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28 July 2022

**Via Electronic Submission**

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Assistant Executive Secretary  
Attention: Comments RIN 3064-AF81  
Federal Deposit Insurance Corporation  
550 17th Street, NW  
Washington, DC 20429

**Community Reinvestment Act Regulations  
Comments in Response to Notice of Proposed Rulemaking  
OCC Docket ID OCC-2022-0002  
FRB Docket No. R-1769; RIN 7100-AG29  
FDIC RIN 3064-AF81**

Ladies and Gentlemen,

The Association of Military Banks of America (AMBA) respectfully offers the following comments in response to the recent publication of the Office of the Comptroller of the Currency (OCC), Federal Reserve Board (FRB), and Federal Deposit Insurance Corporation (FDIC) Joint Notice of Proposed Rulemaking for Regulations (NPR) implementing the Community Reinvestment Act (CRA). We appreciate the agencies' coordinated efforts to update their CRA Regulations, especially in light of the many challenges we've all experienced over the past two years. Our Association and our military bank members have been particularly focused on how those challenges affected the military and veteran communities we serve. Our comments address some of those challenges and are intended to reinforce, clarify, and expand the CRA's acknowledgment that military banks require special consideration in order to effectively serve these communities' financial needs.



As a trade association of banks serving America's military and veteran communities, AMBA is focused on the extent to which the CRA can be implemented to incentivize more banks to provide needed financial services to service members, veterans, and their families. Although Congress had the foresight in the CRA statute to distinguish military banks on the basis of their military customer bases, neither the statute nor its implementing regulations have translated that distinction into provisions defining the activities for which military banks may receive CRA credit. Beyond indirectly identifying the military as a community, the statute and the regulations lack a description of the unique needs of the military community or how banks might meet them. Our comments here suggest ways to do that.

In our comments responding to the OCC's 2020 CRA proposal, we discussed our concerns about the lack of incentives for banks to provide financial services to service members, veterans, and their families living in their local communities. Our comments today regarding the agencies' Proposed Regulations identify similar concerns.

In 2020, we also described the unique financial challenges service members, veterans, and their families encounter in their service to our Nation. The statutory regime that includes the Servicemember Civil Relief Act and the Military Lending Act exists because Congress recognized those challenges. Banks across the country spend significant time and resources complying with these statutes, which exist to protect our military and veteran communities from unscrupulous financial actors. Giving banks CRA credit for providing these communities safe and reliable financial services – by clearly identifying efforts to support the military community as part of the “qualifying activity” definition – would go a long way toward balancing the scales.

## **The CRA, Military Banks, and Military Communities: A Brief Introduction**

The original purpose of the Community Reinvestment Act was to encourage federally insured depositories – commercial banks and savings associations – to meet the credit needs of low-to-moderate income (LMI) populations within their geographically-defined communities in a manner consistent with safe and sound operation. The federal regulations implementing the CRA require bank examiners generally to focus on the extent to which banks are engaged in community development and specifically to measure banks' performance in three discrete areas: lending, investment, and service.

The CRA's standards and grading criteria vary depending on banks' sizes and functions. Fundamentally, however, all banks are held to the common requirement that they must meet the credit needs of communities that are defined geographically. Assessment area delineation is addressed in 12 C.F.R. §25.41.<sup>1</sup> The only statutory exception to the CRA requirement that assessment areas be defined geographically is for "banks serving military personnel." Section 25.41 (f) implements 12 USC §2902(4), which allows banks "whose business predominately consists of serving the needs of military personnel or their dependents who are not located within a defined geographic area" to define their entire deposit customer base as their "entire community."

Although neither the statute nor the current CRA regulations expressly define "community," we believe the military bank exceptions in both not only recognize the geographic diversity of the military community, but also acknowledge that the financial needs of military communities and the demands of military service warrant special consideration. **From AMBA's perspective, the CRA statute's military bank exception should not only distinguish military banks from other banks in terms of customer geographic diversity, but should also require a regulatory approach that treats military and veteran communities in a manner consistent with the statute's original objective to serve the credit and deposit needs of traditionally underserved communities.**

### **I. Military and Veteran Communities Deserve "Community" Treatment**

While today's military may not be a financially **underserved** community, it is often an **unfairly** served community. One of AMBA's goals is to ensure that responsible financial services are available to military communities. It is a necessary goal because so many military installations and personnel are targets of predatory financial entities and practices.<sup>2</sup> Payday lenders, title lenders, used car dealers, pawn shops, and other unregulated sources of often-predatory loans form gauntlets outside the main gates of many military bases. Just as Congress envisioned banks as effective antidotes to the lack of credit availability in LMI communities, we believe they also provide the most effective defenses to predatory lending targeting the military community.

