutely. And by the same token, we have to protect them as much as we possibly can. And that is one of the reasons, sir, I noted at the outset that we are now undertaking a survey, and we are going to go directly to the people who work with families on a regular basis to determine exactly what is going on in the field, and that will help us when we go through, if we go through the rulemaking process, the definitional

process heretofore. We are also happy to have the recent CFA report, which reports on a lot of those issues as well, and we will consider the findings and recommendations carefully there as well.

Senator SHELBY. Colonel, you might know. I do not know what the average age in America is of all our forces, armed forces, but it is young.

Colonel KANTWILL. It is, sir. Approximately 50 percent of the force is 25 years of age or younger.

Senator SHELBY. If they are like me, they have got a lot to learn, you know, all of us.

Ms. Petraeus, you described the recent efforts of Federal agencies to address the financial problems that military personnel may experience when they move because of a Permanent Change of Station order, which you know. In your testimony you also noted that, from a personal standpoint, you and your husband, General Petraeus, moved 24 times in 37 years, and you did not live in a house for more than 4 years straight. I know you are a military family.

Based on your own personal experience, how did your frequent moving impact your financial planning? It had to have some impact.

Ms. PETRAEUS. Well, certainly it did. You know, it is a big consideration when you arrive somewhere. I have had people in the financial community ask me why military buy houses at all. And, of course, you know, they have the same motivations that the rest of Americans do.

Senator SHELBY. Sure.

Ms. PETRAEUS. They want a part of the American dream. But it is a consideration when you know that you may be moving on in a short time.

I think many of them certainly have been caught up in the economic downturn. They bought a house and assumed that it would hold its value, if not go up.

My husband and I just happened to be fortunate and hit it right the couple of times that we did opt to buy rather than to rent. But it was always a consideration; how are you going to work it.

So the ideal thing would be to have bought a house and have a decent amount of equity in it by the time you come to retire. And my husband and I really were not able to do that. So I can certainly sympathize with these families who are making tough decisions as they move.

Senator SHELBY. What advice would you, coming out of a military family yourself and married to a famous general, whom we all know, what would your advice be to young servicemembers who are considering becoming a homeowner? And I think it is important to counsel them in some way.

Ms. PETRAEUS. I think the most important advice is to go into it very well-educated and to make a plan. And the fact is that the Department of Defense has financial education and financial counselors that can really assist you in that area.

So the first thing I would tell them is go and "know before you owe," as we say at the CFPB. Go and get the information that is provided for you before you make that decision and sign on the dot-

ted line, because it is a very long-term contract that you are going to be living with for quite a while.

Senator SHELBY. Thank you.

Any other comments, Mr. Biden?

Mr. BIDEN. I would just like to add, one of the points that is important to highlight in this settlement is the PCS issue that you were highlighting. What has been done heretofore is military families have been literally ripped apart. Banks have required if not advised families to claim something that is not true, and that is, in order to qualify for hardship—

Senator SHELBY. That is totally wrong to do that.

Mr. BIDEN. Correct. It is not only wrong, but it is illegal and immoral. And so what the banks have agreed to do is not do that.

For instance, they have actually, in my experience as a JAG and my experience as Attorney General, encouraged people to not make a payment. That thereby allows them to qualify for a hardship, and the discussion about whether or not there is something other than a foreclosure that can take place. You should not force someone into damaging their credit to have a discussion about something short of a foreclosure. The settlement will end those practices.

More importantly, what relates to the military families is that it used to be that in order to qualify for a hardship, you had to have the home that you were seeking a modification of the mortgage of to be your primary residence. This is the issue that the Colonel and Ms. Petraeus saw time and time again. What that did was it forced someone to stay at Dover Air Force Base and leave their family behind when they moved on to Ellsworth. We should not rip and tear families apart to qualify for a hardship which then gives them a chance to have a discussion about something short of foreclosure.

This settlement changes that, Senator.

Senator SHELBY. Good.

Mr. BIDEN. And Mrs. Petraeus in her agency has been able to leverage that throughout the system to remove some of those kind of impractical and harmful effects that currently existed.

Senator SHELBY. Colonel, do you have a comment?

Colonel KANTWILL. I do, sir. This is a substantial protection, and I thank General Biden and Mrs. Petraeus and all of the people who have been working on it.

It is particularly noteworthy because this is a problem that affects the active-duty force. As you know, many of the SCRA protections, because they deal with preservice obligations, affect more the Reserve component force. And the PCS issue and the homeownership issue is something that hits very, very close to home for the active-duty population and, therefore, we think this is a wonderful initiative, and we appreciate all the assistance and support.

Senator SHELBY. Thank you, Mr. Chairman.

Chairman JOHNSON. Senator Reed.

Senator REED. Well, thank you, Mr. Chairman.

Colonel Kantwill, thank you for your work. The Military Lending Act, as Senator Shelby pointed out, imposed certain limits on lending, and DOD chose to make that sort of closed-end lending.

I think it is important to point out that the cap is 36 percent, so in terms of credit availability, particularly in this market, when people are, you know, charging 36 percent interest rate, I do not

think we are talking about losing good access to credit. You are looking at being sort of taken for a ride in terms of credit.

Administratively, you are considering, I presume, changes that would cover open-ended credit. Is that correct?

Colonel KANTWILL. It is, sir. And as we go into the study, that is one of the things that we will look at very, very closely. The CFA report was rife with recommendations with respect to those particular provisions, and, yes, sir, we will examine that very, very closely.

Senator REED. And I think you are aware that in the pending Military Authorization Act there is language directing you to include open-ended credit.

Colonel KANTWILL. Yes, sir. And if I may add, Senator Reed, we are especially grateful for the very good relationships that we have had with your staff over the many months that I have been in these duties. I have had countless occasions to work with your staff members, and they have been very supportive and very proactive in this area, and we appreciate it very much.

Senator REED. Thank you very much, sir.

Let me turn to another issue that is pertinent legislatively, that is, the Servicemember Housing Protection Act. I know Attorney General Biden is familiar with it; I think you all are. There are three key provisions in it, and I would like you all to comment upon the need and necessity to get it done quickly.

One is it would make it easier for servicemembers to claim deployment-related financial and credit protections by expanding the notion of military orders to include a letter from the commander indicating—now I think you understand there are people waiting on orders, sort of they are in flight and they get the orders, and that is just disruptive to try to claim these protections.

Second, as I mentioned in my remarks, extending protections to surviving spouses from foreclosure, which I think, again, is absolutely essential.

And the third is to ensure that members who are living off post when on-post housing is available, they can move in without penalty. There are several States—Georgia, Virginia among the States—that already have this as a State protection.

Starting with Mrs. Petraeus, should we move very quickly and get this done on these critical issues?

Ms. PETRAEUS. Thank you for your work for the military. Certainly on the part of allowing somebody to use a letter to substitute for orders, I have heard more than once what a challenge it was when the financial institution would only accept a certain written order, especially for reservists, frankly, who go on and off active duty very frequently and sometimes very rapidly.

The surviving spouses, I am very happy to see you consider them. I do remember the military's HAP program actually did recognize that they also should be taken care of. So I appreciate that.

And certainly we have all heard stories about servicemembers who got housing on-post, and tried to break a lease. Most recently when I was in Montana, at Malmstrom Air Force Base, we had a servicemember who told us about his friend who ended up being held up to the tune of several thousand dollars by the landlord in

order to get out of the apartment and move onto the air force base. So it is another issue that needs to be addressed.

Senator REED. Thank you.

Any comments quickly, Colonel?

Colonel KANTWILL. Yes, sir. Those are three great initiatives, and we support them very much.

I am proud to say that as far as the military orders go, certainly as you know from your experience, and my colleagues here do as well, it can take a while to produce orders, they can be confusing, et cetera, and we have enjoyed a good relationship with the financial industry, and we have been able to develop this forum that our folks in the field are now using, and the industry recognizes as well as a convenient way to do just as you describe.

The surviving spouse provisions, of course, speak for themselves. If there is any group of people we need to protect with vigor, it is those who have given so greatly for their Nation.

And the move on post, sir, I have been very, very proud to work with you and your staff on, and we support that completely. That is something that we hope to see in effect very, very soon.

Senator REED. General Biden.

Mr. BIDEN. I think your legislation is critically important, Senator. We have been a Nation at war for nearly a decade, and at any given time, I understand that nearly half the boots on the ground have some from the reserve forces. And it is critically important for reservists, both Guard and Reserves, to have this fixed. And I applaud your efforts for fixing at least—all three, but especially the orders piece.

Often I have deployed, deployed with and helped deploy soldiers who receive their orders, if they receive them, as they are getting on the plane, and there is no way to do what you need to do by way of taking advantage of the SCRA if you do not have those orders. And the banks need to understand this. They do, but sometimes in the 1-800-HELL that sometimes exists out there, people do not know even if there is a policy within their banks that they should know, so thank you.

Senator REED. Thank you, General. My time has expired, but, Colonel Kantwill, we are going to send a written question about this whole allotment process you alluded to, because, again, in the old days, in my sense, the allotment was really made to be sent home to Mom and Dad or to your wife, et cetera. Now it is being used to secure or pay for electronic devices, and I think there is a lot of room to tighten it up within the Department, and if there is legislation, you can inform us, and I will reserve that for a written question.

Thank you, Mr. Chairman.

Colonel KANTWILL. Thank you, sir.

Chairman JOHNSON. Senator Menendez.

