

Risk Policy : Compliance

## Servicemembers Civil Relief Act - Enterprise Policy

Creation Date: 18 Feb 2011

Last Review Date: 18 Feb 2011

Implementation Date: 31 May 2011

**Applicable Rules, Standards and Other Identified Risks:** Servicemembers Civil Relief Act (SCRA), OCC Advisory Letter AL 2004-8, OCC Bulletin OCC 2008-30, Housing and Economic Recovery Act (HERA); Veterans Benefit Act of 2010, Helping Heroes Keep Their Homes Act of 2010, applicable state laws

### I. Policy Statement

It is the policy of Bank of America to comply with all applicable provisions of the Servicemembers Civil Relief Act and other laws applicable to servicemembers (collectively referred to as "SCRA"). The Enterprise Servicemembers Civil Relief Act Policy (the "Policy") outlines key requirements for extending certain protections related to debt and life insurance to servicemembers while on active duty military service.

A further purpose of this Policy is to establish a framework that supports efforts to increase awareness of SCRA rights among customers, provides internal training to promote enhanced sensitivity to the rights of servicemembers under the Act and enables consistent processes across the multiple lines of business within Bank of America.

### II. Background/ Rationale

The Servicemember Civil Relief Act ("Act") (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940) was enacted in 2003 to enable persons on active duty in the military service of the United States to devote their entire energy to the defense needs of the nation by alleviating some of the financial burden of loans, lines of credit and, in certain cases, suspending enforcement of civil liabilities. It also provides protections of existing life insurance coverage for servicemembers called to active duty.

For purposes of the Enterprise Servicemembers Civil Relief Act Policy ("Policy"), the following definitions will apply:

- **SCRA** will refer to applicable laws and regulatory guidance collectively related to servicemembers.
- **Act** will refer to the Servicemembers Civil Relief Act, specifically.
- **Servicemember** - all persons in the armed forces of the United States (Army, Navy, Marine Corps, Air Force, Coast Guard including members of a reserve component and the National Guard), the commissioned corps of the National Oceanic and Atmospheric Administration ("NOAA"), commissioned corps of the Public Health Service and U.S. citizens serving with allied forces.
- **Military Service** - regular military including members of a reserve component called to active duty, and members of the National Guard, NOAA and Public Health Service called to active service by the order of the Federal Government. It also includes any period during which a servicemember is absent from duty on account of sickness, wounds, leave or other lawful cause.
- **Interest** – includes service charges, renewal charges, fees, or any other charges (except bona fide insurance) with respect to an obligation or liability.
- **Insurance Policy** – any individual contract for whole, endowment, universal or term life insurance (other than group term life insurance coverage), including any benefit in the nature of such insurance arising out of a membership in any fraternal or beneficial association.
- **Premium** – the amount specified in an insurance policy to be paid to keep the policy in force
- **Insured** – a servicemember whose life, health, property, or liability is insured under an insurance policy.
- **Insurer** – includes any firm, corporation, partnership, association, or business that is chartered or authorized to provide insurance and issue contracts of insurance policies by the laws of a State or the United States.

### III. Policy Scope/ Applicability

This Policy applies to any line of business (“LOB”) that offers or services credit products or life insurance to servicemember consumers or businesses (where a servicemember may be personally liable on the credit)<sup>[1]</sup> including but not limited to: FIA Card Services, N.A. and Bank of America, N.A. LOBs include Home Loans and Insurance, Consumer and Small Business Banking; Global Commercial Bank and Global Wealth and Investment Management (collectively “Bank of America” or “Company”). The scope extends to LOBs offering, supporting or distributing products and services to customers who have benefits under this Policy.

The Policy also applies to the Military Bank Overseas Division, which is operated under contract with the Defense Finance and Account Service (“DFAS”) area of the Department of Defense, and is charged with providing banking services to eligible customers. Eligible customers include Military personnel, Government employees and contractors and family members of all that are deployed or working on Military installations outside of the United States, and United States citizens serving with the forces of a nation with which the United States is allied in the prosecution of a war or military action.

In addition to the applicable LOBs, the Policy impacts Governance and Control Functions (“GCFs”), suppliers who service or fulfill applicable products for servicemembers, and the processes and systems used to carry out compliance with SCRA.

## IV. Policy Requirements

It is the policy of Bank of America to comply with all applicable provisions of the SCRA and other laws applicable to servicemembers. In some cases, Bank of America provides additional benefits that are not required by the Act but seem appropriate considering the purpose of the SCRA. Bank of America strives to apply these additional benefits in a consistent manner; however, differences in products offered and investor ownership of assets may lead to variations in the application of certain benefits by LOBs. Any change to LOB SCRA policies, if applicable, must be approved by the Enterprise SCRA Governance Committee. Any change to LOB SCRA procedures must be fully evaluated by appropriate Compliance, Operational Risk, LOB Risk and Legal partners and go through the appropriate governance process for approval before implementation.

