

Background

The Servicemembers Civil Relief Act of 2003¹ (SCRA) is a federal law that protects members of the U.S. Army, Navy, Air Force, Marine Corps and Coast Guard; members of the National Guard; and commissioned officers of the Public Health Service and the National Oceanic and Atmospheric Administration (“servicemembers”). Some of the benefits accorded to servicemembers by the SCRA also extend to servicemembers’ spouses, dependents and other persons subject to the obligations of servicemembers. The SCRA covers issues such as rental agreements, eviction, installment loans, credit card interest rates, mortgage interest rates, mortgage foreclosure, automobile repossessions, and automobile leases. Recent public enforcement actions and court cases against financial institutions underscore the importance of SCRA compliance.

Just because there are no military bases in a bank’s geographic area does not mean that there are no servicemembers within the bank’s community. Since servicemembers reside in every state,² all banks offering any kind of credit product might have customers covered by the SCRA.

Purpose

The SCRA is a standalone statute with no implementing regulation, rule, or commentary. Several federal financial regulatory agencies, including the Federal Reserve, have

been given the responsibility to oversee SCRA compliance and the ability to enforce SCRA compliance at the institutions they supervise.

As outlined in Chart 1 on page 2, provisions of the SCRA include:

- Interest rate reduction to 6 percent for servicemember obligations contracted prior to entering military service and forgiveness of any interest in excess of that ceiling. The interest reduction should be effective as of the date of the order to active duty and remain in effect for the period of military service or, in the case of mortgage loans, during the period of military service plus one year thereafter. Under the act, the term “interest” is defined to include “service charges, renewal charges, fees, or any other charges (except bona fide insurance) with respect to an obligation or liability.”
- Prohibition during the service time or up to twelve months after service against foreclosing on real property owned by a servicemember prior to military service that is secured by a mortgage or deed of trust, without a court order. In addition, no landlord may evict a servicemember or dependent during a period of military service from premises occupied or intended to be occupied as a primary residence, and for which the monthly rent does not exceed a statutory amount adjusted annually for inflation (\$3,139.35 for 2013), without a court order.
- Prohibition during the period of military service against terminating a lease or purchase installment contract or repossessing personal non-real property leased or purchased through an installment contract, for any breach of the contract that occurred before or during military service, without a court order.
- Prohibition during the period of military service or within one year thereafter against exercising any right or option under an assignment of the servicemember’s life insurance policy made before the servicemember’s military service, without a court order.
- Prohibition against taking certain negative actions against a servicemember such as denying credit, changing the terms of existing credit, or refusing to grant credit on terms substantially similar to those requested, solely

1 The SCRA of 2003, formerly known as the Soldiers’ and Sailors’ Civil Relief Act of 1940, is now codified at 50 U.S.C. App. 501 *et seq.*

2 See the Department of Defense [2011 Demographics Profile of the Military Community](#) report.

FedLinks is intended to highlight the purpose of supervisory policy and guidance for community banking organizations. FedLinks does not replace, modify, or establish new supervisory policy or guidance.