Senator MENENDEZ. Thank you, Mr. Chairman. Thank you all for your testimony and your service.

At our hearing last November, I expressed concerns about the Military Lending Act, which caps interest rates for consumer credit to military borrowers at 36 percent but does not cover all loans. And, in addition, a lot of lenders have created work-arounds to circumvent the rules and market predatory loans to servicemembers.

So, Colonel, in the National Defense Authorization Act, there were some provisions to strengthen the Military Lending Act which we hope close loopholes and clarify definitions of prohibited practices.

Have you had a chance to review that? And if you have, do you believe that language helps us achieve the goals that we were seeking to?

Colonel KANTWILL. We are in the process of reviewing all of the legislation, sir, and that is an issue, as I indicated earlier, that we are going to take a very, very close look at. It was focused upon by the Consumer Federation of America. It is something that Mrs. Petraeus brings back from her visits to installations, something that we have heard from State enforcement officers about as well, and we will look at those very, very closely, sir, and we appreciate it very much.

Senator MENENDEZ. Well, I would hope that in your review and analysis, if you would tell us—and, Mrs. Petraeus, if you would tell us—whether or not our goals are accomplished by that language or whether there are still shortcomings that we should pursue.

Colonel KANTWILL. We will do just that, sir. Thank you.

Senator MENENDEZ. Mrs. Petraeus, have you had an opportunity to review that language as well? Have you had that chance yet?

Ms. PETRAEUS. Not in enough detail that I want to address it specifically, but I did want to note that our agency has signed a joint statement of principles with the Department of Defense specifically on the subject of small-dollar lending. So we hope to share information back and forth, including what we hear from the field and also what they hear so we can work together to address this effectively.

Senator MENENDEZ. Well, back in November when I pursued this with you, you said supported broader protections but the devil is in the details, so I am looking to see what you find in the details.

I also was concerned about the Servicemembers Civil Relief Act not being properly understood or enforced, resulting in illegal foreclosures, and we held a hearing on that issue as the Subcommittee on Housing.

General Biden, I am very interested in ensuring that the not-so-independent foreclosure review process, as I call it, is fair, comprehensive, and accountable. And as one component of that process required by the bank regulators due to banks harming military members, independent consultants hired by the mortgage servicers are going to conduct a file review of foreclosure cases involving borrowers subject to the act, and compensation is supposed to be provided to servicemembers who suffered financial harm through the violations.

I am encouraged by the decision to review all of the files that are subject to the Civil Relief Act, but I remain concerned that firms hired by the mortgage servicers may not be truly independent at the end of the day.

Have you had a chance to look at this? And can you discuss your level of confidence that servicemembers who suffered under violations of the act will be consistently and fairly compensated?

Mr. BIDEN. I share your concerns. I think they are well placed. And I am hopeful with the pressure brought to the servicers by you and this Committee as well as the U.S. Department of Justice Civil

Rights Division, as well as the Attorneys General, will hold their feet to the fire. I do not, as I sit here this morning, have any indication that they are not doing what the settlement requires them to do. But I also did not think that they would have to be called before your Committee and be told to enforce a law that has been around since the Civil War.

So I am hopeful that they will comply with both the settlement and SCRA, which I believe that they are well aware of, but apparently they were not.

Senator MENENDEZ. And that brings me to my final question. Can you discuss the differences between the provisions in the National Mortgage Settlement and foreclosure reviews and the impact on servicemembers and their families? Are these reviews sufficiently coordinated, do you think?

Mr. BIDEN. I believe they are. That is a question I would have to take back and get back to you on with Tom Miller, who led the State investigation, as well as the Assistant Attorney General in charge of the Civil Rights Division. I believe there is coordination—in fact, I am confident there is. I can get back to you on the level of that coordination.

As you know, the resolution as it relates to the SCRA violations, pieces of that are on top of the settlement. And so I believe there is coordination that is adequate.

Senator MENENDEZ. Well, we appreciate your vigilance and look forward to your input.

Thank you all.

Chairman JOHNSON. Senator Tester.

Senator TESTER. Yes, thank you, Mr. Chairman. I want to thank all the panelists for their testimony and thank you all for your work.

Holly, you have been very, very busy, and you are right to point out that when we did visit those 450 airmen at Malmstrom, there were some issues with rental agreements. And we have got a very young force up there, as you well know, and they encounter some problems when they have to move off base and when they move back on base. And I want to go to where Senator Reed was heading, because the termination of some of these leases ended up in penalties, and sometimes these leases were very difficult to get out of.

You have all expressed your support for Senator Reed's bill, which I am proud to be a cosponsor of, on extending the protections to the servicemembers when it comes to getting out of these leases. I guess the question I have, to kind of play the devil's advocate—and, Holly and Attorney General Biden, you can answer this, and if you want to throw in some stuff, Colonel, you certainly can, too. I want to extend the housing protection to servicemembers. I think it is important we heard about up at Malmstrom. But I also do not want to make it so we are inadvertently making them less appealing as potential renters.

Can you folks talk about that, if there are ways we can make sure of that—just give me your perspective on that. I do not want to head one direction too far either. Go ahead, Holly.

Ms. PETRAEUS. Well, I would simply say that I think with any new provision you have to think about unintended consequences,

and it is something to consider in a rental market. If you are now allowing a large proportion to break their leases to move on base, that is going to have an impact. And I think it is one that needs to be studied carefully.

Senator TESTER. OK. Attorney General Biden.

Mr. BIDEN. I agree with that, and I think that it has to be done with everyone's eyes wide open, and I think it is a worthwhile thing to focus on, Senator.

Senator TESTER. If there are ways to mitigate it, I would certainly be happy to take your perspective.

Colonel, I do not know if you had anything to say on it. If not, we will move on. Go ahead.

Colonel KANTWILL. I concur, sir. It is something that does require study, and we will certainly do that.

Senator TESTER. Well, thanks.

Now I want to talk about potential rent gouging. Right now the allowance rate is accessible to the public. And if, in fact, you happen to live in a community where that allowance rate is higher than the going standard, then rental rates can be raised and thereby enable some to take advantage of the situation. And this is to all of you. What can we do to more effectively help servicemembers navigate the housing market, particularly in rural areas where the availability of rental housing may be limited and may be jacked up due to the fact that the rental allowance rates are public information? Go ahead, Holly.

Ms. PETRAEUS. I would just say, again qualifying this as a non-lawyer and nonexpert, that if they are raising the rates specifically for military personnel because they know what their housing allowance is, that might be something that would fall under one of the consumer financial laws such as the Truth in Lending Act or Equal Credit Opportunity Act. So it might be one that could be looked at in that way by our agency.

Senator TESTER. OK. Anybody else?

Mr. BIDEN. I think education as well as I sit here as the Attorney General, not wearing my military hat but as a JAG, I think it is something that those in the military have to be able to make sure they take advantage of the legal services provided in the JAG offices to help make sure they are not being gouged.

Senator TESTER. OK. Go ahead, Colonel.

Colonel KANTWILL. I would add only, sir, that our legal staffs do look out for these things.

Senator TESTER. OK, good.

Colonel KANTWILL. And the best of them maintain contact with local landlords, and they try to advocate on servicemembers' behalves.

Senator TESTER. Super. I want to talk about pension poachers very, very briefly. Holly, we visited about it a little bit before the hearing. GAO recently took a look at the companies and individuals who market financial products and services to disabled and elderly veterans. There are over 200 organizations that they found scammed veterans into hiding or restructuring their assets to qualify for VA assistance programs. I think you know the story. It is somewhat—not just somewhat distressing. It is incredibly distressing. And I was just curious if the CFPB is engaged in edu-



cating veterans about these schemes or shedding light on some of the bad actors out there, if they are playing a role in this at all.

Ms. PETRAEUS. Well, this is an area at CFPB where two of our special population offices overlap—my office and the Office for Older Americans—because these schemes are directed at elderly veterans for the most part. It so happens that our Office for Older Americans now, as of late last week, has a Request for Information in the *Federal Register* for examples of elder financial abuse, and we made sure that the Veterans Service Organizations knew that that Request for Information is out there. We are really hoping to spread the word widely. We have also told our DOD friends because that is the initial step. We need to look at it and then see how we might address it.

Senator TESTER. Very good. Just a quick follow-up. You are working with VSOs. Have you been able to work with the VA at all on this issue? Have they reached out to you or have you reached out to them?

Ms. PETRAEUS. We talk to the VA fairly often. This issue I think is one that has really kind of blown up in the last few months. I first heard about it when I was in Montana with you in January, and then it seemed like every subsequent State I visited, the head of the Veterans Affairs for the State would ask me if I had heard about problems with it.

So I think it is on the radar, and we do look forward to working with the VA to see how we can educate people to avoid these scams as well as possibly address it in other ways.

Senator TESTER. OK. Well, I certainly appreciate working all the panelists. Thank you very, very much for being here today.

Chairman JOHNSON. Senator Hagan.

Senator HAGAN. Thank you, Mr. Chairman. Thank you for holding this hearing. I really want to thank all of our witnesses for your testimony and for the service that you perform for our country each and every day.

Mrs. Petraeus, the last time that you came before this Committee, you testified about the aggressive marketing and recruiting of military personnel and their families by certain institutions of higher education. I expressed my strong concerns about the egregious behavior of some of these institutions then. I want to reiterate those concerns now.