We also believe §25.41 (f) recognizes that military communities exist beyond the confines of military installations. Thus, banks dedicated to serving military members must commit to serving service members, veterans, and their families not only when they reside near their branches, but also when they are assigned or deployed around the world. The alternative, which would be necessary without §25.41 (f), would be that banks would lose military customers – at least for CRA purposes – when they are reassigned or deployed. The fact that §25.41 (f) allows banks that "predominantly" serve military personnel to define their assessment areas to include those personnel wherever they are assigned is evidence of Congress' intent that the global "military community" is no less deserving of development.

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<sup>1</sup> Each agency has its own CRA regulations: 12 CFR Part 25 (OCC), 12 CFR Part 345 (FDIC), and 12 CFR Part 228 (FRB). All are identical with regard to their references to military banks. We will refer to the OCC regulations throughout these comments.

<sup>2</sup> R. Lieber, *Where Military Paychecks Are Prime Targets*, N.Y. Times (June 30, 2022).

Finally, it is important to understand some of the other financial characteristics of military communities that warrant the CRA consideration we seek. In the course of a military career, regardless of its length, service members and their families encounter unique financial challenges. Lifestyles that include moving every two-to-three years, family separation during deployments, coping with the physical risks and mental stresses associated with life-threatening duties, and the low pay relative to comparable civilian jobs often lead to a downward financial spiral of increased incentives to spend and decreased incentives or ability to save. “Immediate satisfaction” mindsets with little thought given to long term financial goals, and short-term borrowing from high-cost lenders often define the fragile and turbulent financial lives of many military families.<sup>3</sup>

Because many of these characteristics do not change when a military member transitions from the military, we suggested during the OCC's 2020 CRA regulation revision efforts that “military” should also include retirees and veterans. We are pleased that the agencies' Proposed Regulations keep these changes.

## **II. Military Banks Serve Military and Veteran Communities**

Three categories of banks serve military communities:

1. Banks that cater primarily to the military;
2. Banks that operate on military installations; and
3. Banks that operate outside military installations that have military members, veterans, and families as customers.

Various CRA issues are associated with each of these categories.

### **1. Banks Catering Primarily to the Military Community**

As noted above, Congress' “military bank” exception in the CRA not only directly recognizes that some American banks cater primarily to the military and should be labeled “military banks,” but also indirectly recognizes the military as a “community.” While military banks are proud of this distinction, the “military bank” definition often has been inconsistently applied.

AMBA is pleased that the agencies' Proposed Regulations address at least part of this concern by subtly but significantly improving the military bank exemption currently established in 12 USC §2902(4) and implemented in 12 CFR §25.41 (f). **For the first time, the term “military bank” is listed among the proposed regulations' definitions.** We greatly appreciate this acknowledgment that some American banks are focused on providing financial services to our Nation's military. However, as we argue in more detail below, we believe the proposed definition is still too narrow.

### **2. Banks Operating on Military Installations**

Banks with branches operating on military installations pay a substantial price for the privilege of serving military personnel where they live and work. For many decades, the Department of Defense's (DoD) military banking program has relied on banks and credit unions operating on military installations to provide needed financial services, support, and education to military families. These financial institutions provide free financial services to all federal government entities operating on and employees working and living on the

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<sup>3</sup> A. Pascual, *Why Are Payday Loans So Popular with the Military?* Am. Banker (July 11, 2018).

installation. The on-base bank also commits to provide financial education to the entire base population, regardless of their business relationships with the bank.

In addition to increased costs and legal requirements imposed on bank branches operating on military installations, their location also limits their ability to generate revenue. Following the 9/11 terrorist attacks, military installation security changes and updates to on-base banks' operating agreements prevented those banks from serving customers outside the base

Although AMBA regards banks with branches on military installations as military banks, federal examiners often do not because the CRA definition of "military bank" is generally applied at the bank rather than the branch level. Thus, branches on military bases are typically evaluated on a geographic basis; they often get no credit for serving the military. We will discuss this conundrum below.

### **3. Off-Base Banks with Military and Veteran Customers**

This category of banks includes those that neither qualify as a "military bank" under §\_\_.12 nor operate on-base branches. Many provide important financial services to the military and veteran communities. As we noted in our 2020 comments to the OCC, the extent to which they get credit for those services depends on the extent to which the CRA regulations regard such support to be CRA-eligible. Unfortunately, as we note below, the proposed regulations currently give banks no credit for those services.

