



August 12, 2019

*Via E-Mail*

The Honorable James N. Stewart  
Acting Under Secretary of Defense (Personnel and Readiness)  
Department of Defense  
4000 Defense Pentagon  
Washington, DC 20301-1000

Dear Mr. Stewart:

I write to follow up on several letters we have sent to the Department of Defense (DOD)<sup>1</sup> explaining the harm to service members that has been caused by DOD's issuance of Question and Answer 2 of its Interpretive Rule pertaining to the Amended Military Lending Act Regulation (Q&A 2)<sup>2</sup> and to provide recent market data demonstrating the continuing and increasing nature of this harm while Q&A 2 remains in effect.

The first attachment reflects the cumulative number of active duty service member customers of a single finance source who have experienced a total loss of their vehicles without GAP Waiver protection since the finance source ceased taking assignment of credit contracts with service members that included GAP Waiver as a result of DOD's issuance of Q&A 2. (Prior to the issuance of Q&A 2, 81% of the credit contracts purchased by this finance source included optional GAP Waiver chosen by the service member.)

The second attachment reflects the cumulative liability of such active duty service member customers.

These numbers are alarming. Since January 2018 –

- 1) 310 service members have suffered a total loss of their vehicles without GAP Waiver protection, and
- 2) they collectively owe \$837,000 in connection with vehicles that no longer exist.

---

<sup>1</sup> See the Joint National Automobile Dealers Association (NADA)-American Financial Services Association petition to DOD to withdraw Q&A 2 dated January 18, 2018; the NADA letter to DOD Principal Deputy General Counsel William S. Castle, Esq. dated October 12, 2018; and the NADA letter to DOD Principal Deputy General Counsel William S. Castle, Esq. dated February 6, 2019.

<sup>2</sup> 82 Fed. Reg. 58,739 – 58,742 (Dec. 14, 2017).

The Honorable James N. Stewart  
August 12, 2019  
Page Two

As noted, this is data from just one of hundreds of finance sources that serve the military community. Clearly, the full effect on service members of this situation is much greater. Indeed, as set out in our February 2019 letter to DOD, a conservative estimate of the marketwide impact of DOD's issuance of Q&A 2 is that it has exposed approximately 5,000 Warfighters who purchased and financed vehicles in 2018 to approximately \$15 million in liability from total loss occurrences.

Further, as the bar graphs indicate, the loss numbers are rapidly increasing. What adversely affected a limited number of service members in the months immediately following DOD's issuance of Q&A 2 now adversely affects a much greater – and growing – number of service members.

Regrettably, these service members now must contend with two sources of vehicle-related debt: that related to the vehicle they no longer possess and that related to a new vehicle they will have to acquire to satisfy their transportation needs. This presents precisely the type of financial readiness challenge that the Military Lending Act was designed to prevent.

We therefore reassert our and many other organizations' ongoing requests to DOD to move expeditiously to withdraw Q&A 2 before additional harm is caused to the military community.

Thank you for your attention to this matter. Please let me know if we can provide you with any additional information.

