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June 11, 2007

Mr. George Schaefer
Department of Defense
Federal Docket Management System Office
1160 Defense Pentagon
Washington, DC 20301-1160

**Re: Limitations on Terms of Consumer Credit Extended to Service
Members and Dependents (DOD-2006-OS-0216; RIN 0790-AI20)**

Dear Mr. Schaefer:

The American Bar Association (ABA) is pleased to respond to the Department of Defense (Department) notice of proposed rulemaking on the referenced subject as published in the *Federal Register* on April 11, 2007 (72 F.R.18157).

As indicated in our previous testimony and comment, the American Bar Association is opposed to predatory lending practices that are abusive, fraudulent or deceitful. We applaud the work done by the Department to identify lending products and services that prey on financially vulnerable military servicemembers and their families. As the Department concluded in its Report to Congress on Predatory Lending Practices Directed to Members of the Armed Forces and Their Dependents (August 9, 2006) (the "Report"), predatory and abusive credit practices unfairly jeopardize the stability of military families and distract soldiers and sailors from their focus on mission and thereby adversely affect their battle-readiness. We have supported congressional efforts to enact legislative protections for servicemembers from these abusive practices and target overreaching practices aimed at service members and their families. To that end, we supported passage of the Military Lending Act, Section 670 of P.L. 109-364 (the "Act").

We are concerned that the Department's proposed regulations will dilute the intent of the Act to provide our military necessary protections from predatory lending practices. While the ABA takes no position either supporting or opposing particular technical financial provisions, we urge the Department to issue final regulations that fully capture the spirit of the Act and that carry out its intent to protect American servicemembers.

We note specifically the omission from these proposed regulations of certain “military installment loans” and “rent-to-own loans,” both of which were identified in the Report as involving abusive practices aimed at servicemembers and their families. We believe that the intent of the Act in reaching the problem credit products may be better achieved through greater attention to key definitions. We recommend that the Department further consider the definition of key terms such as “consumer credit” and “creditor,” to ensure that they are consistent with the findings and targets of the Report. The regulations should target precisely the problem practices that impelled Congress to enact the legislation, but not impinge upon the legitimate products and services offered by mainstream financial institutions, which already are subject to prohibitions on such practices through regulation and oversight.

We also encourage the Department to establish coverage of the Act in a manner sufficiently clear to provide the necessary guidance to institutions seeking to comply with the law and to those charged with enforcement. Any ambiguity in the defined terms may inadvertently lead to the elimination of legitimate products and services in the effort to capture those who would unscrupulously take advantage of our military families.

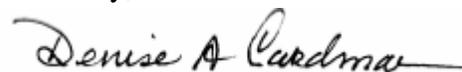
We are concerned with proposed language that would place the responsibility of self-identification of protection coverage upon servicemembers themselves. We note that “safe harbors” as to the status of military personnel were not mentioned whatsoever in the Report or the Act. We urge the Department to reconsider its position that a simple statement from a servicemember would be considered sufficient to establish whether he or she is a “covered person.” Again, we do not believe that the regulations should place the exclusive responsibility for identification on persons whom the law was written to protect.

As stated above, we believe one of the biggest challenges now before the Department is the appropriate clarification of terms and coverage of the Act. Additional challenges may present themselves after the law takes effect and there is an opportunity to assess how it is functioning. We believe therefore that it is essential to the effectiveness of the Act and its implementing regulations that there be an annual review of the type and scope of abusive lending practices affecting servicemembers and their dependents, with input from all appropriate organizations. We respectfully recommend that this include an assessment by the Department of whether regulations should be amended to address emerging situations.

Consistent with this, the ABA has a dedicated Working Group comprised of members of both our Section of Business Law and our Standing Committee on Legal Assistance for Military Personnel, representing the general legal interests of mainstream banking interests and military families. The ABA Working Group is committed to monitoring the implementation of the new law and to conferring on other issues of mutual interest. We invite the Department to make use of this invaluable resource as it continues towards implementation of the new law and beyond.

Thank you for your consideration of these views.

Sincerely,

A handwritten signature in cursive script that reads "Denise A. Cardman". The signature is written in black ink and is positioned below the word "Sincerely,".

Acting Director