## **Substantive Proposals Intended to Give Military Banks and Military Communities the Recognition and Support They Deserve**

Having introduced military banks and military communities, our focus now turns to suggesting changes to the agencies' Proposed Regulations that will better define military banks and incentivize all banks to support military communities. Specifically, the following comments and recommendations are intended to add meaning, context, and clarity to the CRA's definition of "military bank." We believe the concept of military bank should extend beyond a definition and be incorporated in the substantive provisions of the regulations the agencies are proposing.

To properly implement the "military bank" distinction and incentivize banks to serve our military and veteran communities, we propose changes in two areas:

- Interpretation and application of the "military bank" definition to the three categories of military banks discussed above.
- Description of how military banks can earn CRA credit when serving their military and veteran communities.

We also hope our comments and recommendations will lead to two positive results:

- A greater understanding of how some banks – military banks – support the unique financial needs of a community with unique financial challenges.
- A deeper appreciation for the issues military banks face when working to comply with CRA mandates that do not always accurately define or measure that support.

### **I. Defining "Military Banks"**

#### **1. Banks Catering Primarily to the Military Community**

In addition to including "military bank" among the agencies' Proposed Regulations definitions, we are pleased that they also included the 2020 OCC definition of "military personnel" that includes those "who serve **or have served** in the Armed Forces (including the U.S. Army, Navy, Marine Corps, Air Force, and Coast Guard) or dependents of military personnel." Including veterans and members of our National Guard and Reserve forces in this definition recognizes that the financial challenges of military service do not end when a service member transitions to civilian life. Before going further, we note that **the United States Space Force was established in 2019. The agencies' Proposed Regulations should include the U.S. Space Force in its list of military service branches.**

We regret that the agencies' Proposed Regulations did not also adopt the OCC's 2019 definition of "**predominantly.**" In its 2020 Proposed Regulations, the OCC included in its definition of "military bank:"

A bank whose business predominantly consists of serving the needs of military personnel or their dependents means a bank whose most important customer group is military personnel or their dependents.<sup>4</sup>

We recommended this definition because the word "predominantly" is currently undefined but has often been used by CRA examiners to assess the relative number of military personnel and dependents among a bank's total customer base. As a **quantitative** standard, it only counts customers. It fails to measure a bank's

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<sup>4</sup> OCC Proposed CRA Regulations, Docket ID OCC-2018-0008, 128

commitment, mission, or business model to serve the military community. To fill that gap, the OCC's 2020 definition introduced a **qualitative** element. Banks that serve a diverse customer base that also includes a minority of military members and dependents typically do not qualify under a quantitative application of "predominantly." We recommend that the agencies adopt the 2020 OCC qualitative interpretation so that these banks can get credit for the services they provide to their global military customer bases.

**AMBA SUBSTANTIVE RECOMMENDATION #1: We recommend that the word "predominantly" be defined to include "a bank whose most important customer group is military personnel or their dependents." This qualification should lead to extension of the "military bank" definition to all banks with a commitment, mission, or business model to serve the military community exclusive of all other communities.**

## 2. Banks Operating on Military Installations

We believe these changes to the "military bank" definition will appropriately classify and characterize the first category of military banks – banks that cater primarily to the military community. Unfortunately, they may not adequately address the second category of military banks – banks operating on military installations. We say "may not address" because it's unclear whether the agencies intend to apply the "military bank" definition to individual on-base branches of banks that do not otherwise qualify as "military banks."

We see two alternative approaches for banks operating on military installations:

1. If the agencies extend their definition of "military bank" to branches on military installations, then their assessment area will be their entire deposit base, regardless of geographic proximity or location. **We prefer this approach.**<sup>5</sup>
2. If the "military bank" definition is not applied to branches on military installations, they will be evaluated based on their geographic assessment areas. In this scenario, we are unsure what the agencies intend. On the one hand, in §\_\_.16(b), the agencies' Proposed Regulations exclude "nonpublic facilities" from its definition of "facility-based assessment areas." Military installations are nonpublic facilities; the banks operating on them should also be considered nonpublic facilities. On the other hand, this paragraph also describes "facility-based assessment areas" in political subdivision terms: "each **county** in which a bank has ... a branch". Because these two parts of the "facility-based assessment area" definition would lead to different outcomes for on-base banks, they must be reconciled in some way to produce a consistent result.

