

San Francisco Region Bankers' Forum: Consumer Protection Hot Topics

November 20, 2014

Agenda

- Opening Comments
- Servicemembers Civil Relief Act (SCRA)
- CRA Evaluations of Nontraditional Institutions
- Questions and Answers

Servicemembers Civil Relief Act (SCRA)

Major Relief Provisions of SCRA

1. Residential and motor vehicle purchases and leases
2. Foreclosure, eviction from bank-owned property
3. Life insurance assigned as security

Major Relief Provisions of SCRA (cont.)

4. Protections for a stay, postponement, or suspension of obligations or liabilities
5. Relief for other obligors
6. Maximum 6 percent interest on loans

Types of Loans Covered

Any “obligation or liability” entered into prior to military service

Including:

- Individual and joint debt
- Private student loans
- Federal student loans after 8/14/08
- Business credit
- Mortgages not secured by principal dwelling

“Military Service”

- For servicemembers of the Army, Navy, Air Force, Marine Corps, or Coast Guard, military service is active duty, as defined in Section 101(d) of title 10, United States Code (USC):

“Full-time duty in the active military service of the United States. Such term includes full-time training duty, annual training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the Secretary of the military department concerned. Such a term does not include full-time National Guard duty”

“Military Service” (cont.)

- For members of the National Guard:
 - Military service includes service under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under section 502(f) of title 32, USC
- For commissioned officers of the Public Health Service or the National Oceanic and Atmospheric Administration:
 - Military service is active service

Charging Interest in Excess of 6 Percent

- “Interest”
 - “service charges, renewal charges, fees, or any other charges (except bona fide insurance)”
- Reduction should be applied to all eligible loans
- Rates cannot be increased if already less than 6 percent

Rate Reduction Issues Identified

- Failure to:
 - Reduce periodic payments
 - Forgive interest in excess of 6 percent
 - Retroactively apply rate reductions
 - Apply for appropriate duration
 - Provide benefits in a timely manner

Imposing Additional Requirements

- Creditors cannot impose additional requirements to obtain or maintain interest reductions
- SCRA only requires that servicemember:
 - Provide written notice
 - Copy of military orders

DoD's Defense Manpower Data Center



Welcome to the Official
**Servicemembers Civil
Relief Act (SCRA) Website**

Home | **Single Record Request** | Multiple Record Requests | User's Guide | FAQs | News

Single Record Request

Use this page to request a Certificate verifying Active Duty Status for an individual on a specified date.

* Indicates a required field

* SSN ⓘ

* Repeat SSN

* Birth Date
MM/DD/YYYY(e.g., 09/16/2012)

SSN
OR
Birth Date
Required

* Last Name

First Name

Middle Name

* Active Duty Status ⓘ

Date *MM/DD/YYYY(Default will be today's date
e.g., 11/03/2014)*

Clear Submit

Corrective Action

- Restitution
- Compliance management system
 - Policies and Procedures
 - Training
 - Tracking Systems
 - Monitoring and Audits

SCRA Resources

- DoD's Defense Manpower Data Center (DMDC) website:
https://www.dmdc.osd.mil/appj/scra/single_record.xhtml
- Compliance Manual – Servicemembers Civil Relief Act
<http://www.fdic.gov/regulations/compliance/manual/pdf/V-11.1.pdf>
- Servicemembers Civil Relief Act
http://www.justice.gov/crt/spec_topics/military/scratext.pdf
- Mortgage Servicing Practices Concerning Military Homeowners with PCS Orders
<http://www.fdic.gov/news/news/press/2012/pr12072a.html>

CRA Evaluations of Nontraditional Institutions

What is a Nontraditional Institution?

- Niche products
- National lending and/or deposit focus
- Nontraditional business model

CRA Evaluations

- Small institution
 - As of 1/1/14, < \$300MM as of 12/31 in either of the prior 2 calendar years
- Intermediate small institution
 - As of 1/1/14, ≥\$300MM as of 12/31 in both of the prior 2 calendar years and < \$1.202B as of 12/31 in either of the prior 2 calendar years
- Large institution
 - As of 1/1/14, ≥ \$1.202B as of 12/31 in both of the prior 2 calendar years
- Limited purpose institution designation
- Wholesale institution designation
- Strategic plan



Challenges for Nontraditional Institutions

- Small bank evaluation
 - In-and-Out Ratio (or Assessment Area Concentration)
 - Borrower Profile
 - Geographic Distribution
- Consideration of lending-related activities to compensate for weak lending performance
 - CRA Q&A .26(b)—1 and -2
 - CRA Q&A Appendix A

Challenges (cont.)

- Intermediate small bank evaluation
 - Same lending test analyses as a small bank evaluation
 - Community development test
 - Must receive a Satisfactory in both tests to receive an overall rating of Satisfactory
 - Cannot compensate for weak lending test performance with lending-related community development activities

Challenges (cont.)

- Large bank evaluation
 - Lending test
 - Investment test
 - Service test
- Emphasis on lending
 - CRA Q&A .28(a)—3
 - Must receive a Low Satisfactory rating in lending test to receive an overall rating of Satisfactory

Alternatives for Nontraditional Institutions

- CRA strategic plan
 - Predictable rating
 - Self-created goals based on business strategy
 - Ability to make greater impact on assessment area by focusing on activities of greatest need

Alternatives (cont.)

- Other CRA strategic plan information
 - Data reporting still required
 - Term not to exceed five years
 - Measurable annual goals
 - Satisfactory and Outstanding Rating goals
 - Impact of discriminatory or other illegal credit practices

Alternatives (cont.)

- Limited purpose and wholesale institution designations
 - Community development test
 - Must submit application for designation approval (FIL-3-96)

CRA Resources

- FDIC Website - <http://www.fdic.gov/>
 - [CRA regulation](#)
 - Examination procedures ([Compliance Examination Manual](#))
 - [Information regarding financial education and literacy \(Money Smart\)](#)
 - [Community Affairs](#)
 - [CRA examination schedule](#)

CRA Resources (cont.)

- FFIEC CRA Website – <http://www.ffiec.gov/cra/>
 - Updated asset size thresholds for small, intermediate small, and large bank evaluations
 - CRA Q&As
- Financial Institution Letter-3-96
<https://www.fdic.gov/news/news/financial/1996/fil9603.html>
 - Guidelines for requesting designation as a wholesale or limited purpose institution
- Financial Institution Letter-26-98
<https://www.fdic.gov/news/news/financial/1998/fil9826.html>
 - Guidelines for strategic plan submission



Questions and Answers

Press *1

or email

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