In fact, I have heard of instances of aggressive recruitment taking place at the Wounded Warrior barracks at Camp Lejeune and in other places in North Carolina. I know the President has issued an Executive order to be sure that such egregious behavior does not take place.

When we look at the amount of funding going into the post-9/11 GI bill—which I really want to be sure that all of our military personnel use that to further their education for themselves and their families—eight of the top ten recipients of that post-9/11 GI bill are for-profit education companies. They are training about 25 percent of the veterans, but are receiving close to 37 percent of the funds.

I introduced a bill called “Protecting Financial Aid for Taxpayers and Students Act” (S.2296). The bill says that revenues derived from Federal student aid programs, including the GI bill, may not be used for marketing, recruiting, and advertising. They can still

do all the marketing, recruiting, and advertising they want with private tuition dollars, but not with Federal Government assisted dollars. Right now we know by law that for-profits can get about 90 percent of their funding from the Federal Government. Some of these for-profits are spending close to 30 percent on marketing, recruiting, and advertising.

I want to be sure that our veterans and our military individuals are not being targeted in inappropriate ways.

I applaud the efforts of the CFPB's Know Before You Owe. I believe it is going to go a long way toward ensuring that students have a clearer idea of how much their education is going to cost and what they are expected to have to pay back.

In your testimony, you mentioned that aggressive marketing results in students taking out expensive private student loans to pay for tuition and fees not covered by the GI bill. Do you have any idea how often veterans are in situations in which their benefits do not cover the cost of their tuition?

Ms. PETRAEUS. I think it has been difficult to get really accurate information on the numbers of that sort of thing. It has also been hard to tell what you are paying with. A lot of the money is just all lumped together. We have certainly heard that servicemembers and veterans did not realize that part of what they were paying was their GI bill, but then they were almost involuntarily being put in for private student loans versus being advised: "Here is what your GI bill will pay, next you should look at Federal student loans, then you should go to private loans as a last resort." And if the program costs that much money, I would think then you also might want to think about: is that the best place to spend your dollars?

But it has been very hard to tell that because it has all been kind of lumped together in one big package, and you are just told it will all be taken care of.

Senator HAGAN. Will the Know Before You Owe Web site actually educate servicemembers and veterans on the difference between a private student loan and a Federal one? And will it also explain how to use the GI bill benefits? If you type in "GI bill" now on a search, instead of the official Department of Veterans Affairs site coming up, in many cases there is a site that asks for a lot of collecting of information on behalf of paying for for-profit clients is what the individual veteran or military servicemember is now getting. Will you all have any way to look at how the Web site comes up under Know Before You Owe?

Ms. PETRAEUS. I think there are a lot of people interested in addressing that. Both the agencies that are working on the President's Executive order in consultation with us and also some of the Attorneys General have addressed it as well. So we really do want people, when they go online, to find really impartial advice, not a lead generator for for-profit schools, that masquerades as helpful GI bill advice when it is anything but. So that is very much on the radar, and I think a number of groups are working to address that.

Senator HAGAN. Attorney General Biden, do you have any comments on this question?

Mr. BIDEN. First of all, I would like to applaud your leadership on this. We have spoken about it, and thank you for shining a

bright light on this issue of critical importance. Fixing the 90/10 rule I think is critically important. It will take some of the pressure off of the—you know, the pressure that these for-profit colleges feel to market to those folks, stating it nicely, so thank you for your effort on that legislation as well as your own.

Attorney General Conway of Kentucky has been leading the charge on many of these issues for the Attorneys General in a bipartisan, multi-State fashion. He will be making a big announcement tomorrow regarding some of the marketing issues and with regard to one of the specific marketers that I think will please you and this Committee. And I can give you some more guidance on that after General Conway is able to speak to it tomorrow.

Senator HAGAN. I will look forward to that.

Colonel Kantwill.

Colonel KANTWILL. Ma'am, this is an issue a bit out of my purview, but I know that it is of concern to the Department, and with colleagues like this working on the issue, we are in very, very good hands. Thank you.

Senator HAGAN. Thank you, Mr. Chairman.

Chairman JOHNSON. Senator Akaka.

Senator AKAKA. Thank you very much, Mr. Chairman.

It is good to see you again, Mrs. Petraeus. As you know, we have relied heavily on our Guard and Reserve forces during the last decade, and they have been critical to our success. What do you see as differences in the consumer protection needs for members and families of the Guard and Reserve forces as compared to active-duty personnel? Can you talk about any challenges to providing financial education to members of the Guard and Reserve?

Ms. PETRAEUS. Yes, I think there are definitely challenges to doing financial education for those groups, largely because they are scattered all over the place. If it is the National Guard, they can be from one end of a State to another. If it is the Reserve, they can actually be in a multi-State area. So you are not going to be able to bring them together in a classroom and provide financial education, at least not very often.

One thing we hope will be helpful in that is this new education initiative that we are developing to be taught during the Delayed Entry Program for servicemembers before they get to boot camp because it is going to be done in a format that is usable on a smartphone or a computer. So we really hope with that virtual component to it that it might be something that will be very helpful to the Guard and Reserve as well, to provide a piece of education to their members, and also to their spouses if they are interested to take it as well.

So we hope that can be helpful because it is really challenging to reach a group that, again, is so widely scattered. The one time we kind of get them in one place and can talk finances is after deployment, during Yellow Ribbon events, but there is a lot of information that they have to absorb at those. So I would like to see if we can enhance this with some online help as well.

Senator AKAKA. Thank you very much.

Attorney General Biden, welcome. Do you have anything to add to this as a member of the National Guard.

Mr. BIDEN. Yes, good to see you, Senator. Yes, Mrs. Petraeus is exactly right. At the Yellow Ribbon ceremonies that Guard members and reservists have on post-deployment, that is, when they are returning from their deployment, we have a very good program. There is an attempt on the front end, once a unit is activated, to give them these services as well. The problem, speaking just personally from that perspective, is that, you know, you are getting a lot of briefings, a lot of fire hoses being shot at you with a lot of different things from a lot of different directions, and so sometimes—I think Mrs. Petraeus alluded to it—it is hard to focus on your financial well-being as you are getting ready to go off to your deployment.

But the Guard is making a real effort on this, has stepped up their efforts over the last decade of the high tempo that they have been seeing for the last decade.

Senator AKAKA. Thank you very much.

Mrs. Petraeus, when servicemembers are deployed for extended periods of time, many spouses assume the responsibility of managing the family's budget. Can you please discuss how the Office of Servicemember Affairs works with spouses in addition to servicemembers?

Ms. PETRAEUS. Well, certainly I am a personal example of the spouse managing the budget since my husband was deployed for over 5 years total, actually close to six. If I had not done it, I would not be sitting here today because we would be in serious financial trouble.

Obviously, I think it is very important that spouses also get the information they need, and as a first step, we are going to be sure that the delayed entry initiative that we are doing for servicemembers right at the beginning of a career is also available to their spouses.

The one challenge with educating spouses is, unlike the active-duty military member, you cannot order them to attend a class. So you have to try to get the information out there and make it interesting enough and pertinent enough and appealing enough that they want to take it. We certainly want our Web site, [ConsumerFinance.gov](http://ConsumerFinance.gov), to become better and better as a resource for them, and we also hope to be more active on social media as well, because a lot of them do spend time there on forums and various social media outlets.

So we will continue to see how we can serve them, and as I know the Department of Defense is already doing as well.

Senator AKAKA. Thank you very much.

Mr. Chairman, may I proceed with one more question?

Chairman JOHNSON. Yes.

Senator AKAKA. And this is to the panel.

A poll conducted in conjunction with the Treasury Department and the President's Advisory Council on Financial Literacy found that, of current servicemembers and military spouses polled, one in four reported having more than \$10,000 in credit card debt, 10 percent were carrying more than \$20,000 in debt. Families of enlisted personnel and junior noncommissioned officers were more likely to make minimum credit card payments and take out cash advances.

In addition, more than one-third of the military respondents said they had trouble keeping up with the monthly expenses and bills.

I know that you are working hard on these issues. Can you discuss some of the education programs for our military families and veterans and how we can work to close this gap? What more can be done to educate our servicemembers and their families on financial matters?

Colonel KANTWILL. I think, sir, from the Department's perspective—and thank you very much for the question and for the concern for our servicemembers. I think from our perspective we need to be innovative and we need to be inclusive. We know well—and you pointed out very adroitly—how this affects spouses as well left behind for long periods of time. So knowing the current environment in which we operate, the downturn in the markets, et cetera, knowing that we have got many servicemembers situated just like this, we need to be more inclusive, and we need to get those servicemembers in in larger numbers and more frequently. We need to involve their spouses in that sort of training. And we need to be innovative. We need to use vehicles that young people can relate to, that they can absorb, and that are obviously impactful upon them. And I do know that folks throughout various segments of the Department are working on just this. I know that we are working very closely with the CFPB and the OSA, and we are working with other organizations as well to imbue these qualities and provide the training to our servicemembers to the maximum extent possible.

Senator AKAKA. Attorney General.

Mr. BIDEN. I would just like to applaud the efforts of the Department and the colonel. Speaking from personal experience, you have young soldiers, young servicemembers, getting off the plane coming home from their first deployment, and it is sometimes the first time that they have ever had any real money in their pocket because they have been paid a salary that is greater than one they were paid when they were stateside. And they have nowhere to spend it, so they get off the plane with some money in many cases, which is good thing. The bad thing, though, is that they sometimes then do not know how and where to spend it and get in over their head. And I think that is one of the things that the Department is focused on, and I applaud the Department of Defense's efforts on that. But it is for sure a concern, and thank you for highlighting it, Senator.