**AMBA SUBSTANTIVE RECOMMENDATION #2: Applying a geographic assessment area standard to on-base branches of banks not otherwise considered "military banks" would require them to extend their operations beyond the base's boundaries in violation of DoD policies. To address this issue within the agencies' Proposed Regulations, we suggest the following:**

- **Our preferred approach is to modify the "military banks" exception in §\_\_.16(d) to include on-base branches of banks that do not otherwise fit within the definition:**

**"Military bank means a bank or a branch whose business predominately consists of serving the needs of military personnel ..."**

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<sup>5</sup> In its 2020 proposed regulations, the OCC included a provision at §25.08(e) stating that a "military bank will only be evaluated based on its entire deposit customer base **at the bank level** under §25.12." This language does not appear in the agencies' Proposed Regulations, suggesting that it might be possible for the definition of "military bank" to be applied at the branch level.

Essentially, this application of the military bank definition at the branch level will allow branches on military bases to benefit from the CRA's geographic assessment area exception while the larger bank they are part of would not be considered a military bank.

- If the agencies prefer not to apply §\_\_.16(d) to on-base branches, we alternatively propose allowing banks under §\_\_.16(b) to delineate an on-base branch assessment area consisting only of the base on which the branch operates. This could be effected by adding the following language to the end of §\_\_.16(b):

**“Banks operating branches on Federal or State property (including military installations), access to which is limited to persons living or working or entities operating there, may limit their assessment areas to the geography within the boundaries of such property.”<sup>6</sup>**

At a minimum, exempting on-base branches from the geographic assessment area requirement or allowing them to limit their assessment areas to the base will prevent them from being penalized. Ideally, we hope that our proposed changes will also incentivize banks to continue operating on military bases and to fill the many vacancies that have resulted from the increasing costs DoD has imposed on them.

### **3. Off-Base Banks with Military and Veteran Customers**

Because no current or proposed definition of “military bank” includes banks not predominantly serving military customers or banks without branches on military installations, these banks can earn CRA credit for their support of their military customers only if such support can otherwise earn CRA credit. As we describe in detail below, the agencies' Proposed Regulations provide no way to accomplish that.

## **II. How Can Banks Supporting the Military Earn CRA Credit?**

One of the problems inherent in the current CRA regulations and which the 2020 OCC revision effort also failed to address is that, although the CRA statute defines military banks in terms of the unique military communities they serve, none of its evaluation criteria addresses how banks can and should support these communities. Including service members, veterans, and their families in the definition of “military banks” at least gives those banks some relief from the CRA's geographic assessment area requirements. Extending the exemption to on-base branches would go a long way toward recognizing the contributions they make within their limited geographic footprints. These steps forward notwithstanding, the statute and the agencies' Proposed Regulations still fall short in that they do not define military communities, provide guidance for banks on how they should support their military and veteran communities, or offer guidance for examiners on how they should award CRA credit for the support banks do provide to these communities.

In its memorandum reporting the results of its 2018 CRA study, the Department of Treasury discussed the lack of clarity regarding the kinds of financial services or products that qualify or should qualify for CRA credit.<sup>7</sup> Some activities have long been considered CRA-eligible; others, even some that are responsive to the needs of the communities banks serve, are often disqualified by CRA examiners. AMBA believes that the CRA regulations must clearly establish as CRA-eligible financial products and services that meet military community needs.

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<sup>6</sup> The CRA statute, 12 USC §2906(e)(2), grants the OCC and FDIC the discretion to define “metropolitan area” in any way they deem appropriate. Both agencies therefore have the authority to implement this recommendation.

<sup>7</sup> Memorandum for the Office of the Comptroller of the Currency, et. al., *Community Reinvestment Act – Findings and Recommendations*, 6 (April 3, 2018)(hereinafter, Treasury Memorandum).



We concur in Treasury's 2018 recommendations regarding CRA eligibility of financial products and services:

Treasury recommends that any framework for CRA reform should consider several key elements including:

- Expansion of the types of loans, investments, and services eligible for CRA credit;
- Establishment of clearer standards for eligibility for CRA credit, with greater consistency and predictability across each of the regulators; and
- Simplified record-keeping procedures, designed to make eligibility updates more regular and timely.<sup>8</sup>

### 1. Including Military Community Activities as “Qualifying Activities”

In the military community context, these recommendations should translate into general guidelines CRA examiners can use to determine when and how specific bank activities should qualify for CRA credit. **AMBA believes banks should receive CRA credit for ANY service they provide that promotes the financial readiness, stability, and health of military community members regardless of their LMI status.** We note with approval the agencies' efforts to provide CRA credit for “activities benefiting Native communities.”<sup>9</sup> We recommend a similar approach be adopted for military communities.

