

# **SERVICE MEMBERS CIVIL RELIEF ACT OF 2003 (SCRA)**

## **EXAMINATION PROCEDURES**

### **Examination Objectives**

1. Determine the institution's compliance with the provisions of the SCRA, as applicable, to the institution's product offering and operations, including management of other real estate owned where a service member or his/her dependents may be tenants.
2. Assess the quality of the institution's compliance risk management systems and its policies and procedures for implementing the provisions.
3. Determine the reliance that can be placed on the institution's internal controls and procedures for monitoring the institution's compliance with the provisions.
4. Determine corrective action when violations of law are identified or when the institution's policies or internal controls are deficient.

### **Examination Procedures**

#### **General**

1. Through discussions with management and review of available information, determine whether the institution's internal controls are adequate to ensure compliance with the SCRA. Consider:

- policies and procedures
- account documentation
- checklists
- computer program documentation, including any computer program testing and validation.

2. Determine the extent and adequacy of the training received by individuals whose responsibilities relate to compliance with the regulation. Review any training materials pertaining to the Act and determine if the training is comprehensive and covers the various aspects of the provisions that apply to the creditor's offerings and operations.

3. Review compliance reviews or audit materials, including work papers and reports, to determine if:

- The scope of any audits address all provisions of the SCRA, as applicable;
- Transaction testing includes samples covering relevant product types and decision centers (for example, mortgage and credit card processing centers);
- The work performed is accurate;
- Significant deficiencies and their causes are included in reports to management or to the Board of Directors;
- Management has taken corrective actions to follow-up on previously identified deficiencies; and,
- The frequency of review/audit is appropriate.

4. If any complaints based on the SCRA have been filed against the institution, determine:

- Why were they filed, and
- How they were resolved.

5. If the institution has received any actual requests for relief under the SCRA, determine whether appropriately trained staff reviewed the requests and if appropriate records are maintained.

### **Interest Rate Reduction for Loans, Including Mortgages**

6. Determine how the institution handles requests for interest rate reductions under the SCRA on an obligation incurred by a service member or by a service member and spouse jointly, before the service member entered military service.

7. Determine how the institution calculates the reduced interest rate. Does the institution include all service and renewal charges, as well as other fees and charges, with the exception of charges for bona fide insurance?

8. Determine whether the institution applies the interest rate reduction effective as of the date the service member was called to military service.

9. Determine whether the institution applies the interest rate reduction throughout the term of the service member's military service for all credit products. In the case of a mortgage, the institution must continue to apply the interest rate reduction for a one- year period following the termination of military service.

## **Residential and Motor Vehicle Leases**

10. Determine, in the case of a residential lease entered into before the service member entered into military service or executed by the service member while in military service but who subsequently receives orders for a permanent change of station or for a deployment of at least 90 days, that the institution permits the service member to terminate the lease.

11. Determine if the institution permits the service member to terminate a motor vehicle lease where:

- The motor vehicle lease is for personal or business use by the service member or his/her dependent; and,
- The lease is executed by the service member before he/she enters military service for a period of 180 days or more, or
- The service member, while in military service, executes the lease and subsequently receives military orders for a PCS outside of the continental United States (this include a PCS to Hawaii or Alaska), or deployment with a military unit for a period of 180 days or more.

## **Foreclosure, Eviction from Credit Union-Owned Property**

12. Determine, in the case of an institution acting as a landlord, that the institution does not evict a service member or his/her dependents from a residence covered by the Act occupied primarily as a residence during a period of military service except by court order.

(Dependents are defined in the SCRA as (a) the service member's spouse, (b) the service member's child, or (c) an individual for whom the service member provided more than one-half the individual's support for 180 days preceding an application for relief under the SCRA.)

13. Determine whether, in the case of real or personal property owned by a

- service member before the service member's military service and is secured by a mortgage, trust deed, or similar security interest, the institution obtains a court order before initiating the sale, foreclosure, or seizure based on a breach of such a secured obligation during the period of military service or one year thereafter, until December 31, 2014.

## **Installment Contracts**

14. Determine, in the case of an institution that finances or purchases installment contracts for the purchase of real or personal property, that where a service member has paid a deposit or made a payment before entering military service, that the contract was not rescinded or terminated by the institution after the service member's entry into service, absent a court order for a breach of the terms of the contract occurring before or during the military service, or the property repossessed because of the breach.

## Insurance Assigned as Security for a Loan

15. Determine, in the case of an insurance policy on the life of a service member that is assigned before the service member's military service as security for an obligation, that the institution does not exercise, during a period of military service or within one year thereafter, any right or option obtained under the assignment, absent a court order. This prohibition does not apply—

- if the assignee has written consent of the insured service member, obtained during his/her military service;
- when the premiums on the policy are due and unpaid; or
- upon the death of the insured.

## Adverse Action

16. Determine, in the case of an application from or receipt by a service member of a stay, postponement, or suspension of an obligation, that the institution does not use such action as a basis of:

- a determination that the lender is unable to pay the obligation or liability in accordance with its terms;
- denial or revocation of credit; change in terms of an existing credit; or refusal by the creditor to grant credit to the service member in substantially the same amount or terms; or
- an adverse credit report or reference.

17. Complete the following Aires questionnaires:

<a href="#">Ln – SCRA</a>	<input type="checkbox"/>
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## **Examination Conclusions**

18. Conclude the examination after taking the following actions:

- Fully address identified deficiencies and violations, if any
- Attach appropriate supporting workpaper documentation
- Discuss findings with management and board of directors
- Write comments, as applicable, in the Report of Examination
- Include appropriate violation write-ups
- Discuss proposed enforcement action, if needed

## **REFERENCE**

[June 2012](#) FDIC's Examination Procedures