

# ACI's 3rd Bank & Non-Bank Forum on Mortgage Servicing Compliance

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Tweeting about this conference?

**#ACIMortgage**



# SCRA Compliance

- ***What must be done...all servicers***
- **Service members Civil Relief Act of 2003 (SCRA)-**  
December 19, 2003, 50 USC App. 501 et seq
- Formerly Soldiers' and Sailors' Civil Relief Act of 1940
- Amended December 10, 2004, by Veterans Benefits Improvement Act of 2004
- Amended by Housing and Economic Recovery Act of 2008 (HERA)-
  - extended time period for certain activities.
  - HERA amended by the Helping Heroes Keep their Homes Act of 2010- extended protections related to mortgages and foreclosures through December 31, 2012
  - Veterans Disability Protection Act of 2010- U.S. Attorney General can bring civil actions, established private cause of action



# SCRA coverage

- Active duty United States Army, Navy, Air Force, Marine Corps, Coast Guard, National Guard, Public Health Service and National Oceanic and Atmospheric Administration
- Extends to spouses, dependents, and affected persons



# SCRA provisions

- Loan Interest: incurred *prior* to service, reduce to 6 percent during military service, including joint debts
- Interest rate reduction on mortgage extends for one year after the end of the service member's military service
- Interest in excess of 6 percent forgiven and periodic payments must re-amortized
- *Exception*: court finds service member not materially affected by service



# Foreclosure, Eviction from Bank-Owned Property

- Real or personal property owned prior to service and encumbered, cannot be sold, foreclosed upon, or seized based on a breach during military service or one (1) year thereafter (expires 12/31/2014), without a court order or written waiver
- Reverts back to 90 days on 12/31/2014, but Foreclosure Relief and Extension for Servicemembers Act of 2014 (S. 2404) pending to allow nine (9) months



# Foreclosure, Eviction from Bank-Owned Property- cont.

- Court may, on its own or upon application by a service member, stay a proceeding or adjust the debt, when obligation materially affected by military service
- Landlord may not evict a service member or dependents except by court order



# How to comply?

- Lender/Servicer Responsibilities:
- Lender/Servicer obligated to determine if mortgagor is a service member entitled to SCRA protections
- Department of Defense Manpower Data Center  
<https://www.dmdc.osd.mil/appj/scra/scraHome.do>
- Contact borrower



# How to comply?

- *Service members request relief during service or between 30 and 180 days after service ends*
- **Written request:**
  - (1) explain how military duty materially affects ability to appear
  - (2) provide date when service member can appear
  - (3) provide military orders
  - (4) request not legal appearance in court
  - (5) future delays granted at court's discretion
  - (6) attorney usually appointed to represent service member





# How to comply?

- ***No Adverse Action***
- Stay or postponement cannot be used against service member regarding financial obligations
- Cannot deny or revoke of credit, change in terms of an existing credit arrangement, or refusal to grant credit to the service member in substantially the amount or on substantially the terms requested
- No adverse credit report
- Cannot refuse to insure the service member or change terms
- No annotation in a service member's record by a creditor or creditors' industry group



# Compliance Results

- U.S. Government Accountability Office (GAO)- January, 2014
  - Report to Congressional Committees
  - SERVICEMEMBERS CIVIL RELIEF ACT
  - Information on Mortgage Protections and Related Education Efforts
- <http://www.gao.gov/products/GAO-14-221>



# Compliance Results

- Servicers not collecting comprehensive information
- Delinquency rates at large servicers ranged from 16 to 20% for SCRA-eligible borrowers, more than 4 times higher the rate of other military borrowers
- Delinquency rates at the credit union level were under 1%
- SCRA-eligible people often not requesting benefits
- At one bank, 82% of SCRA-eligible borrowers had interest rates above 6%



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# Compliance Results

## U.S Department of Justice National Servicer Settlement (2012)

- Settlement agreements with Bank of America Corporation; Citigroup, Inc.; JP Morgan Chase & Co.; Ally Financial (formerly GMAC) ; and Wells Fargo & Co
- Resolved allegations that servicers violated the judicial foreclosure, non- judicial foreclosure and interest rate provisions of the SCRA



# Compliance Results

## U.S Department of Justice National Servicer Settlement (2012)- cont.

- **Relief includes:**
- Review of foreclosures from 1/1/2006
- Minimum of \$116,785 + lost equity
- Review interest rate violations from 1/1/2008
- Repair negative credit reporting resulting from SCRA violations
- Implement compliance policies and procedures, including DMDC checks and monitoring



# Best Practices

- Better record keeping and accountability
- Education and information for service members and lenders/servicers
- Diligence about active duty verification
- Very careful and thorough preparation of affidavits of military service
- Military affidavits drafted based upon first-hand inquiry



# Best Practices

- **SCRA Risk Management**
- Internal policies and procedures
- Determine military status prior to action
- Research military status periodically
- Document file, save searches
- Employee Training
- Regular Audits

