

Servicemembers Civil Relief Act of 2003 Program

EXAMINATION OBJECTIVES

Determine the institution's compliance with the provisions of the SCRA, as applicable, to the institutions product offering and operations, including management of other real estate owned where a servicemember or his/her dependents may be tenants.

Assess the quality of the institution's compliance risk management systems and its policies and procedures for implementing the provisions.

Determine the reliance that can be placed on the institution's internal controls and procedures for monitoring the institution's compliance with the provisions.

Determine corrective action when violations of law are identified, or when the institution's policies or internal controls are deficient.

EXAMINATION PROCEDURES

WKP, REF.

General

1. Review the Matters Requiring Board Attention and Corrective Actions from the three or four previous ROEs to ensure that the board and management have taken appropriate corrective action where necessary and persistent problems have not recurred.

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2. 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
 - Documentation that confirms that computer systems have been programmed to meet SCRA requirements. Such documentation should also confirm that computer programs have been tested and validated.
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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, both 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.
 - The frequency of review/audit is appropriate.
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4. If any complaints based on the SCRA have been filed against the institution, determine:
- Why were they filed, and
 - How they were resolved.
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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.
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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 servicemember or by a servicemember and spouse jointly, before the servicemember 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 servicemember was called to military service.

9. Determine whether the institution applies the interest rate reduction throughout the term of the servicemember'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 servicemember entered into military service or executed by the servicemember 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 servicemember to terminate the lease.

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11. Determine if the institution permits the servicemember to terminate a motor vehicle lease where:
- The motor vehicle lease is for personal or business use by the servicemember or his/her dependent; and
 - The lease is executed by the servicemember before he/she enters military service for a period of 180 days or more, or
 - the servicemember, while in military service, executes the lease and subsequently receives military orders for a PCS outside of the continental United States (this includes a PCS to Hawaii or Alaska), or deployment with a military unit for a period of 180 days or more.
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Foreclosure, Eviction from Bank-Owned Property

12. Determine, in the case of an institution acting as a landlord, that the institution does not evict a servicemember or his/her dependents¹ from a residence covered by the Act occupied primarily as a residence during a period of military service except by court order.
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13. Determine whether, in the case of real or personal property owned by a service member before the servicemember'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 nine months thereafter.
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¹ Dependents are defined in the SCRA as (a) the servicemember's spouse, (b) the servicemember's child, or (c) an individual for whom the servicemember provided more than one-half of the individual's support for 180 days preceding an application for relief under the SCRA.

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Installment Contracts

14. Determine that the institution obtains a court order before attempting to rescind or terminate a contract for the purchase of real or personal property when a servicemember paid a deposit or made a payment on such a contract before entering military service. Determine that the institution obtains a court order before attempting to repossess real or personal property subject to such a contract.
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Insurance Assigned as Security for a Loan

15. Determine, in the case of an insurance policy on the life of a servicemember that is assigned before the servicemember'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 in the following situations:
- If the assignee has written consent of the insured servicemember, obtained during his/her military service.
 - When the premiums on the policy are due and unpaid.
 - Upon the death of the insured.
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Adverse Action

16. Determine, in the case of an application from or receipt by a servicemember of a stay, postponement, or suspension of an obligation, that the institution does not use such action as a basis of any of the following:
- 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 servicemember in substantially the same amount or terms.

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- An adverse credit report or reference.
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Examination Conclusions

17. Conclude the examination after taking the following actions:
- Fully address identified deficiencies and violations, if any.
 - Attach appropriate supporting work-paper 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.
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EXAMINER'S SUMMARY, RECOMMENDATIONS, AND COMMENTS

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