LOBs must implement policies and/or procedures that prohibit the actions set forth in the Act, some of which are included in the Equal Treatment section below. **All risks, including reputation risk, must be taken into consideration when decisioning or implementing a customer’s request or inquiry regarding SCRA.** Any negative action or impact to a servicemember on active duty, even if permitted by SCRA, must be made with due consideration of the potential impacts and the interests of Bank of America and its affiliates as a whole as well as our customers. All LOBs, business units and service providers that grant, review, service, or collect on credit products or that process requests for relief must be trained appropriately. In addition, all customer-facing personnel should have an awareness of SCRA.

Some of the key requirements of SCRA are listed below. When an LOB intends to offer any benefits that are over and above the requirements of the law or this Policy or to make adverse changes, such requests must be taken through the escalation process noted in Section VII.

### A. Equal Treatment

Request for or receipt of benefits under the Act shall not itself, without regard to other considerations, provide a basis for the following:

- Denial or revocation of credit by the creditor
- Change in the terms
- Refusal to grant credit in substantially the amount or on substantially the terms requested
- Adverse reporting relating to the creditworthiness of the servicemember

- An annotation in a servicemember's record by a creditor identifying the servicemember as a member of the National Guard or a reserve component
- Refusal to insure the servicemember
- A change in the terms offered or conditions required for the issuance of insurance

## **B. Obligations and Liabilities<sup>[1]</sup>**

### **A. Benefits**

Servicemembers must submit a written request and a copy of the military orders calling them to active duty in order to receive the interest rate reduction; whereas other SCRA benefits, including rules prohibiting foreclosure or repossession of property, arise automatically.

Regular military (Army, Navy, Marine Corps, Air Force, Coast Guard) are entitled to benefits from the time they enter active duty.

Members of a reserve component and persons ordered to report for induction are entitled to benefits from the time they RECEIVE their active duty orders, that is, the date of the orders.

Although not required by the Act, and subject to Government Sponsored Entity ("GSE") and investor guidelines, Bank of America voluntarily extends benefits to spouses even if the servicemember is not indebted on the account (so long as evidence of the marriage is provided and the servicemember is otherwise eligible for SCRA benefits). Additionally, if a servicemember's spouse guarantees a loan and the servicemember is subsequently called up to active duty, Bank of America will voluntarily consider extending the SCRA's benefits to the guarantor.

Servicemembers may request benefits up to 180 days after their active duty status ends.

SCRA applies to loans to individuals made for personal or business use.

### **B. Maximum Rate Allowed**

The maximum rate of interest on debt incurred prior to entry into military service (active duty) is 6%.

For lines of credit, Bank of America voluntarily applies the 6% maximum rate of interest to all balances, including new balances as an accommodation during active duty.

The 6% cap continues for the term of active duty and one year thereafter for mortgage loans.

For credit obligations other than mortgage loans (as covered above), the contract rate may be reinstated after active duty status ends; however, Bank of America voluntarily extends the 6% cap for an additional six months on credit card obligations.

Members of a reserve component and persons ordered to report for induction are also entitled to the 6% interest rate cap, which commences on the date that they receive their orders.

Interest (as defined in SCRA and in Section II on Background/Rationale) in excess of 6% must be forgiven (not deferred).

Payments must be reduced to reflect the reduced interest rate (acceleration of principal is not allowed).

### **C. Fees**

Certain fees must not be charged on SCRA qualified accounts during the period of military service. The provisions of the SCRA apply to debt incurred before entry into active duty only (existing balances). LOBs must consider and make a determination as to which fees will be voluntarily waived, including customer-initiated fees on new transactions (e.g., transaction fees, foreign exchange fees), as an accommodation consistent with the application of the 6% maximum rate of interest to all balances during the period of active duty. Fee determinations must follow the exception process described in Section VII.

Subject to the constraints of the Credit Card Accountability, Responsibility and Disclosure ("CARD") Act and its implementing regulations or other applicable law, fees charged on all credit obligations, including credit cards, may be reinstated after active duty status ends in accordance with contract provisions.

### **D. Repossession/Foreclosure**

Personal property such as automobiles, boats and recreational vehicles, held in the name of (or jointly with) an SCRA-protected individual cannot be repossessed during active duty without a court order.