Senator AKAKA. Thank you.

Any further comments?

Ms. PETRAEUS. I will just say that it is a challenging problem. You do not want financial education to be like a visit to the dentist where you get the lecture because you were not flossing enough. So you get the lecture that you were not saving enough, that you did not do things right. We are trying to figure out ways to approach it where it is more, "What do you want? Let us see if we can help you get to that point." And it is very challenging. People do not always behave in the way that you expect that they would do, and part of our Office of Financial Education at the CFPB's job is to really take a hard look at what works, because it might not always be what you or I would think would be the most effective.

Senator AKAKA. Thank you.

Mr. BIDEN. If I may add?

Senator AKAKA. Yes, Attorney General?

Mr. BIDEN. One of the ways that is very important on this is what I see—and this is a good thing. It is not programmatic. It just is kind of organic to the military, and that is mentors. It is simply the NCO taking the young E3 or E2 by the collar or by the arm or the officer doing the same with their junior officer and mentoring from a financial literacy perspective. And it is one of the great organic things that I have seen in the military. How that has made more programmatic is a challenge, but it definitely happens organically.

Colonel KANTWILL. If I may, Senator, General Biden is exactly right, and we have seen that this has been a great point of emphasis amongst our senior enlisted leadership particularly. The senior enlisted leaders have met with many organizations, and they have talked about who their soldiers are and how their soldiers think, their troops and families think, and they are very much involved in the development process for some of this training for us along with our financial planners and counselors and managers, et cetera. But I thank General Biden for making that point because it is a very, very good one.

Senator AKAKA. Thank you. Thank you so much for your responses.

Thank you, Mr. Chairman, for the time.

Chairman JOHNSON. Thank you all for your testimony and for being here today. I am grateful to those brave women and men who have served our country and to those who continue to serve and their families for sharing them with us.

This hearing is adjourned.

[Whereupon, at 11:24 a.m., the hearing was adjourned.]

[Prepared statements and responses to written questions supplied for the record follow:]

**PREPARED STATEMENT OF HOLLISTER K. PETRAEUS**  
 ASSISTANT DIRECTOR, OFFICE OF SERVICEMEMBER AFFAIRS, CONSUMER FINANCIAL  
 PROTECTION BUREAU

JUNE 26, 2012

Chairman Johnson, Ranking Member Shelby, and distinguished Members of the Committee: thank you for the opportunity to speak with you today about the Office of Servicemember Affairs at the Consumer Financial Protection Bureau (CFPB), and to update you on what we've been doing since I first testified in front of this Committee on November 3rd, 2011.

In the subsequent 7 months I've had the opportunity to visit with two of you in your States, as well as to travel to 27 military installations across the country. Just last month Chairman Johnson was kind enough to invite me to South Dakota to visit Ellsworth Air Force Base and to meet with members of the South Dakota National Guard. Senator Tester also gave me the chance to experience Montana in January, as he and I visited the Montana National Guard and also Malmstrom Air Force Base. I have to confess that I got off easy by visiting Montana during one of the mildest winters ever; I'm certainly not complaining!

During my travels to military installations across the United States I have talked with servicemembers and their families from coast to coast, and some of the issues I mentioned in my last testimony here continue to be hot-button items. First and foremost are the financial concerns of military homeowners. As I'm sure you know, some of the States that have the largest concentration of military bases are also the ones that were very hard hit during the housing downturn. In almost every town hall or roundtable I conduct, housing concerns are a major topic of conversation. In particular, active-duty servicemembers who own homes and have seen them drop in value and go "underwater" are faced with a true dilemma when they receive Permanent Change of Station (PCS) orders and have to move. What do they do with a house they can't sell for enough to pay it off? PCS orders come with a short timeline, and military homeowners have not been getting the assistance they need, either in programs tailored to their unique circumstances or in timely information about foreclosure alternatives.

Both at town halls and through the CFPB's complaint system we've heard from military homeowners that they have been:

- Told there was no help available;
- Told they had to be delinquent on their mortgage before they could qualify for help, and even advised to skip payments;
- Asked to waive their rights under the Servicemembers Civil Relief Act (SCRA) in order to be evaluated for assistance;
- Stalled with repeated demands for loan documents that have already been sent;
- Routed to a different loan-servicing official with each call;
- Denied the interest-rate reduction or foreclosure protection required by the SCRA;
- Listed as "failing to respond" while deployed despite the fact that their spouse had a power of attorney and was providing the requested information to the servicer;
- And given information about foreclosure alternatives too late to do any good.

I've been talking about these issues with a number of parties and I'm pleased to report that progress has been made for military homeowners. First of all, a recent settlement between the Federal Government, 49 States and the District of Columbia and the five largest mortgage servicers (Citigroup, JPMorgan Chase, Wells Fargo, Bank of America, and Ally Financial) addressed some of the SCRA issues—mandating look-backs and compensation by the servicers where they had denied SCRA benefits—and provided some short-sale opportunities and deficiency waivers for servicemembers with PCS orders. Also, the Government-sponsored enterprises, Fannie Mae and Freddie Mac, have both published guidance to servicers that says that a military PCS move is a qualifying hardship for loan modification or other assistance.

And last week the Federal Housing Finance Authority, which regulates Fannie Mae and Freddie Mac, not only announced that PCS orders are a qualifying hardship for a short sale, but also released guidance that a servicemember with a Fannie or Freddie loan will not be asked to make a financial contribution to receive the short sale, or be liable for the difference between the short sale amount and the original mortgage amount.

Further, I was able to work with the Department of the Treasury—specifically, the Assistant Secretary for Financial Stability, Tim Massad—to encourage changes to the Home Affordable Modification Program (HAMP) guidelines that will provide more opportunities for mortgage assistance to military homeowners. As of June 1st military homeowners who have to move because of PCS orders, but intend to come back to their house and do not buy another house elsewhere, can still qualify as “owner-occupants,” making them eligible for a HAMP Tier 1 mortgage loan modification. I was really pleased to see this change in the guidance because military personnel have been effectively cut off from so much foreclosure-prevention assistance due to requirements that the home be “owner-occupied.” That’s just not possible for a servicemember on orders. My husband and I are a case in point, as we moved 24 times in 37 years and I have never lived in a house more than 4 years straight, and that only once. In recent years a number of servicemembers have seen no viable alternative but to leave their family in their “underwater” house and go alone to their new duty station, which may mean a separation of 3 years or more. I am hopeful this new guidance will help change that.

The CFPB is continuing to take action to protect military homeowners. Last week, the CFPB, along with the prudential regulators—the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration and the Office of the Comptroller of the Currency—issued supervisory guidance for mortgage servicers specifically addressing the issues of military homeowners with PCS orders. The guidance not only reminds servicers of the need to provide important information in a timely manner, but also makes it clear that military homeowners with PCS orders should get accurate and clear information from their mortgage servicers early enough to make informed decisions that will minimize damage to their financial readiness.

Now, to go on to another issue that has been a frequent topic of conversation since I last spoke before you: you may recall that I testified last November about aggressive marketing to military personnel and their families by certain institutions of higher education—pushing not only their educational programs, but also, in many cases, expensive private student loans to pay for the amount of tuition and fees not covered by military GI Bill or Tuition Assistance benefits. There is an extra incentive for for-profit colleges, in particular, to chase after military students because of the 90-10 proprietary college Federal funding cap—a requirement that for-profit colleges get at least 10 percent of their revenue from sources other than Title IV Federal education funds administered by the Department of Education. Military GI Bill and Tuition Assistance benefits are not considered Title IV funds, so they fall into the 10 percent category that these colleges need to fill. Some of your colleagues have recently submitted proposed legislation on this topic, and, in addition, a bipartisan group of more than 20 State Attorneys General recently wrote to Congress urging the moving of military education benefits to the 90 percent side of the 90-10 rule.

For our part, CFPB’s Office of Students, through its “Know Before You Owe” project, has done a lot of work to ensure that prospective students can determine the cost of their college degree in advance and can compare financial-aid offers from various institutions. They developed a “financial aid shopping sheet” and posted a beta version on our Web site, [ConsumerFinance.gov](http://ConsumerFinance.gov), encouraging visitors to give us suggestions on how to improve it. And students can also find on our Web site a Student Debt Repayment Assistant that can help them learn about their options when repaying their education loans.

On the same topic, on April 27th I was honored to accompany the President and the First Lady to Fort Stewart, Georgia, to watch the President sign an Executive Order establishing principles of excellence for educational institutions serving military personnel, veterans, and their families. The Order directed the Departments of Defense, Veterans Affairs, and Education, in consultation with the CFPB and the Attorney General, to take steps to ensure that servicemembers, veterans and their families can get the information they need about the schools where they spend their education benefits. The Order also strengthens oversight and accountability within the Federal military and veterans’ educational benefits programs. And the CFPB is currently working with groups from the above agencies to see that the Order is implemented in a way that best serves our military and veterans.

Another part of my job, as described in the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank), is to “educate and empower service members and their families to make better informed decisions regarding consumer financial products and services.” When I last appeared before you, I was in the process of taking a look at the financial education given to servicemembers at the front end of their career: at Basic Training and the Advanced School that follows it. A couple of things struck me as significant. First, that Basic Training is not a good place to absorb financial content, because recruits are tired, stressed and worried about their



next meal and their next formation. And second, that recruits may already be in debt before they show up at Basic Training. I heard from staff at Lackland Air Force Base, which does Air Force Basic Training, that recruits arriving there in 2008 had an average of \$10,000 in debt upon arrival.