Chart 1

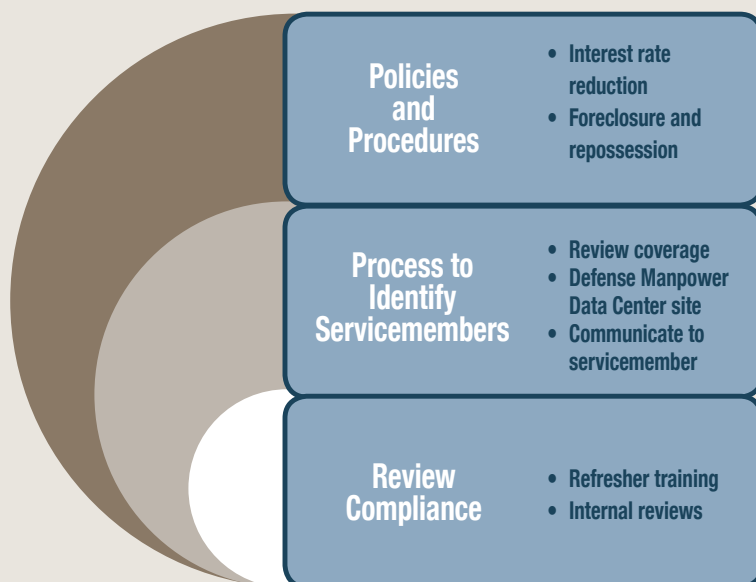
6%	<ul style="list-style-type: none"> • Interest rate reduction to 6% for obligations prior to service • Forgiveness of any interest in excess of 6% • For mortgage loans, the interest rate is reduced for as long as the military service plus one year. For other obligations, the interest rate is reduced for as long as the military service.
Financial institution may not	<ul style="list-style-type: none"> • Foreclose on real property during military service or up to 12 months after military service without a court order • Evict a servicemember or dependent without court order
Financial institution may not	<ul style="list-style-type: none"> • Repossess financed personal property during military service without court order • Terminate a lease or installment contract for breach of contract without court order
Financial institution may not	<ul style="list-style-type: none"> • Exercise right or option on servicemember's life insurance policy during military service or up to 12 months after without court order
Financial institution may not	<ul style="list-style-type: none"> • Take certain negative actions because servicemember exercised SCRA rights
Servicemember allowed to terminate	<ul style="list-style-type: none"> • Lease of a motor vehicle executed by servicemember prior to service (if service is 180 days or more)
Servicemember allowed to terminate	<ul style="list-style-type: none"> • Lease of a motor vehicle executed by servicemember while in military service when a Permanent Change of Station (PCS) or deployment is ordered, or deployment of 180 days or more
Servicemember allowed to terminate	<ul style="list-style-type: none"> • Any residential lease entered before military service • Any residential lease entered while in service when a PCS or deployment (of 90 days or more) is ordered

because the servicemember exercised his or her rights and protections under the SCRA.

- Ability of a servicemember to terminate the lease of a motor vehicle for either personal or business use by the servicemember or dependent where: (1) the lease is executed by the servicemember before entering a period of military service of 180 days or more; or (2) while in military service, the servicemember executes the lease and subsequently receives military orders for a Permanent Change of Station (PCS) to a location outside the continental U.S. or from a location outside the continental U.S. to any other location, or for a deployment with a military unit for a period of 180 days or more.
- Ability of a servicemember to terminate any residential lease: (1) entered into before military service; or (2) executed by a servicemember while in service who then receives orders for a PCS or a deployment, or as an individual in support of a military operation, for a period of at least 90 days.

Examiner Expectations

Examiners will review a community bank's current procedures to ensure that they provide appropriate guidance for handling transactions covered under the SCRA. The remainder of this document discusses fundamental elements of a SCRA compliance program and lists additional online resources to learn more about how to comply with the SCRA.



Policies and Procedures

- ***Written and board-approved policies and procedures outlining steps to take when a servicemember requests an interest rate reduction.***

Bank management should maintain written policies and procedures approved by the bank's board of directors that outline the steps staff should follow when responding to a servicemember's SCRA requests for interest rate reduction on any loan covered under the act. These procedures should clearly state how employees are to reduce the interest rate on qualified loans, including how to adjust the rate *retroactively to the first day of eligibility* and how to code the loans to appropriately adjust the periodic payments.

Example: SCRA Loan Requirements



The bank's policies should also clearly state where servicemember requests are routed, who reviews the request and authorizes the rate reduction, and who communicates the decision to the borrower about the SCRA request. These procedures can either be standalone or incorporated into existing broader procedures.

Example: Identifying Loans Subject to the SCRA



- ***Written and board-approved policies and procedures addressing mortgage foreclosures and repossession of motor vehicles to ensure servicemember protections are addressed.***

Before initiating a foreclosure on a home or repossession of a vehicle, it would be prudent for a bank to determine

whether the property is owned by a servicemember covered by the SCRA. Bank policies should provide bank personnel guidance on how to make such a determination.