Banks that provide financial support to military personnel and veterans in any form should be given CRA credit regardless of where the veterans reside. Whether that support takes the form of a small business loan<sup>10</sup>, personal loan, or employment or training opportunities, AMBA believes the same rationale for extending CRA credit to LMI communities should also be applied to military personnel and veterans regardless of their LMI status.

In §\_\_.13, *Community Development Definitions*, the agencies' Proposed Regulations establish a central tenet that a “bank may receive community development consideration for a loan, investment, or service that has a primary purpose of community development.”<sup>11</sup> While the list of activities eligible for community development consideration is long, noticeably absent is any mention of services provided to military and veteran communities.

To remedy this oversight, we recommend that the Proposed Regulations include examples of ways banks may earn CRA credit by addressing the financial needs of their military or veteran communities or customers.

#### **AMBA SUBSTANTIVE RECOMMENDATION #3: We recommend adding the following provisions to §\_\_.13:**

**(a)(2) Community development purposes. Loans, investments, or services meet the definition of community development purpose if they promote one or more of the following:**

...

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<sup>8</sup> *Id.* at 8-9.

<sup>9</sup> See, e.g., *Notice of Proposed Regulations*, Docket ID OCC-2022-0002, §\_\_13(l) (hereinafter, *Notice of Proposed Regulation (NPR)*). In many respects, the NPR discussion beginning on page 97 also applies to military installations. Examples of community support activities in and around military installations include food distribution events for food-insecure military families; Morale, Welfare, and Recreation facility investments and program support; and support of military and veteran service organizations providing direct support to LMI service members and their families. We believe these analogs to the kinds of activities banks engage in on Tribal Lands should also be CRA credit eligible.

<sup>10</sup> In a recent study, the Small Business Administration concluded that veterans are not getting the loans they need to start or grow businesses. “While the SBA's flagship 7(a) program has flourished in recent years, veteran entrepreneurs have benefited less than other business owners. Since 2010, SBA-guaranteed loans have increased by 48% for veteran borrowers, compared with an 82% increase for other borrowers.” John Reosti, *Veterans Aren't Getting the Loans They Need to Start a Business*, *Am. Banker* (Nov. 9, 2018).

<sup>11</sup> *Notice of Proposed Regulations*, *supra* note 9, at §\_\_13(a).

**(ii) Economic development that supports small businesses or small farms, as described in paragraph (c) of this section, or a business designated as a veteran-owned small business (VOSB) by the Department of Veterans Affairs;**

...

**(d) Community supportive services.**

...

**(9) Activities that benefit or serve service members, veterans, or their families.**

...

**(m) Qualifying activities on US Military Installations. Activities that benefit or serve military personnel and their families living on or assigned to military bases in the US and its territories, with particular emphasis on addressing the financial needs of low or moderate income military personnel. Activities that support essential community facilities or programs must benefit or serve military personnel and their families.**

We also note with approval the agencies' adoption of the 2020 OCC approach to qualifying activities that requires each agency to compile and maintain "illustrative list[s] of non-exhaustive examples of community development activities that qualify for CRA consideration."<sup>12</sup> We consider this another way for military banks to seek prior approval of the support they intend to provide to the military communities they serve. However, this change will provide the clarity and certainty military banks seek and deserve only if the agencies are 1) willing to consider military communities to be "communities" deserving of CRA support and 2) willing to consider the support provided as deserving of CRA credit.

We believe neither of these objectives will be achievable unless the agencies' Proposed Regulations also specifically include military communities in its list of "impact review factors" at §\_\_.15. We understand these factors are criteria regulators will use to determine whether banks should receive CRA credit for certain activities. Despite the fact that military communities are indirectly acknowledged in the definition of "military bank," nothing in any of the agencies' Proposed Regulations defines them.

**AMBA SUBSTANTIVE RECOMMENDATION #4: We recommend adding an "impact review factor" at §\_\_.15(b)(11) that expressly recognizes military communities and considers the impact of qualifying activities on them:**

**(11) Benefit military communities, such as qualifying activities on military installations under §\_\_.13(m).**

The key consideration here is that every loan a military bank provides a military or veteran customer is one less loan procured from a predatory lender. This should be part of the impact assessed by CRA examiners when determining the community development value military banks provide to military communities.