Those two observations, among others, led us to a plan to provide a short financial-education curriculum that can be delivered via smartphone or computer during what the military calls the Delayed Entry Program (DEP). DEP comprises the period when an individual has committed to join the military, but has not yet arrived at boot camp, and DEP can range from two weeks to up to a year in length. It's a timeframe when a new recruit would have more time and less stress than at Basic Training so could focus on some "just-enough and just-in-time" financial lessons that could be very helpful before they get that first military paycheck and start thinking of ways to spend it. We feel that this curriculum will fill a niche where there is no financial education at present, and the Pentagon, including the Senior Enlisted members of all the services, is enthusiastic about the idea and has signaled its intent to help us field it.

Finally, I'd like to highlight a few of the consumer-protection issues that I've heard about repeatedly in recent months from military and veteran families and those who provide support services to them. Let me mention that I am also charged under Dodd-Frank with coordinating efforts among Federal and State agencies on consumer protection measures relating to consumer financial products and services offered to or used by servicemembers and their families.

The first issue is aggressive and deceptive tactics by debt collectors specifically targeting members of the military. These tactics have included:

- Contacting the servicemember's military chain of command as a way to coerce payment;
- Putting a clause in the loan contract that the servicemember must grant the debt collector the right to contact the chain of command;
- Threatening punishment under the Uniform Code of Military Justice, threatening to have the servicemember reduced in rank, or threatening to have the servicemember's security clearance revoked; and
- Contacting a spouse after deployment of the servicemember and pressuring the spouse to repay right away without the benefit of communicating with the servicemember, or, in one particularly appalling instance, demanding that the widow of a servicemember killed in combat pay them immediately from the combat death gratuity.

The second issue, and one that has been the subject of a hearing this month by the Senate Special Committee on Aging, concerns abuses connected with the veterans' benefit known as Aid and Attendance. This benefit is designed to provide assistance with basic daily activities such as cooking and bathing to severely disabled veterans who have very limited means, and the benefit can amount to two thousand dollars or more per month. I have heard from a number of State Veterans Affairs directors, starting with my trip to Montana in January, that they are concerned about the increasing number of individuals and companies that use Aid and Attendance as a hook to sell their services to elderly veterans.

Aid and Attendance offers can take a variety of forms:

- It may be an offer from a lawyer or "veterans' advisor" to get the Aid and Attendance benefit for you—for a fee. In reality there is free VA claims-processing assistance available in every State, accessible by contacting the State Department of Veterans Affairs.
- It may be a claim from a paid advisor that they can get the benefit for you more quickly than anyone else. But all VA benefits claims have to go through the standard VA evaluation process, and no one can bypass the system to get your claim approved faster than usual.
- It may involve helping you qualify for Aid and Attendance, if you have too much money, by taking control of your assets and moving them into a trust where you can't access them. This, in turn, may disqualify you for other assistance such as Medicaid, and it also means that you can't get at your money—whereas the scammer can.
- Also, some retirement homes are now using the lure of Aid and Attendance to get veterans to move in on the premise that they will get Aid and Attendance and it will pay for everything. In cases where the claim is denied after the veteran has already spent money to move in, this leaves the veteran in the untenable position of being unable to afford to remain in the facility.

The CFPB has an Office of Financial Protection for Older Americans and my office is working with them on this issue. They have a statutory requirement to give recommendations to Congress on the vetting of financial advisors for seniors and have included some questions about fraudulent or deceptive practices that target older veterans and/or military retirees in a recent Request for Information published in the *Federal Register*. We look forward to reading the responses and exploring ways in which we can be helpful on this issue.

One more consumer-protection area of concern continues to be installment loans marketed to the military. I hear from financial counselors on the installations about the prevalence of payday-like products that are specifically marketed to military families—often with patriotic-sounding names and the American flags on the Web site to match, but with a sky-high interest rate for the servicemember who takes out the loan. And the Internet is full of “military loans,” some outright scams and others with very high interest rates.

Although the Military Lending Act put a 36 percent cap on the annual percentage rate of certain types of loans to the active-duty military, some lenders have found ways to get outside of the definitions in the Department of Defense (DoD) rule implementing the Military Lending Act. We know from our discussions with representatives from the DoD that they intend to revisit the Military Lending Act rule later this year, either in response to changes in the law or to see if the definitions in the rule need to be updated to reflect changes in lending practices since the initial release of the regulation.

Also, in May the Deputy Assistant Secretary of Defense for Military Community and Family Policy, Robert L. Gordon III and I signed a Joint Statement of Principles on Small-Dollar Lending, and we at the CFPB look forward to working with the DoD on creating strong consumer protections for servicemembers in the small-dollar lending marketplace.

In conclusion, the Office of Servicemember Affairs is working hard to fulfill its mission to work on consumer financial education and consumer-protection measures for military personnel and their families. I think we’ve seen some promising developments since I last appeared before you, and we will press on to work on existing problems and also address new issues as they arise. Our military and their families have done extraordinary service for our country, and, in return, it’s an honor for me and my staff to serve them through our work at the Office of Servicemember Affairs.

Thank you for the opportunity to testify before the Committee.

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**PREPARED STATEMENT OF COLONEL PAUL KANTWILL**

DIRECTOR, OFFICE OF LEGAL POLICY, OFFICE OF THE UNDER SECRETARY OF DEFENSE  
(PERSONNEL & READINESS), DEPARTMENT OF DEFENSE

JUNE 26, 2012

Good Morning, Chairman Johnson, Ranking Member Shelby, and Members of the Committee. It is a great day to be a Soldier and it is an honor to appear before you and represent the Department of Defense and all of our great men and women in uniform. On behalf of the Department, I thank you for your assistance and support in protecting our Servicemembers and their families in the consumer financial marketplace, and for the opportunity to address you today.

It is a pleasure to testify before you regarding the consumer financial issues we see affecting Servicemembers and their families and the Department’s response. I currently serve as the Director of Legal Policy in the Office of the Under Secretary of Defense for Personnel & Readiness, but my perspective on these issues will be more that of a practitioner and Servicemembers’ Advocate. I am a career Active Duty Army Judge Advocate with 22-plus years experience, with many tours of duty across the globe in active theaters of operation, providing legal support to our troops and their families. I have seen first-hand, and remind myself daily, that a Servicemember burdened with concerns outside of the parameters of his or her mission cannot reach full combat effectiveness. I believe my experience in having assisted Servicemembers in the field and leading legal organizations devoted to providing support to our Servicemembers and their families, adds credibility to my Office’s present efforts on behalf of Servicemembers.

We have the privilege of working daily with the Services, most notably through the Service Chiefs of Legal Assistance and Client Services, who are subject matter experts devoted to ensuring our Servicemembers and their families receive the very best in Legal Support and Assistance. This support allows our troops to concentrate on the mission and care for their families in a manner that befits their tremendous

sacrifices. We are fortunate to work with the dedicated financial professionals across the Department, notably in the Office of the Deputy Assistant Secretary of Defense (Military Community & Family Policy), who offer their immense talents and assistance in caring for the financial needs and well-being of the force.

We also work closely on financial issues with other Government agencies, and our close relationships with the Federal Trade Commission (FTC), the Department of Justice, the Consumer Financial Protection Bureau (CFPB), and the CFPB's Office of Servicemember Affairs (OSA), to name a few, have allowed us to make important gains on behalf of our Servicemembers. Similarly, we remain engaged with the industry: our cooperative relationships with banking associations, credit unions, the Financial Services Roundtable and the Housing Policy Council, to name a few such institutions, have benefited military families.

I would first like to discuss the financial challenges facing our men and women in uniform and their families, and describe in general terms efforts of the Department to assist them, especially as it relates to consumer law issues. This includes the Department's aggressive and proactive financial education and training program, legal engagement and support, the Inter-Agency Process, and our engagement with industry. I would then like to highlight the Department's history with the Military Lending Act, focusing on the current climate of consumer law and Military Lending Act issues confronting the force, including the very recent observations of the Consumer Federation of America. Finally, I will discuss where the Department sees the consumer credit industry going and collective actions it plans to take in response.

#### **Background of Department of Defense Involvement in Consumer Law Issues and Financial Readiness and Current Consumer Law Issues From the Field**

Financial readiness of Servicemembers and their families is essential to their well-being and their ability to contribute to the mission. As I noted at the outset, having assisted Servicemembers in deployed and garrison environments, a Servicemember distracted from the tactical mission by financial issues cannot be completely mission focused. Thus, the Department has predicated financial readiness on Servicemembers and their families having reasonable protections, basic understanding of finances, and access to helpful financial products and services.

Financial readiness was coined as a term in 2003, when the Department established a campaign designed to increase Servicemember awareness of saving and financial stability and enhance understanding of financial products and services. The campaign has been effective and is ongoing. This campaign is also assisted by non-profit organizations that produce programs and campaigns such as "SaveandInvest.org" and "Military Saves".