Sincerely,

/s/

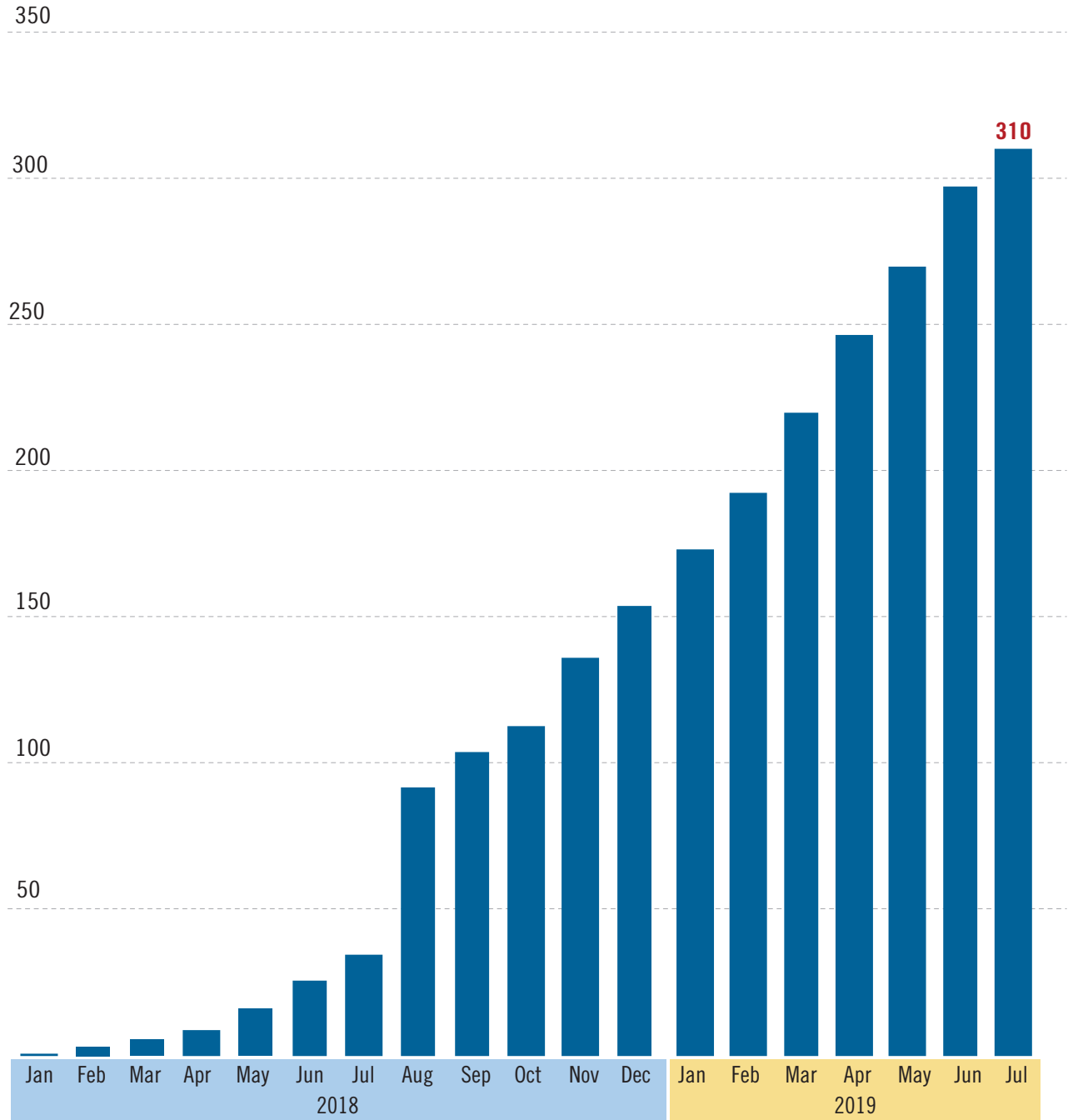
Paul D. Metrey  
Vice President, Regulatory Affairs

Cc: The Honorable Mark T. Esper  
The Honorable James Michael Mulvaney  
The Honorable David L. Norquist  
The Honorable Paul C. Ney, Jr.

# The Effect of DOD Inaction on MLA

(Data from just one of hundreds of finance sources that serve the military)

## Cumulative **Number** of Service Members Who Suffered Total Loss of Vehicle Without GAP Waiver Protection Since DOD Issued MLA Interpretive Rule



# The Effect of DOD Inaction on MLA

(Data from just one of hundreds of finance sources that serve the military)

## Cumulative **Liability** of Service Members Who Suffered Total Loss of Vehicle Without GAP Waiver Protection Since DOD Issued MLA Interpretive Rule