Loans secured by a mortgage, trust deed or other security in the nature of a mortgage cannot be foreclosed on during active duty or for 9 months after the period of active duty ends. Commercial property held solely in the name of a legal entity such as a corporation or partnership is not subject to the foreclosure prohibition.

Although the Act permits Bank of America to foreclose on active duty servicemembers through a judicial process, the Company voluntarily strives to avoid foreclosure on any servicemember on active duty and will only foreclose with due consideration.

With respect to consumer residential mortgage loans, and subject to Government Sponsored Entity ("GSE") and investor guidelines, Bank of America strives to extend foreclosure prevention benefits to all active duty

servicemembers and their spouses, even where the servicemember may not otherwise be entitled to the benefit because the servicemember's loan was obtained during the period of active duty service.

#### **E. Tenant Evictions and Unlawful Detainer Actions**

Although the Act permits a court ordered eviction of a servicemember, Bank of America strives to provide all reasonable accommodations to servicemembers by avoiding the eviction of a servicemember and dependants during active duty service. In accordance with specified departmental procedures, prior to or in conjunction with eviction proceeding, advance notification of SCRA benefits and tenant rights must be delivered to the subject property address.

#### **C. Life Insurance**

The following rights and protections apply to the insured after the insured, the insured's legal representative, or the insured's beneficiary in the case of an insured who is outside the United States, applies in writing to the insurer for protection under the SCRA.

- The total amount of life insurance coverage protection for a servicemember may not exceed \$250,000, or an amount equal to the servicemember's Group Life Insurance maximum limit, whichever is greater, regardless of the number of policies submitted.
- A life insurance policy shall not lapse or otherwise terminate or be forfeited for the nonpayment of a premium, or interest or indebtedness on a premium, after the date on which the application for protection is received.
- The protections provided apply during the insured's period of military service (active duty) and for a period of two years thereafter ("the Protection Period").
- During the Protection Period dividends or other monetary benefit under a policy may not be paid to an insured or used to purchase dividend additions without the approval of the Secretary of Veterans Affairs.
- If a policy matures as a result of a servicemember's death or otherwise during the Protection Period the amount of unpaid premiums may be deducted from the insurance proceeds, together with interest due at the rate fixed in the policy for policy loans. The amount deducted must be reported to the Secretary of Veterans Affairs.
- If the interest rate is not specifically fixed in the policy, the rate shall be the same as for policy loans in other policies issued at the time the insured's policy was issued.
- During the Protection Period, cash value, loan value, withdrawal of dividend accumulation, unearned premiums, or other value of similar character may not be available to the insured without the approval of the Secretary of Veteran's Affairs.
- The right of the insured to change a beneficiary designation or select an optional settlement for a beneficiary shall not be affected by the provisions of the SCRA.

#### **D. Fines and Penalties**

The primary mechanism of the Act to protect servicemembers is to provide servicemembers with defenses and remedies related to efforts to collect a debt. The Act also has sanctions in the form of criminal penalties and private rights of action. The criminal penalties under Title 18 of United States Code may be imposed against anyone who knowingly takes part or attempts to violate an applicable protection. These penalties involve fines and imprisonment up to one year. Besides the criminal penalties, the Act recognizes private causes of action by servicemembers for violation of certain SCRA protections against anyone who interferes with or fails to comply with the equitable relief afforded by the Act. In addition, the Department of Justice may bring enforcement actions against anyone who fails to comply with the SCRA's requirements.

In addition, SCRA provides for fines of up to \$55,000 for a first offense and up to \$110,000 for subsequent violations, and individuals whose rights are violated also may sue for civil damages and attorney fees.

#### **E. Record Retention and Notifications**

The Act does not impose specific record retention requirements; therefore the Global Record Retention Schedule requirement of six years shall apply to all supporting documentation and customer notifications related to SCRA. The minimum six year retention requirement would run from the date of application for or expiration of benefits, whichever is greater.

## **V. Roles and Accountabilities**

### **SCRA Compliance Program Leader**

The Policy and the Enterprise SCRA Compliance Program (“Program”) are supported and maintained by the SCRA Compliance Program Leader (“Program Leader”) within the Global Compliance Risk organization. The Program Leader is responsible for overseeing adoption of the Policy and Program across all affected lines of business through the establishment of SCRA compliance strategy, structure, framework, governance, controls, monitoring/testing and reporting. The Program Leader is responsible for maintaining a current listing of SCRA Processing unit contact information.