Finally, we note with approval the agencies' proposal "to recognize financial literacy activities that assist individuals and families, including low- or moderate-income individuals and families, to make informed financial decisions ..."<sup>13</sup> The Proposed Regulations' commentary notes that many stakeholders "expressed support for expanding consideration of financial education" to include activities that benefit all income levels. In our 2020 comments, we recommended providing CRA credit for financial education provided to military personnel, veterans, and their families regardless of income level. We're pleased that the agencies'

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<sup>12</sup> *Id.* at §\_\_14.

<sup>13</sup> *Id.* at 95.

Proposed Regulations adopt this approach, which will incentivize our military banks to continue their already substantial military financial literacy efforts.

## 2. The Process of Compiling Lists of “Qualified Activities”

The agencies' Proposed Regulations currently require banks – and only banks – to submit requests to the OCC, FDIC, or FRB “for confirmation that an activity is eligible for CRA consideration.”<sup>14</sup> We believe this process is unnecessarily limited. In fact, this process is perhaps one of the most important innovations in the agencies' Proposed Regulations. Building flexibility into it will ensure that the Regulations will be sufficiently adaptable to meet America's ever-evolving community development needs.

Throughout the Proposed Regulations, the agencies repeatedly stress that the CRA exists to assess banks' “record of meeting the credit needs of its entire community, including low- and moderate- neighborhoods, consistent with the safe and sound operation of such institution.”<sup>15</sup> In such a regime, established for such a purpose, why are those communities left out of the qualified activity approval process? The agencies' answer is that stakeholders other than banks “are not subject to CRA examination.”<sup>16</sup> However, if the CRA's objective is to maximize the impact of bank investment in communities, who are better qualified than the communities themselves to determine what investment is needed and the impact that investment has achieved?

We believe this process should be opened to the communities banks serve. Specifically, for military communities, we believe the many stakeholders with interests in the financial wellbeing of service members, veterans, and their families should have a voice in defining how banks can enhance their wellbeing. Here is an example:

In 2019, AMBA entered into a partnership with the Department of Veterans Affairs to establish a program called the Veterans Benefits Banking Program (VBBP) intended to encourage and assist underbanked and unbanked veterans to open bank and credit union accounts into which their VA benefits can be directly deposited. The impetus for this program was the fact that many veterans are receiving their benefits via paper checks and prepaid debit cards. Both of these forms of payment present significant risks. Banks recruited to participate in this program are asked to undertake two commitments: to offer veterans free, no-minimum-balance checking accounts and to help unqualified veterans to qualify to open bank accounts. Since its inception, the VBBP has been credited with “banking” over 150,000 veterans.

AMBA believes the VBBP is a good example of a program that should be considered a CRA “qualified activity.” As a principal stakeholder in the program, AMBA is better positioned than any individual participating bank to petition one or more of the financial regulators to place this program on its qualified activity list. As the VA partner responsible for recruiting more banks to this program, our ability to have it added to the list will assist us in those recruiting efforts.

**AMBA SUBSTANTIVE RECOMMENDATION #5: We recommend modifying §\_\_14(c) and (d) to allow any bank, community, or other community development stakeholder to submit requests to the FRB, OCC, or FDIC to confirm that an activity is eligible for CRA consideration:**

**(c) Confirmation of an eligible activity. Pursuant to paragraph (d) of this section, a bank, community, or any community development stakeholder ~~subject to this part~~ may submit a request to the [Agency] for confirmation that an activity is eligible for CRA consideration.**

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<sup>14</sup> *Id.* at §\_\_14(c).

<sup>15</sup> *Id.* at 9.

<sup>16</sup> *Id.* at 105. The agencies should regard our discussion here as our answer to Question 32.

...

**(d) Process. (1) Any entity listed in paragraph (c) of this section may request that the [Agency] confirm that an activity is eligible for CRA consideration by submitting a request to the [Agency], in a format prescribed by the [Agency].**

### **3. Including Military and Veteran Communities in the CRA's "Tests"**

Although the agencies' Proposed Regulations' "Standards for Assessing Performance" contain special rules for "wholesale or limited purpose banks,"<sup>17</sup> they contain no standards for military banks or the military community activities of any other banks.