Foreclosures and repossessions can be lengthy processes, so banks are encouraged to determine whether a borrower qualifies as a protected servicemember several times during the process. For example, banks should consider determining the military service status of a borrower before beginning the process and re-determining the status prior to finalization. Further determinations may be warranted for more protracted proceedings. If at any point the borrower qualifies as a protected servicemember, the proceedings must stop.

Process to Identify Servicemembers

- ***Effective and consistent processes to identify servicemembers that are or possibly may be covered by the SCRA rights and protections.***

Bank staff can confirm the servicemember status of a borrower by:

- (1) reviewing any orders received from the borrower; or
- (2) searching the Department of Defense's [Defense Manpower Data Center](http://www.dmdc.osd.millscra/) (DMDC) site at www.dmdc.osd.millscra/ with the appropriate certificate.

While not required, a bank may want to consider searching for and flagging any additional loans that may qualify for coverage once a servicemember requests an interest rate reduction. Not only is this good customer service, but the proactive identification of these additional loans will ensure SCRA protections are applied appropriately to avoid repossession and/or foreclosure in violation of the SCRA.

Review Compliance

- ***Provide current and refresher training for all bank employees on the SCRA and the bank's compliance obligations.***

Bank personnel extending and servicing credit-related

products and services should be familiar with SCRA provisions.

- ***Implement internal control procedures to regularly review the bank's compliance with the SCRA.***

SCRA compliance should be included in the audit scope and schedule. Internal review or audit findings reporting any policy exceptions should be communicated to the bank's board of directors and senior management for tracking and correction.

Related Supervisory Guidance

In addition to the SCRA statute, for more information on servicemember financial protection, please review:

“Servicemember Financial Protection” Webinar, Outlook Live, September 10, 2012.

www.philadelphiafed.org/bank-resources/publications/consumer-compliance-outlook/outlook-live/2012/servicemember-financial-protection.cfm

“Servicemember Financial Protection Webinar: Questions and Answers” Consumer Compliance Outlook Newsletter, First Quarter, 2013.

www.philadelphiafed.org/bank-resources/publications/consumer-compliance-outlook/2013/first-quarter/servicemember-financial-protection-webinar.cfm

“Compliance Requirements for the Servicemembers Civil Relief Act.” Consumer Compliance Outlook Newsletter, Second Quarter, 2011.

www.philadelphiafed.org/bank-resources/publications/consumer-compliance-outlook/2011/second-quarter/compliance-requirements.cfm

“Servicemembers Civil Relief Act - Compliance Update,” Consumer Compliance Outlook Newsletter, Fourth Quarter, 2011.

www.philadelphiafed.org/bank-resources/publications/consumer-compliance-outlook/2011/fourth-quarter/servicemembers.cfm

“Mortgage Servicing Practices Concerning Military Homeowners with Permanent Change of Station Orders,”

CA Letter 12-8, June 21, 2012.

www.federalreserve.gov/bankinforeg/caletters/caltr1208.htm

“Policy Statement on Rental of Residential Other Real Estate Owned (OREO) Properties,” SR 12-5/CA Letter

12-3, April 5, 2012.

www.federalreserve.gov/bankinforeg/srletters/sr1205.htm

“Revised Examination Procedures for the Servicemembers Civil Relief Act,” CA Letter 11-6

www.federalreserve.gov/bankinforeg/caletters/caltr1106.htm

“Interagency Examination Procedures for the Department of Defense’s Final Rule on Limitations on Consumer Credit Extended to Service Members and Dependents,” CA Letter 08-4

www.federalreserve.gov/boarddocs/caletters/2008/0804/caltr0804.htm

“The Department of Defense’s Final Rule on Limitations on Consumer Credit Extended to Service Members and Dependents (“Talent Amendment”),” CA Letter 07-5

www.federalreserve.gov/boarddocs/caletters/2007/0705/caltr0705.htm