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24 February 2019

Mark Pearce  
Director, Division of Depositor and Consumer Protection  
Federal Deposit Insurance Corporation

Dear Mr. Pearce,

Thank you for the opportunity to provide comments during your study of small-dollar lending. The Association of Military Banks of America (AMBA) is a trade association of banks located on and outside military installations that provide financial products, services, and education to military members, veterans, and their families. Our brief comments focus on small-dollar loans offered by our banks to members of the military community.

Until recently, small-dollar loans comprised a large part of financial products our banks provided their military customers. I say "until recently" because, over the past two-to-three years, two external forces have combined to reduce significantly the availability of such loans for military members and their dependents. First, the major federal regulators have disagreed on the safety and soundness of small-dollar loans to military members. Second, the Military Lending Act has substantially raised the threshold below which banks can lend money to military families.

When I became AMBA's CEO four years ago, my orientation process included visits to several of our member banks. My most enduring memory from that experience was a conversation with a teller at one of our banks that serves a large number of military installations. The teller proudly described the bank's small-dollar loan program, which she said served as a lifeline to troops who sometimes are unable to make it from one paycheck to the next. What impressed me most was that in the check-clearing process, she and other tellers would often identify troops in trouble when they identified checks written to local payday lenders. This discovery usually led to a conversation with the bank customer about payday lenders, the fees and interest they charge, and the availability of small-dollar bank loans that would meet their financial needs in much safer and less expensive ways. The smallest loan available at that time was \$250 with a year or longer payback period. It was tailored to the needs of the individual military customer.

As proud as we are of our military banks' support of their military communities, we are also proud that we were represented in the development of the FDIC's 2008-2009 small-dollar loan pilot program. This program featured small-dollar and "nearly small dollar" loans designed and intended to provide alternatives to higher-cost credit, frequent overdrafts incurring high fees, and payday loans. All of these objectives are important to banks serving the military.



Indeed, “military customers” were one of the markets identified when the FDIC announced the pilot program.<sup>1</sup> The characteristics of this pilot program are exactly the ones needed in any small-dollar loan program available to the military:

- Loan amounts up to \$1,000
- Payment periods beyond a single paycheck cycle
- Annual percentage rates below 36 percent,
- Low or no origination fees
- Streamlined underwriting
- Prompt loan application processing
- An automatic savings component
- Access to financial education

An additional characteristic available in some of our banks' small-dollar loan programs was credit agency reporting of all on-time repayments. This attribute allowed many military members whose access to credit was impaired by a low credit score to repair their credit and, thereby, qualify for lower-cost credit in the future.

Sadly, loans with all these benefits are less available to military families today than they were four years ago. Today, only a few banks still offer loans in amounts below \$1,000. The bank whose teller proudly described their \$250 small-dollar loan has raised its minimum loan amount to \$1,250. Why? Two reasons:

1. **OCC Skepticism.** As hopeful as FDIC was in the launching of its small-dollar loan pilot program, the OCC apparently did not share that optimism. In at least one case, an OCC-regulated bank was told it could not advance small-dollar loans because it was concerned that the military borrowers' creditworthiness posed unacceptable risks of repayment.

In its report on the pilot program, FDIC reported small-dollar delinquency rates between 9 and 11 percent – ratios it acknowledged were “much higher than for general unsecured loans to individuals.”<sup>2</sup> Similarly, charge-off rates were slightly higher but “in line with the industry average.” While this track record seemed promising on its face, it apparently gave some OCC examiners reason to consider such loans not to meet “safety and soundness” standards.

The response provided by this bank to the OCC examiner who shut down its military small-dollar loan program is representative of the overall relative risk and benefits of these kinds of loans: While small-dollar delinquency and charge-off rates may exceed industry averages, the absolute dollar value of losses is far less because of the small amounts loaned. In this bank's experience, the tremendous benefits to its military customers outweighed the potential charge-off costs. In this case, the OCC didn't care; they shut down the program.

2. **The Military Lending Act.** Since the 3 October 2016 effective date of the DoD Final Rule implementing the Military Lending Act<sup>3</sup>, which established an “all in” 36% Military Annual Percentage Rate (MAPR) cap on all loans to military members and their dependents, military banks can no longer sustainably extend loans in amounts below \$1,000. While the FDIC's small-dollar loan pilot program contemplated a maximum 36% interest rate that included some fees, it did allow for some costs to be charged outside

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<sup>1</sup> FDIC, “Affordable Small-Dollar Loan Guidelines,” news release, June 19, 2007, <http://www.fdic.gov/news/press/2007/pr07052a.html>.

<sup>2</sup> *A Template for Success: The FDIC's Small-Dollar Loan Pilot Program*, FDIC Quarterly, Vol. 4, No. 2 (2010), 30


<sup>3</sup> *Limitations on Terms of Consumer Credit Extended to Service Members and Dependents*, 80 Fed. Reg. 140 (Jul. 22, 2015) 43560.

the APR.<sup>4</sup> That is no longer possible for bank loans under the MLA; all fees must now be included in the MAPR calculation. It should be noted that credit unions are still able to charge an “application fee” outside the MAPR.

One of the FDIC pilot program’s conclusions was that “costs related to launching and marketing small-dollar loan programs and originating and servicing small-dollar loans are similar to other loans.”<sup>5</sup> This means that banks must cover their costs with fees, some of which have also increased under the MLA. The bottom line is that it has become very difficult, if not impossible, for military banks to offer small-dollar loans within the 36% MAPR cap. As I mentioned above, the bank that used to offer loans as small as \$250 has been forced to raise its minimum loan amount to military members to \$1,250 in order to cover its costs.

There is a certain amount of irony in the quandary in which military banks find themselves. On the one hand, the FDIC’s small-dollar pilot program proved that banks could, safely and affordably, extend credit to individuals who otherwise faced much higher cost credit options. Many military members fit this description and the experience of some military banks proved that small-dollar loans could serve as both a lifeline to troops who needed to bridge the gap between paydays and a deterrent to predatory lending. On the other hand, the lack of consensus among federal regulators on the safety and soundness of small-dollar loans, combined with the MLA’s MAPR cap, effectively killed some military small-dollar loan programs that were working. The irony, of course, is that in both giving and taking away, the federal regulators – including the Department of Defense – have turned a \$250 lifeline into a \$1,250 anvil. Whereas a \$250 loan has been proven to offer all the benefits described above, a \$1,250 loan simply digs a deeper financial hole for a military family that may truly need only a small-dollar loan.

AMBA encourages the FDIC to carefully examine the tension between its vision of small-dollar lending and the obstacles we’ve identified here. We stand ready to assist you in reconciling these opposing forces for the ultimate benefit of the military communities our member banks serve.



STEVEN J. LEPPER  
Major General, USAF (Ret.)  
President & CEO

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<sup>4</sup> *Supra*, note 1 (“To maintain a reasonable annual percentage rate (APR) and cover administrative and other expenses, an origination fee that bears a direct relationship to origination costs might be assessed.”)

<sup>5</sup> *Supra*, note 2, at 32.