

FEDERAL RESERVE BANK OF SAN FRANCISCO  
101 MARKET STREET, SAN FRANCISCO, CALIFORNIA

June 24, 2005

**BANKING SUPERVISION AND REGULATION:  
CIVIL RELIEF ACT OF 2003**

To State Member Banks, Bank  
Holding Companies, U.S. Branches  
and Agencies of Foreign Banks,  
and Others Concerned,  
in the Twelfth Federal Reserve District

**Servicemembers Civil Relief Act of 2003 (CA 05-3)**

The purpose of this letter is to remind organizations under Federal Reserve supervision of their obligations under the Servicemembers Civil Relief Act (SCRA). The SCRA was signed into law on December 19, 2003, amending and replacing the Soldiers' and Sailors' Civil Relief Act of 1940.

Among other things, the SCRA seeks to strengthen the national defense by providing for the temporary suspension of judicial and administrative proceedings and transactions that may adversely affect the rights of servicemembers during their military service. The law protects, among others, active duty members of the Army, Navy, Air Force, Marine Corps, or Coast Guard, including members of the National Guard called to active service. Dependents of servicemembers are protected in some situations.

This guidance is intended to provide general information about certain provisions of the law that are most likely to affect organizations supervised by the Federal Reserve.

**Interest Rates:** The SCRA provides that an obligation or liability entered into by a servicemember or the servicemember and spouse jointly before the servicemember's entry into military service cannot bear interest in excess of six percent during the period of military service. The SCRA clarifies that creditors must forgive rather than defer interest above six percent during the time of service. Interest includes service charges, renewal charges, fees or any other charges (except bona fide insurance). The amount of any periodic payment due under the terms of the contract shall be reduced by the amount of the forgiven interest for that payment period. In order to receive the reduction in interest, the servicemember must provide written notice and a copy of the military orders to the creditor. A court, however, may grant a creditor relief from the interest rate cap if it finds the servicemember's ability to pay the contract interest rate is not materially affected by military service.

**Mortgages:** Generally, for obligations secured by a mortgage, trust deed, or similar security interest in real or personal property owned by a servicemember, the law invalidates the sale, foreclosure, or seizure of property for the breach of such a secured obligation during the period of military service or within 90 days thereafter. This provision applies only to obligations that originated prior to the servicemember's military service, and for which the servicemember is still obligated.

**Installment Loans:** For contracts for the purchase of real or personal property, such as a motor vehicle or the lease or bailment of such property, for which the servicemember made a deposit or installment payment prior to entering military service, the SCRA provides that such a contract may not be rescinded or terminated for a breach of terms occurring before or during military service without court order. Similarly, such property may not be repossessed without a court order.

**Residential or Motor Vehicle Leases:** A servicemember may terminate a residential or motor vehicle lease in certain circumstances. For leases of premises (for residential, professional, business, agricultural, or similar purpose) that is occupied or intended to be occupied by a servicemember or his/her dependent, the lease may be terminated if:

- (a) The lease is executed by or for a servicemember who subsequently enters military service during the term of the lease, or
- (b) While in military service, the servicemember executes the lease but subsequently receives military orders for a permanent change of duty station or to deploy for a period of not less than 90 days.

For motor vehicle leases, used or intended to be used by the servicemember or his/her dependents, the servicemember may terminate the lease if:

- (a) After executing the lease, the servicemember enters into military service under a call or order for a specified term of at least 180 days, or
- (b) While in military service, executes the lease but subsequently receives orders for a permanent change of station outside the continental United States or to deploy with a military unit for at least 180 days.

**Eviction:** A landlord may not evict a servicemember or his/her dependents from premises occupied or intended to be occupied primarily as a residence, during the period of military service of the servicemember, if the rent does not exceed \$2,400 per month (adjusted annually), without court order. For 2005, the adjusted amount is \$2,534.32.

**Exercise of Rights:** The fact that a servicemember applies for, or receives a stay, postponement, or suspension of his or her obligations or liabilities pursuant to the SCRA may not in itself provide the basis for the following:

- A determination by a lender or other person that the servicemember is unable to pay the obligation or liability in accordance with its terms
- A creditor's denial or revocation of credit, change in terms of an existing credit arrangement, or refusal to grant credit to the servicemember in substantially the amount or on substantially the terms requested
- An adverse report relating to the creditworthiness of the service member by or to a consumer reporting agency
- A refusal by an insurer to insure the servicemember
- A change in the terms offered or conditions required for the issuance of insurance
- An annotation in a servicemember's record by a creditor or consumer reporting agency, identifying the servicemember as a member of the National Guard or a reserve component

Since other provisions of the SCRA may apply to the organizations under the Federal Reserve's supervision and, the SCRA does not grant the Federal Reserve interpretive authority, we encourage the institutions we supervise to seek the advice of counsel to ensure that they are in full compliance with the law.

### **Additional Information**

All circulars and documents are available on the Internet through the Federal Reserve Bank of San Francisco's Internet site, at <http://www.frbsf.org/banking/letters>.

For additional information about the guidance, please contact our Banking Supervision and Regulation Department at (415) 974-3028.