

Safe Deposit Operations and SCRA Compliance Issues

NJSSDA is aware that regulators are reviewing Bank's Safe Deposit Department policies as they relate to servicemembers who are on active duty. The federal government has provided certain civil protections for servicemembers who are on active duty, dating back to the Civil War. However, on December 19, 2003, the President of the United States signed into law H.R. 100, the Servicemembers Civil Relief Act (SCRA), expanding many of the previous law's protections.

The intent of this legislation is to postpone or suspend certain civil obligations to enable service members to devote full attention to duty and relieve stress on the family members of those deployed service members. Historically, regulators have narrowed their compliance review of this legislation to lending areas but recently have begun to expand their examinations. Safe deposit box rentals are considered a "lease of property" and are therefore covered under Section 532 of the current Statute. Regulators expect that each institution have detailed policies and procedures to address SCRA as it relates to their safe deposit operation and these should include the following basic compliance principles:

- Written Policies - Formal written policies that outline compliance responsibility
- Policy Implementation - The most thorough and encompassing written policies and plans will have no effect on compliance performance without effective implementation. Consider identifying areas of responsibility in the written policies and developing a method for the regular reporting of policy implementation and compliance.
- Training- Programs must be developed to ensure that all employees are aware of their role in achieving compliance.
- Scheduled Internal Compliance Review – One of the most common difficulties in managing compliance is ensuring consistency between branches and /or departments. Audits and reviews should be structured to address this compliance pitfall. Procedural reviews should ensure that all areas perform expected responsibilities similarly and retain required documentation properly.

Many member banks have informed us that they do not have specific policies and procedures developed for their Safe Deposit department to demonstrate the expected compliance. Some of the key issues that should be considered when either enhancing or developing such policies are:

- Boxes belonging to active duty service members, spouse of a service member and/or dependents listed on the safe deposit box cannot be drilled for non-payment of rent
- Adverse action fees (i.e., late fees) may not be charged while on active duty
- Delinquent safe deposit renters should be verified through the Department of Defense website to ascertain if the renter is on "active duty" before any adverse action is taken (i.e., Drilling, Reporting to E-Funds/Chex systems, etc.)

- Appropriate documentation should be requested and retained from individuals who cannot be verified through DOD website (i.e., dependents of service member) and are seeking relief from adverse actions
- Billing, Statements and/or Delinquent Notices should have appropriate wording advising renters of the protection afforded through SCRA
- Adherence to specific timelines regarding adverse actions, when a servicemember returns from active duty and rent remains unpaid
- Effect of “tolling” on escheat procedures for servicemember rentals when delinquency exceed 5 years

The NJSSDA is working with the State of New Jersey, Dept. of the Treasury, Unclaimed Property Administration to obtain clarification for our members in regards to the escheat issues that can be affected by compliance with the SCRA. In addition we will be offering at our upcoming seminars an “information- session” that addresses this important topic. We are also developing training materials and updating our Operating Guide to assist our members with compliance with SCRA. If your Bank would like to schedule an “in-house” seminar to examine this issue in greater detail or preorder the updated “NJSSDA DAILY OPERATING GUIDE” please contact:

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