



RESCINDED

Office of Thrift Supervision
Department of the Treasury
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Managing Director

This document and any attachments are superseded by (OCC 2011-16).

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MEMORANDUM FOR: CHIEF EXECUTIVE OFFICERS

FROM:

Scott M. Albinson

SUBJECT:

Servicemembers Civil Relief Act

On December 19, 2003, President Bush signed into law the Servicemembers Civil Relief Act (SCRA) (Pub. L. 108-189). The SCRA updates and replaces the Soldiers and Sailors Civil Relief Act of 1940 (SSCRA). The SSCRA was the subject of CEO Memo 150 issued September 28, 2001. See CEO MEMO 150 (9/28/01), available at <http://www.ots.treas.gov/docs/25150.pdf>. Today's CEO Memo supplements the 2001 CEO Memo.

The SCRA is intended to strengthen national defense by enhancing protections available to servicemembers on active duty. It applies to any case that was not final before the date of enactment. Some changes are of particular interest to depository institutions, including the following highlights:

- The Act retains the 6% cap on interest rates for obligations incurred by a servicemember before entering military service applicable under the SSCRA. The Act explicitly states that any amount of interest above 6% is forgiven, not deferred. The House committee report explains that this resolves "lingering questions about Congressional intent" under the former law.
- The Act extends eviction protections to cover units renting for \$2,400 or less (double the current limit). Starting in 2004, the cap will be adjusted for inflation.
- Servicemembers may terminate residential leases (now including those executed after entering military service) and, for the first time, motor vehicle leases. For a residential lease, the servicemember may terminate a lease executed (i) before entering military service, or (ii) afterwards, if the member receives a permanent duty change order or is deployed for at least 90 days. For a motor vehicle lease, the member may terminate a lease executed (i) before entering military service for at least 180 days, or (ii) afterwards, if the member receives orders for a permanent change of station outside of the continental U.S. or deployment for at least 180 days.

- If a servicemember is personally liable for an obligation of the member's trade or business, and the member's assets are "not held in connection with the trade or business," they are not available to satisfy the obligation during the member's military service. But the holder of the obligation may ask the court to modify this relief "as justice and equity require."
- A servicemember may waive any rights and protections under the Act, in writing, but only during or after the servicemember's period of military service. No waiver is permitted before service.

There are additional provisions of the SCRA that may be relevant to your operations or your borrower's circumstances. Therefore, we encourage you to work with your legal counsel or trade groups to ensure your institution's compliance with the technical requirements, as well as the spirit of the SCRA. For a copy of the SCRA, see <http://www.fedreserve.gov/home/c108bills.html> (H.R.100.ENR).

OTS understands that some thrifts may wish to voluntarily extend benefits that go beyond those mandated by the SCRA. OTS will consider this choice appropriate provided an institution implements such a program safely and soundly. Institutions should monitor their portfolios and the performance of loans affected by the SCRA, or any voluntary relief, analyze the impact of these programs, and adjust loan loss allowances accordingly.

If you have any questions about this letter, please feel free to contact your OTS Regional Director.