Our substantive comments thus far have focused on specific ways the agencies' Proposed Regulations can add meaning to Congress' acknowledgment that military communities are communities. We have already recommended that the agencies should approach US military installations in a manner analogous to Native Land Areas. In addition to the changes suggested in **AMBA SUBSTANTIVE RECOMMENDATION #3**, above, other places we believe the regulations should consider distinguishing military communities include:

#### **a. The §\_\_.22 Retail Lending Test**

If a bank qualifies as a military bank because its customer base is predominantly military, veteran, or dependent or a branch qualifies as a military bank because it operates on military installations, more consideration needs to be given to the fact that the kinds of credit military populations need differ significantly from other LMI or non-LMI populations.

While military members do purchase homes and many veterans do apply for small business loans, by far the most important forms of credit for military communities are credit cards; small dollar, unsecured loans; and automobile loans. Several years ago, the FDIC's small dollar lending template was conceived, in part, as a result of military banks extending such loans to their military populations. These loans have been perhaps the biggest single defense against the proliferation of payday lending and, thus, are the greatest community development contributions military banks make to their military communities. They should be recognized and weighted accordingly in the CRA examination process.

**AMBA SUBSTANTIVE RECOMMENDATION #6: We recommend that the retail lending test for military banks should be modified by recognizing credit cards and small-dollar loans as "major product lines"<sup>18</sup> and assigning more weight to credit cards, small dollar loans, and automobile loans and less weight to home mortgage, small business, and community development loans.**

#### **b. §\_\_.23 Retail services and products test**

Although this test is applicable primarily to large banks, intermediate and small banks may also rely on it to provide "additional consideration" to adjust ratings from "satisfactory" to "outstanding."<sup>19</sup> We focus on this test in particular because it addresses bank delivery systems. Because military banks cater to customers assigned or deployed around the world, remote and digital delivery systems are essential to their ability to deliver financial services. In assigning CRA ratings, the agencies must consider the investments military banks and banks serving military communities make to deliver financial services worldwide.

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<sup>17</sup> *Id.* at §\_\_.21(b)(4).

<sup>18</sup> *Id.* at §\_\_.22(a)(4).

<sup>19</sup> *Id.* at §\_\_.21(b)(2)(iii)(B) and (b)(3)(ii)(C).

While the agencies' Proposed Regulations state that digital delivery systems may be considered under the Retail Services and Products Test, the scope of this standard's application is unclear. In §\_\_.23(b), the regulations allow certain large banks to request additional consideration for their "digital and other delivery systems." Consideration is also given to banks with branches in Native Land Areas,<sup>20</sup> banks offering certain credit and deposit products,<sup>21</sup> and other activities promoting awareness and use of these products. We believe similar consideration should be given to military banks. Although these rules, as written, should give any bank CRA credit for providing these services to military communities, we fear that unless this is made explicit, examiners might not recognize or apply it.

**AMBA SUBSTANTIVE RECOMMENDATION #7: We recommend the following revisions to §\_\_.23, Retail services and products test:**

**(b) Delivery systems.** ... A large bank that had average assets of \$10 billion or less in either of the prior two calendar years, based on the assets reported on its four quarterly Call Reports for each of those calendar years, and any military bank or bank serving military and veteran customers, may request additional consideration under the Retail Services and Products Test for its digital and other delivery systems under paragraph (b)(3) of this section.

...

**(b)(1)(C) Geographic considerations.** The [Agency] considers the availability of branches in the following census tracts:

**(5) US military installations.**

...

**(c) Credit and deposit products.** As provided in paragraph (c)(1) of this section, the [Agency] analyzes the responsiveness of credit products and programs not covered under paragraph (b) of this section to the needs of low- and moderate-income individuals, small businesses, and small farms. ... A large bank that had average assets of \$10 billion or less in either of the prior two calendar years, based on the assets reported on its four quarterly Call Reports for each of those calendar years, and any military bank or bank serving military and veteran customers, may request additional consideration under the Retail Services and Products Test for its deposit products and other services under paragraph (c)(2) of this section.

...

**(2) Deposit products responsive to the needs of low- and moderate-income individuals including military personnel, veterans, and their families.<sup>22</sup>**

**c. §\_\_.25 Community development services test**

Finally, because our military banks have long records of service beyond simply providing financial products and services, we believe the Community Development Services Test that accounts for those efforts should also contain military bank and military community references.