Six years ago, the Department recognized there were specific lending practices causing problems for Servicemembers and their families which could not be adequately addressed through education programs and awareness campaigns. Commanders were advocating for action on behalf of the Servicemembers and their families who were having significant debt problems. At the request of Congress, the Department reported on potentially harmful lending practices in our Report on Predatory Lending Practices Directed at members of the Armed Forces and Their Dependents, dated August 9, 2006, and subsequently Congress approved the Talent Amendment, commonly referred to as the Military Lending Act (MLA) (Sec 670 of the John Warner National Defense Authorization Act for FY2007), which provided the Department authority to write a regulation to define "credit" subject to the limitations posed by the MLA.

Reactions to these restrictions were mixed. Consumer advocates heralded this as an opportunity to cap all high-cost lending products, while the financial industry viewed this law and rulemaking authority as potential impediment to their ability to provide credit to Servicemembers and their families. With the assistance of the seven Federal financial regulatory agencies, DoD was able to draft and release a regulation within the prescribed time limitation seen as acceptable and workable by both the consumer advocates and the mainstream financial industry providers. The resulting rule (32 CFR Part 232) covered closed-end payday loans, vehicle title loans, and tax refund anticipation loans, with payday and vehicle title loans being tightly defined. The initial reaction of the creditors providing these loans was to eliminate Servicemembers and their families as part of their market. The Department did not perceive this response as having a detrimental impact on Servicemembers and their families, since there were a sufficient number of better alternatives available for immediate cash needs through the Military Relief Societies and the military banks and credit unions. The Department has always understood enforcement would be a critical component of success in this area and enforce-

ment of the Rule required assistance of the Federal and State regulators who oversee the loans covered.

The Department reached out to these regulators in 2007, and has had their support ever since. In 2008, the Federal Financial Institutions Examination Council (FFIEC) produced a tool for Federal and State regulators to use as part of their examinations. This tool, the FFIEC Interagency Examination Procedures for 32 CFR Part 232, Limitations on Terms of Consumer Credit Extended to Service Members and Dependents provides procedures examiners should use to determine if creditors have systems in place to comply with 32 CFR Part 232.

Annually, the Department has sent a representative to the national conference of State regulators to ensure there are no difficulties in obtaining compliance from the covered creditors. Each year the regulators have reported that their examinations have found compliance with the Rule and no need for enforcement action. With that said, the Department has approached States authorizing these loans that do not provide their regulators enforcement authority to make a technical change to their statute allowing for administrative enforcement, if needed. To date, 35 States either do not authorize these loans or provide their regulators with adequate administrative enforcement authority. Finally, we have been working with the FTC and the CFPB to assist in recording violations of the Servicemembers Civil Relief Act (SCRA) and the MLA in the FTC's law enforcement database—Military Sentinel. DoD legal assistance attorneys and financial counselors assist military clients with recording instances of fraud, deception, abusive practices, and identity theft into the database so U.S. Attorneys, State Attorneys General, Federal and State regulators, and other law enforcement agencies have access to allegations.

In addition to coordinating with State regulators, the Department has periodically polled DoD financial counselors and legal assistance attorneys to determine if the Rule is having the desired effect. They inform us that the legislation has been extremely effective in stamping out abuses involving these types of credit. Also, Relief Societies, military banks, and credit unions have stepped up to the plate to assist Servicemembers and families in need. However, financial counselors and legal assistance attorneys still occasionally see clients who have payday or vehicle title loans. They also report Internet and overseas opportunities exist, and some unscrupulous lenders—and even some borrowers—still attempt to skirt or evade the law. As I will discuss further, changes in the definition of the military dependents in the law will allow the use of database systems to verify who is a covered borrower and further limit opportunities for evasion.

This May, the Department had the benefit of receiving a report from the Consumer Federation of America (CFA), which combined responses from regulators, counselors, attorneys and investigative researchers. The report concludes that the MLA and its implementing regulations have had the desired effect of curtailing the use of payday, vehicle title, and refund anticipation loans by Servicemembers and their families. The overriding theme of the report is—we have achieved much, but there is still much to be done.

The CFA's findings and recommendations echo what we have been hearing from our practitioners in the field. Our Legal Assistance Offices continue to see the full range of consumer credit issues, including questionable lending practices. While they concur that the MLA has largely stamped out the majority of abuses, especially in the area of refund anticipation loans, they still report seeing pay day loans and auto title loans charging interest greater than 36 percent with terms that have been modified to avoid falling under the MLA. Creditors and lenders both still attempt to avoid the MLA by utilizing procedures or modifying products to fall outside of the regulation. This, of course, leads inexorably to problems with debt collectors and negative consequences continue.

The use of allotments in consumer credit transactions remains a subject of continued discussion and there is an increase in the use of lending over the Internet: many of the worst sites are off-shore and outside the applicability of the MLA. Yet another concern coming from the field is that automobile dealers, especially used car dealers and “buy here, pay here” establishments, are employing high interest loans. There is little that may be done, as these loans are specifically excluded from the terms of the MLA.

### **The Department's Efforts**

In response to these challenges and in support of our servicemembers and their families, the Department has remained vigilant and proactive, leveraging resources, implementing an aggressive and multifaceted financial education and training program, working with other Agencies, and providing first-class legal support to our members.

In the area of financial readiness, the Department has long believed financial readiness has a direct impact on mission readiness. In order to provide Servicemembers and their families with the tools and information they need to develop individual strategies to achieve financial goals and address financial challenges, the Under Secretary of Defense (Personnel & Readiness) initiated the DoD Financial Readiness Campaign in 2003. This campaign is a concerted effort to enhance the financial readiness of all Servicemembers and families through education, resources, programs, and protections. The campaign's goal is to alleviate financial stressors on the military to enhance family, financial, and overall mission readiness.

The Financial Readiness Campaign rests on eight pillars of financial readiness including:

1. Maintaining good credit
2. Achieving financial stability
3. Establishing routine savings
4. Participation in the Thrift Savings Plan and Savings Deposit Program
5. Retention of the servicemember's Group Life Insurance and other insurance
6. Utilization of low-cost loan products as an alternative to payday lending and predatory loans
7. Use of low-cost Morale, Welfare and Recreation programs such as the Commissary and PX
8. Preservation of Security Clearances

An essential element of our Personal Financial Readiness Program is proactive life cycle financial management services. The program addresses the effects of financial decisions on personal and professional lives, provides resources needed to make prudent consumer decisions, and related services and support.

A variety of resources are available to help Servicemembers and their families avoid common traps and pitfalls due to poor financial decisions and to put them on the path to financial freedom. Education, counseling, and training are available both online and in-person and are available to military members and families of all components. The Department has Personal Finance Managers (PFMs) at every military installation family center who provide financial counseling, education, training, and services. PFMs must hold a nationally recognized financial counselor certification.

As part of the DoD Military Family Life Consultants (MFLC) program, the Department has Personal Financial Counselors (PFCs) who: are available for rotational or surge support assignments for installations and other units; can be requested to support Yellow Ribbon Reintegration Program events and other Reserve Component family events via the on-demand Joint Family Resource Center; and are part of most State Joint Family Support and Assistance Program (JFSAP) staffs.

In addition, Military OneSource (MOS) provides financial support services 24/7 for all servicemembers and their families. MOS offers up to 12 free and confidential financial consultations via phone or face-to-face, and access to specialized financial and tax planning consultations via phone. The money section of MilitaryOneSource.com provides financial information and resources that include calculators, tips, books and CDs, and personal finance newsletters.

The Department has also partnered with several financially related nonprofit organizations to promote financial literacy, such as CFA, Better Business Bureau Military Line, and the Financial Industry Regulatory Authority (FINRA) Education Foundation. DoD and CFA partner annually to conduct the Military Saves campaign, and DoD partners with the Department of the Treasury and FTC (two of twenty Federal agencies that are also members of Treasury's Financial Literacy and Education Commission) to address consumer awareness, identity theft, and insurance scams to Servicemembers and families.

The Services Legal Assistance Programs have risen to the occasion, offering first-class legal support in consumer law as well as all other legal disciplines. The primary effort is the provision of legal assistance where it is needed most: to individual clients at the installation level. In this area all the Services excel, continuing to assist a large number of Consumer Law related matters. These include services in all the areas noted above, to include the burgeoning areas of suspect auto loans/purchase practices, deployment-related SCRA violations, and aggressive debt collection practices.

The Services designate Consumer Law Matters as a top priority, offering specialized training at the Service JAG Schools. For example, Consumer Law Matters have been recognized as a "Tier 1" service in terms of field delivery & specialized training for providers at the Naval Justice School (NJS). This includes individual Judge Advocate completion of a "Consumer Law" section of the revised Legal Assistance

Course to ensure field providers are fully trained to support. The Department's partnership with the Legal Assistance for Military Practitioners (LAMP) Committee of the American Bar Association (ABA) and its Pro Bono Project (PBP), enables the Services' Legal Assistance organizations to offer unprecedented assistance, in the form of both in- and out- of court-representation, from volunteer attorneys who are subject matter experts in many areas, including Consumer Law, a prominent area of focus for the PBP.

The Department and the Services have leveraged all available resources, working with the CFPB, and the CFPB's OSA, and other organizations such as the HOPE NOW Alliance to execute outreach programs for Servicemembers, especially those assigned to installations in the areas hardest hit by the mortgage foreclosure crisis. The Services' Legal Assistance staffs have participated extensively in outreach programs at places such as such as Nellis AFB, Naval Station San Diego, Marine Corps Base Camp Pendleton, Fort Bragg, and numerous other locations.