### **LOB/GCF and Business Units**

Each LOB/GCF or business unit affected by this Policy must develop procedures to cover the requirements of SCRA and this Policy applicable to their business activities. LOB/GCF processes and/or procedures are to be reviewed and updated, as necessary, at least annually. LOB SCRA processing units are required to notify the Program Leader of any changes to management and/or customer contact information (e.g., phone numbers or mailing addresses). The LOB/GCF drives its strategy and the Customer Segments group drives the Military segment and customer treatment strategy across the Company.

In developing procedures, LOBs/GCFs and business units must implement appropriate controls to reasonably ensure that servicemembers who are entitled to benefits are identified before any default judgment is sought or repossession or foreclosure action is taken.

### **Enterprise SCRA Governance Committee**

The Enterprise SCRA Governance Committee’s role, as documented in their charter, includes fostering consistent implementation of the Policy and the Program across the LOBs/GCFs and escalation of SCRA-related issues to senior management and the Compliance Risk Committee (“CRC”), as deemed appropriate.

## **VI. Controls and Monitoring**

LOBs and GCFs, as appropriate, must establish, implement and document appropriate risk-based procedures, processes and controls to reasonably ensure compliance with the requirements of this Policy, including but not limited to:

- Operational and systematic controls, considering the nature of the business
- Process development controls that consider SCRA risk
- Policies and procedures that implement the Policy requirements
- Monitoring that includes review of customer complaints and litigation

In addition to monitoring that will be conducted by the Program Leader, LOB/GCF Compliance will determine the appropriate level of monitoring and testing considering the applicable regulatory requirements, the minimum standards required by the Program, and the risk and nature of their business and establish monitoring and testing plans to assess overall compliance. Monitoring and testing results will be provided to the Program Leader, reviewed with the Enterprise SCRA Governance Committee at least annually, and escalated as necessary to the CRC and/or the Operational and Compliance Risk Committee (“OCRC”).

Customer-facing business units must have procedures in place to direct customer inquiries to the proper SCRA Processing Unit including contact information such as telephone, email and primary LOB contact. SCRA procedures should be addressed in the business units’ New Hire training and periodic reminders of SCRA procedures should be communicated to all associates.

Processing units must have procedures in place to process requests for benefits in a timely manner and to reasonably ensure that servicemembers receive all of the benefits and protections to which they are entitled under SCRA and this Policy.

Periodic testing of key regulatory requirements, as set out in established monitoring and testing plans or schedules, is performed by the Consumer Compliance Testing team for loans and credit card accounts in the Consumer LOBs. Testing of LOBs outside Consumer, but with SCRA applicability, is completed by the applicable testing team. Results are preliminarily reported to the LOB for review and acceptance. Final reports are issued to the LOB, the Compliance Executive and the Operational Risk executive supporting the LOB.

## **VII. Reporting and Escalation/ Exceptions**

LOBs must comply with the requirements of this Policy including the reporting of monitoring and testing results and metrics established pursuant to the Program. Any LOB that is unable to comply with the Policy must apply for an exception; however, an exception cannot sanction a violation of law. Additionally, if any LOB desires to offer servicemembers a benefit that goes beyond the provisions of SCRA or this Policy, they must, prior to making such offer, apply for an exception and/or a ruling from the Enterprise SCRA Governance Committee.

Policy exceptions and requests to extend benefits will be escalated, reviewed and decisioned by LOB management and by the Enterprise SCRA Governance Committee in accordance with escalation provisions in their charter. Global Compliance Risk and LOBs must establish and document the escalation process for exceptions to this Policy and communicate it to associates. Approved exceptions will be granted for a stated period of time. Upon expiration of the exception period, the LOB must apply for an extension of the exception.

## **VIII. Governance/ Oversight**

This Policy must be reviewed and updated, as needed, on at least an annual basis by the Program Leader. The Policy will be escalated for approval to the Enterprise SCRA Governance Committee, prior to escalation to the CRC, and final approval by the OCRC.

## **IX. Related Documents**

Details related to compliance with SCRA requirements and this Policy may be found in the Enterprise SCRA Compliance Program.

The [Enterprise Reputational Risk Policy](#) is applicable to SCRA.

## **X. Questions/ Contact Information**

Questions regarding compliance with this Policy should be addressed to your business unit compliance representative, or Mary Rose, Enterprise SCRA Compliance Program Leader, at 770.979.4377.

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[1] SCRA and this Policy do not apply to loans to legal entities such as corporations and partnerships. The LOB may consider applying SCRA-type benefits to legal entities if the legal entity experiences significant hardship directly related to a servicemember being called to active duty. Additionally, if a servicemember guarantees a loan and is subsequently called up to active duty, the SCRA may apply to the guarantee if the guarantee is called upon even if the SCRA would not apply to the original borrower.