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<sup>20</sup> *Id.* at §\_\_.23(b)(1)(ii)(C)

<sup>21</sup> *Id.* at §\_\_.23(b)(3)(iii)(C)

<sup>22</sup> This section and its description of the kinds of deposit products for which banks should receive CRA credit under this test would give credit to participants in the Veterans Benefits Banking Program (VBBP). As described previously, the VBBP is a program designed and implemented to encourage veterans to open bank accounts into which their VA benefits can be directly deposited. Banks participating in this program have agreed to offer free, no-minimum-balance checking accounts to veterans who deposit their benefits. They have also agreed to help veterans "without banking or credit histories or with adverse banking histories – as described in §\_\_.23(c)(2)(C) – to qualify for such bank accounts." We recommend including a reference to the VBBP in whatever interpretive language or footnotes accompany the final regulations when they are issued. Footnote 225 in the agencies' Proposed Regulations, which discusses the BankOn program, would be a perfect place to include this reference.

Military banks and banks on military installations are widely known for the community support they provide beyond their banking services. One of our banks provided a grant to non-profit credit and financial counseling agencies that provide free credit and financial counseling to veterans under the VBBP. Our banks have been involved in providing food to some military families facing food insecurity. Other banks routinely give school supplies or clothing to military children before the start of the new school year. Again, unless the regulations specifically describe credit for these kinds of community support activities, we fear examiners might not make the connections.

**AMBA SUBSTANTIVE RECOMMENDATION #8: We recommend the following revisions to § \_\_.25, Community development services test:**

**(a) *Scope of Community Development Services Test.* The Community Development Services Test evaluates a bank's record of helping to meet the community development services needs of the bank's facility-based assessment areas, states, multistate MSAs, and nationwide area. For military banks and banks serving military and veteran communities, these community development services may occur on or near military installations and worldwide. ...**

...  
**(d)(3) *Activities related to the provision of financial services.* ... Activities related to financial services include, but are not limited to:**

...  
**(ii) *Providing technical assistance on financial matters to non-profit, government, military, veteran, or tribal organizations or agencies supporting community development activities;***

**III. *Should Military Banks Have Their Own Status ... Like Wholesale or Limited Purpose Banks?***

As we have stated throughout these comments, the agencies' Proposed Regulations currently distinguish military banks only by incorporating their statutory CRA exemption from geographic assessment area requirements. Our comments are intended to carry that distinction into other areas where military banks differ from non-military banks. Not only do military banks differ in terms of the geographic distribution of their customers, the ways in which they support military and veteran communities also can be quite different.

The agencies' Proposed Regulations distinguish "Wholesale or Limited Purpose Banks" from other banks to "account for banks with unique business models."<sup>23</sup> The Proposed Regulations go on to state that a limited purpose bank would be defined as "a bank that offers only a narrow retail product line (such as credit cards, other revolving consumer credit plans, other consumer loans, or other non-reported commercial and farm loans)." Although military banks may not technically qualify under this definition, the idea of accommodating business models tailored to the specific needs of unique communities would definitely be applicable to military banks.

The kinds of products and services military and veteran communities need are much narrower than those needed by most other communities. Unfortunately, the regulations do not adequately account for or provide appropriate credit for these differences. Our comments are intended to ensure banks serving these communities not only are able to earn appropriate CRA credit for the services they do provide but are not penalized for failing to provide the financial services they do not provide. The "limited purpose bank" definition seems to accomplish this for banks with unique business models.

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<sup>23</sup> Notice of Proposed Regulations, *supra* note 9, at 346.

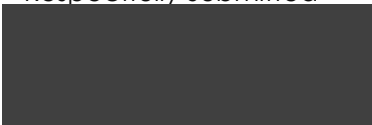
While we do not necessarily seek to have military banks classified as “limited purpose banks,” we do have a similar purpose: We do seek to ensure the regulations make clear to banks, examiners, and communities that military banks' business models are much narrower than other banks'.

## **Conclusion**

When the CRA was enacted in 1977, our Nation had just emerged from the Vietnam War and lacked the respect and appreciation for military service that our military communities enjoy today. Although we anticipate that the agencies will receive many recommendations during this comment period based on how both banking and community development have changed since 1977, we firmly believe none are more important than the recommendations – like ours – that focus on the need to update the CRA regulations in ways that will encourage banks to meet the needs of America's military and veteran communities – communities that include everyone who is currently serving in uniform, has served in uniform, or is or has been a member of a military family.

Since 1977, our awareness and understanding of the financial challenges facing the military have evolved. So, too, must the CRA regulations. We hope that they will be updated in ways that will encourage and incentivize banks to meet the needs of this highly mobile and very deserving community. Our recommendations are offered with that ultimate objective in mind.

Respectfully Submitted



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