The Services have provided a plethora of consumer focused webcasts on consumer law focused areas such as the SCRA; Fair Debt Collection Procedures; Credit Reporting & the Fair Credit Act; the Mortgage Crisis and related consumer law issues; and Bankruptcy. The Service Chiefs of Legal Assistance send out weekly Legal Assistance notes or "Legal Assistance Practice Advisories," to the installation level Legal Assistance offices, which include the latest information on any breaking news/new developments. Recent advisories have included consumer law-specific information such as the Military Lending Act, information on DOJ's various efforts and settlements with mortgage and lending institutions and settlement of a suit against a property manager not permitting Servicemembers from terminating their leases under provisions of the SCRA. They also forward to the CFPB consumer warnings and information on online consumer tools.

The Inter-Agency process is alive and well and the Department is fortunate to enjoy a cooperative working relationship with other Federal agencies relating to consumer law issues—such as the Department of Justice, the CFPB, and the CFPB's OSA. The Department also works closely with a myriad of State and local agencies whose assistance, especially in the enforcement milieu, is absolutely invaluable. The Department is also grateful for the cooperative working relationships with consumer advocates and other organizations such as the Consumer Federation of America and the HOPE NOW Alliance, dedicated to assisting all persons with their financial needs—but are also dedicated to our military families.

Lastly, we remain engaged with the consumer financial industry. The Department has sustained engagement with banks and credit unions. It is essential, if we will represent our Servicemembers and their families well and advocate effectively on their behalf, the lines of communication must remain open. We have maintained open lines of communication with organizations such as the American Bankers Association, the Association of Military Bankers of America, and the Credit Union National Association, in efforts to keep them apprised on the SCRA and the MLA and advise them of issues affecting our force. Our close working relationship with the Financial Services Roundtable (FSR) and the Housing Policy Council (HPC) has already borne much fruit. The industry has been highly complementary of the Department's enhancements of the Defense Manpower Data Center's database capabilities, providing the industry with real-time, public-access, large batch data search capabilities allowing the industry to identify their military customers and provide them the SCRA and other benefits to which they are entitled. The Department worked closely with FSR and HPC to develop the "Military Orders Short Form," a vehicle allowing Servicemembers to invoke their SCRA protections more easily. Our work with the industry and with the other agencies has already produced great developments regarding protections and benefits for military families disadvantaged by Permanent Change of Station (PCS) moves.

### **The Way Ahead**

The current efforts of the Department, other Government agencies, and nonprofit organizations are important. But more important are future efforts to protect and advocate for our Servicemembers, the way ahead on consumer law issues affecting the force, and how we work to meet those challenges. As noted above, CFA's recent report highlights there is much to be done. The report provides several findings and recommendations, and it is useful to highlight them here:

- DoD should cover forms of payday and vehicle title loans not covered by the regulation;
- DoD should cover problematic high cost products not covered by the regulation;
- There are additional concerns about the use of overdraft protection programs that need to be addressed;

- Servicemembers and families should be considered as equivalent to citizens of the State for purposes of the application of State consumer protection laws;
- Enforcement should be enhanced to authorize enforcement of the MLA and rule by Federal agencies inadvertently excluded from having authority;
- DoD should limit mandatory use of the military allotment system to secure a loan; and
- DoD should undertake further survey of servicemembers, legal assistance attorneys, and financial counselors to validate the need to make additional changes to the implementing regulation.

The Department values the efforts of the CFA, a nonpartisan, nonprofit entity which has historically advocated on behalf of Servicemembers and their families in the consumer law and financial arenas. The Department is currently reviewing the CFA recommendations and, after completion of an internal survey, which will measure the prevalence and impacts of concerns with financial products, will review options for appropriate action. Furthermore, DoD may wish to publish an advance notice of proposed rulemaking in order to obtain a broad basis of feedback from consumer advocates, financial industries, Federal and State regulators, and engaged citizens in order to determine the potential benefits, pitfalls, and unintended consequences of extending the definitions in the regulation to cover additional forms of payday, vehicle title, and refund anticipation loans, as well as other forms of financial products not covered by the regulation. The Departments may also consider an advanced notice of proposed rulemaking in the Federal Register once DoD knows what changes to the MLA may be included in the National Defense Authorization Act for Fiscal Year 2013.

In response to these many concerns and developments, the Department has already undertaken efforts to acquire the best available current data from the field. Well under way is the formulation of a survey of the experts in the field—those who work with military families daily on consumer law issues. This survey will query the “boots on the ground”: financial counselors; legal assistance attorneys; paralegals, etc., with a view toward acquiring better empirical and anecdotal data on the issues affecting our military families most directly.

The Department also supports Congressional activity in this area, offering our support of recent Senate Amendments proposing members of the Armed Forces and their dependents be treated equally concerning State consumer protection laws; and proposing relief in civil actions for violations of protections on consumer credit extended to members of the Armed Forces and their dependents.

The Department recognizes there are limits to the protections that can be provided through regulation, education and counseling, or direct assistance available to servicemembers and the families in financial trouble. Prudent protection through regulation is essential to prevent young servicemembers with a steady paycheck and little financial experience from being taken advantage of in the marketplace. A system of protection that does not adequately provide for each of these three elements is likely to leave Servicemembers and their families vulnerable. The Department is committed to balancing regulation with education and assistance to maintain their financial readiness. The MLA and implementing regulation have done what was intended over the past 5 years, and the Department plans to maintain a steady approach to the implementing regulation to balance the protections offered through the regulation while sustaining unimpeded access to helpful financial products.

On behalf of the Department, I thank you for your assistance and support. It is my privilege to appear before you and I look forward to your questions.

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**PREPARED STATEMENT OF JOSEPH R. “BEAU” BIDEN III**

ATTORNEY GENERAL, STATE OF DELAWARE

JUNE 26, 2012

Chairman Johnson, Ranking Member Shelby, and Members of the Committee: Thank you for the opportunity to share my perspective as Delaware’s Attorney General, and as a veteran, on the work being done to help servicemembers, veterans, and their families meet their unique consumer financial challenges. Thank you for focusing on this issue and other needs of military families with the hearings you have held, as well as the important initiatives of so many of this Committee’s distinguished Members.

I was honored to be here in Washington last month with Senators Reed, Durbin, Whitehouse, and Begich as they announced legislation, sponsored with Senator Brown, that expands housing protection and assistance for servicemembers. It was

a true privilege to stand alongside these legislators whose dedication to serving those who serve our Nation sets the standard. Their work, along with the critically important advocacy and action of many others in Congress, is vital to ensuring that the concerns of servicemembers, veterans, and their families remain a national priority. I would also like to thank Senator Hagan for her work with Senator Harkin on servicemember protections related to for-profit schools.

The support of many of the Senators in this room was instrumental to the establishment of the Consumer Financial Protection Bureau (CFPB) and within it the Office of Servicemember Affairs (OSA), which have proven to be the strong Federal partners needed by States like mine to reach consumers with the most valuable solutions. Many of the financial obstacles faced by military families extend past State lines, and so must we if we are to be effective. With Director Cordray at the helm, the CFPB has become an even more important collaborator as we work for change on an individual as well as an institutional level.

I'm glad to once again be with Mrs. Petraeus, whose leadership at the OSA is driven by a personal commitment to these issues and to the military families they affect. It is a commitment those families can feel at each military base or community she visits, where she goes not only to better understand the impact of the difficulties with which servicemembers must contend, but also to personally communicate that we are working together to achieve meaningful progress. Mrs. Petraeus also works diligently to connect my office and other State attorneys general with the CFPB and other agencies and stakeholders—a connection that is key to achieving real change.

Standing with these Congressional leaders, Director Cordray and Mrs. Petraeus in the fight to protect the financial rights of military families, 48 of my fellow attorneys general and I, along with the U.S. Department of Justice and the Department of Housing and Urban Affairs, worked collaboratively to reach a landmark \$25 billion settlement with the Nation's five largest mortgage servicing banks. The settlement included several provisions related to the Servicemembers Civil Relief Act, or SCRA, that address some of the most significant mortgage-related issues military families face. I would not have joined this settlement without these measures.

The U.S. housing crisis has hit every community in this Nation, and it has hit military families especially hard. These families are often backed into financial corners by the realities of military life and a decade of constant deployment. While the SCRA and the older statutes from which it developed have provided important protection to servicemembers and their families in some form since the Civil War, those various incarnations of the law reflect its need to evolve. Our enforcement must evolve along with it.

I know that the need to expand the SCRA as well as strongly enforce its current provisions is well understood by the Members of this Committee. You have heard the stories about countless servicemembers who have had to contend with the frustration and uncertainty of mishandled mortgages and other SCRA infractions while also carrying out the duties of service. Servicemembers should not have to worry about these issues while deployed. They must be able to focus on the mission without distraction.

We tried to address some of the most prevalent and pressing issues they face in the national mortgage servicing settlement, including complications associated with Permanent Change of Station (PCS) orders, mortgages taken out after beginning military service, and ways to mitigate losses often incurred as a result of the demands of military life. Specifically, the settlement:

- Establishes that PCS orders must now be considered when banks and servicers are making hardship determinations about short sales, deeds in lieu, and loan modifications. Additional protections guard against inaccurate reporting of servicemembers to credit reporting agencies for using loss mitigation options in these circumstances.
- Increases servicemember access to loss mitigation options, including mandating that information and contact with SCRA-trained employees is readily available, and that servicers go beyond the requirements of the SCRA to ensure that more borrowers who are entitled to assistance before foreclosure receive it.
- States that homes of active duty servicemembers deployed in combat areas cannot be foreclosed on in most instances, even if the debt was incurred after they entered military service. This was a significant expansion beyond the terms of the SCRA, which only provides this protection for debt incurred before entering the armed forces.

In addition, Assistant Attorney General Tom Perez and his staff at the USDOJ Civil Rights Division negotiated provisions that direct payments to servicemembers



who experienced wrongful foreclosures and interest charged in excess of the 6 percent allowed by the SCRA. These payments will come from funds secured on top of the \$25 billion settlement amount.

We were able to achieve a great deal with this bipartisan settlement, but as is evident from the servicing guidelines issued by the CFPB last week, we must work to make such changes permanent. My fellow attorneys general and I stand together across State and party lines in our commitment to vigilant enforcement. This settlement was an important step in the right direction, but a great deal of work remains to be done.

While I believe that every State attorney general in this Nation agrees that military families deserve protections that help them meet their unique challenges, there are several leading the charge. Like Tom Miller in Iowa, without whom the multistate settlement would not have happened; Lisa Madigan in Illinois, whose consistent advocacy on behalf of servicemembers has been integrated into her consumer protection mandate; Eric Schneiderman in New York, who continues to press the banks on their SCRA compliance; Martha Coakley in Massachusetts who is committed to ensuring that servicemembers will have access to the relief provided by the multistate servicer settlement; and Jack Conway in Kentucky, who has focused on the GI Bill and for-profit school matters.

These leaders and I recently were joined by 16 of our colleagues to voice our united support for requiring that GI Bill and Veteran's Assistance educational benefits be subject to the 90/10 rule. We believe that funds intended to help veterans provide for their families and strengthen our Nation's workforce must not be exploited by unscrupulous educational institutions.

That conviction is shared by the Administration, which earlier this year issued an Executive Order calling for the establishment of "principles of excellence" for schools serving veterans and members of the military—two groups of Americans who surely deserve no less. I look forward to the changes that will come as a result of this Order and hope that the State attorneys general will be part of the process.

I would like to thank you again, Mr. Chairman and Members of the Committee, for the opportunity to appear before you today. It has been an honor and a privilege. I welcome any questions you may have.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR BENNET  
FROM HOLLISTER K. PETRAEUS**

**Q.1.** In your written testimony, you mentioned Executive Order 13607, which creates certain requirements for schools to support the unique needs of servicemembers and veterans. It's my understanding that the Order also created a complaint system for servicemembers.

A young enlisted soldier from Ft. Carson recently contacted my office to discuss some of his challenges that arose while he was enrolled in an online class at a for-profit college. While he was in Afghanistan, the soldier asked the school to reschedule one of his requirements because he was sent on a 2-week mission in a remote part of the country. The school, however, declined his request, failed him for not handing in work on time, and billed him for \$1,000. His mission was to support the Navy SEALs who conducted a raid on the Bin Laden compound. The school also failed several soldiers for not handing in their work on time.

Would the Executive Order have addressed this issue? If not, what steps can we take to address such conduct? What remedies would a servicemember typically have under such circumstances?

**A.1.** On April 27, 2012, the President signed Executive Order 13607, "Establishing Principles of Excellence for Educational Institutions Serving Service Members, Veterans, Spouses, and Other Family Members" (Executive Order). These principles were developed to strengthen consumer protections for our servicemembers, veterans, and their families.

Institutions approved to receive funding from the Post-9/11 GI Bill programs have been strongly encouraged to commit to the Principles of Excellence outlined in the Executive Order. It is our understanding that the Department of Defense is working with institutions approved to receive funding from the military Tuition Assistance and MyCAA programs to enter into new agreements where the institutions agree to the principles.

Section 2(e) of the Executive Order generally provides that, to the extent permitted by law, educational institutions receiving funding pursuant to Federal military and veterans educational benefits should:

- (e) allow servicemembers and reservists to be readmitted to a program if they are temporarily unable to attend class or have to suspend their studies due to service requirements, and take additional steps to accommodate short absences due to service obligations, provided that satisfactory academic progress is being made by the servicemembers and reservists prior to suspending their studies;

Accordingly, institutions that agree to comply with the Principles of Excellence are expected to "take additional steps to accommodate short absences due to service obligations." Generally speaking, I would find it hard to understand how a school that denies a forward deployed servicemember a simple accommodation, like rescheduling an assignment, would be in compliance with this principle.

In addition, on July 13, 2012, the Department of Education issued additional guidance (GEN-12-10) to post-secondary institu-

tions on implementation of the Executive Order. The guidance was provided to assist institutions with understanding how to best comply with the Executive Order. The guidance outlines in detail for post-secondary institutions that agree to comply with the principles in the Executive Order readmission and refund policy expectations with respect to servicemembers, reservists and/or their family members who are generally unable to attend classes or must otherwise suspend their studies due to service obligations.

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**RESPONSES TO WRITTEN QUESTIONS OF SENATOR HAGAN  
FROM HOLLISTER K. PETRAEUS**

**Q.1.** Ms. Petraeus, Can you discuss the status of the CFPB’s Consumer Advisory Board (the “Board”)? How will the Board enhance and improve focus on the military community and its financing needs?

**A.1.** On September 12, 2012, the Bureau announced the appointment of 25 consumer experts from outside the Federal Government to its newly formed Consumer Advisory Board which will provide advice to CFPB leadership on a broad range of consumer financial issues and emerging market trends.

As outlined in Section 1014(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, the CFPB’s Consumer Advisory Board (the “Board”) will “advise and consult with the Bureau in the exercise of its functions under the Federal consumer financial laws” and “provide information on emerging practices in the consumer financial products or services industry, including regional trends, concerns, and other relevant information.”

On February 23, 2012, the CFPB published in the *Federal Register* a notice outlining the functions of the Board and soliciting nominations for members to serve on the Board.

The newly appointed Board members include experts in consumer protection, financial services, community development, fair lending, civil rights, and consumer financial products or services. They also represent depository institutions that primarily serve underserved communities, and they represent communities that have been significantly impacted by higher-priced mortgage loans.

The first meeting of the Consumer Advisory Board will take place Sept. 27, 2012, and Sept. 28, 2012, in St. Louis, MO. By statute, the Board will meet no less than twice per year. Members will have staggered 3-year terms.

In meeting this statutory objective, the Board will also enhance and improve focus on the military community and its financing needs by engaging members who represent a diversity of expertise and viewpoints in discussions of the consumer financial products or services industry, including the unique needs of military servicemembers. Further, the Board will identify and assess the impact of new, emerging and changing products, practices, or services on servicemembers, amongst other consumers, during its discussions. The Bureau looks forward to receiving information, analysis, and recommendations from the Board that will speak to the unique perspectives and experiences of the military community.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR CRAPO  
FROM COLONEL PAUL KANTWILL**

**Q.1.** In your testimony you state the Department is well under way in the formulation of a survey with a view toward acquiring better empirical and anecdotal data on the issues affecting our military families most directly. Who will you interview and what specific topics will be included?

**A.1.** The Survey will be directed to personnel in or assisting the Army, Navy, Marine Corps, Air Force, Coast Guard, Army National Guard, Air National Guard, and others in DoD (OSD, Military OneSource, and DoD contract counselors).

It will be directed to personnel who perform the following duties:

Financial counselors who see clients; administrators who oversee financial counseling programs; legal assistance attorneys; legal assistance paralegal or legal specialists; administrators who oversee legal assistance programs, and other personnel who engage in providing financial assistance or financial education and/or training to servicemembers and/or their families.

The survey will focus on the relative impact of financial services on servicemembers and their families by requesting counselors provide a general assessment of their clients through the following questions:

1. What portion of your clients would you characterize in each of the following categories: not having sufficient cash to pay bills that were overdue/immediately due; having sufficient cash to pay immediate bills, but living paycheck to paycheck; having sufficient cash to pay bills and cover emergencies, but no savings; having sufficient cash to pay bills, cover emergencies and have savings.
2. What portion of your clients requested (or was directed to) counseling because of problems with one or more creditors?
3. In terms of what you have seen concerning the impact of financial products on a client's financial condition, rank the following products in order of most damaging (1) to least damaging (12): Retail sales loans (in-store credit at retail stores); finance company subprime installment loans; bank deposit advances; student loans; checking account overdraft protection (fee-based); mortgages; vehicle title loans; buy-here, pay-here car loans; credit cards; rent-to-own contracts; bank and credit union installment loans (personal and car loans); payday loans.
4. Rank order the following characteristics of problematic credit from most (1) to least (8) concern: Unclear or deceptive information provided to the borrower prior to signing; high interest rates and/or large additional fees; mandatory use of allotments to secure the loan; mandatory arbitration; unnecessary additional services and other charges included with the loan; loans secured on considerations other than the borrower's ability to repay the loan; rolling-over, flipping or refinancing of loans without significant reduction in the principle; too little time provided to repay the loan.

5. Which of the following financial products (if any) should be regulated by DoD (e.g., as part of the Military Lending Act (MLA) (10 USC Section 987))? In making your choice rank order the option from most important (1) to least important (8) or designate the product(s) as N/A: Checking account overdraft protection (fee-based); payday loans (currently regulated under the MLA); retail sales loans (in-store credit at retail stores); finance company subprime installment loans; credit cards; bank deposit advances; bank and credit union installment loans (personal and car loans); vehicle title loans (currently regulated under the MLA).