



# RECOMMENDED PRACTICES FOR FINANCIAL INSTITUTIONS REMEDIATING SCRA VIOLATIONS

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The Servicemembers Civil Relief Act (“SCRA”), 50 U.S.C. App. §§501 et seq., provides members of the United States military on active duty with certain protections in civil actions, thereby enabling these servicemembers to focus their energy on the defense of the United States. Amongst other protections, the SCRA provides for reduced interest rates, postponement of foreclosures, and protection against default judgments.

In recent years, many financial institutions have been faced with remediating alleged violations of the SCRA. The agencies that enforce the SCRA, typically the Department of Justice and the Office of the Comptroller of the Currency, may require or encourage the defendant financial institution to engage an independent settlement administrator to ensure that the remediation process is properly and expeditiously executed. Here are several things that every financial institution facing SCRA violations should know as they navigate the remediation process:

1. **Dynamic Reporting.** In our experience, dynamic reporting capabilities are extremely important in administering an SCRA settlement. There are many potential categories of SCRA violations, which correspond to the many sections of the SCRA. During the remediation process, these categories vary in nature and compensation methodology. The enforcing government agency will likely expect periodic and precise reports on the number of accounts remediated and the associated dollar amounts in each such category. We have found that an effective way to approach this aspect of SCRA settlements is to develop a database application that allows the financial institution, its outside counsel, and the settlement administrator to generate dynamic reports using real-time data. This kind of tool is most effective if it allows users to parse the data by remediation category or review the aggregate data set. Dynamic reporting of this nature ensures for consistent use and increased accessibility of the data.
2. **Bank Account Reconciliation.** The enforcing agency may consider an account to be remediated only when the check to the servicemember accountholder clears the bank account established for the settlement. For this reason, it is very important for the settlement administrator to effectively reconcile that settlement account. This typically involves developing a process to update the database application that houses the remediation data with the applicable data on payments as they clear the settlement account. Attentive bank account reconciliation in conjunction with dynamic reporting capabilities will position the settlement administrator to effectively monitor and report on the progress of the remediation process. This level of accountability and responsiveness tends to keep the financial organization in the good graces of the enforcing agency.
3. **Call Center Coordination.** While most financial institutions have their own customer service call centers, the terms of the remediation may require the settlement administrator to staff a dedicated call center. In our experience, a dedicated call center staffed by individuals who are experts in the specifics of the settlement program is most effective. The settlement administrator, the financial institution and the enforcing agency should work together to develop a call center that best fits the needs of the settlement program and to develop Frequently Asked Questions and corresponding responses. Once the call center

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is operational, coordination between the financial institution and settlement administrator is paramount, as questions or requests from account holders will often be outside the scope of the settlement (e.g., account-specific questions for the financial institution).

4. Best Efforts to Complete Remediation. Finally, the three sub-sections below relate to efforts required to complete and close out the remediation process, which often requires a certain threshold percentage of servicemembers to have cashed or deposited their remediation payments.
- (a) Identifying Best Addresses. Servicemembers may be difficult to locate because of the nature of their living situations, e.g., they are often deployed overseas. It is not uncommon for the address information in the financial institution's records to be out of date. As such, the financial institution or settlement administrator should have an established and documented procedure for identifying current addresses for affected servicemembers. In our experience, such procedures are most effective when they incorporate external sources of address information such as the National Change of Address Database ("NCOA"), maintained by the U.S. Postal Service. For example, a procedure may involve running all addresses through the NCOA before a mailing and if mail is returned as undeliverable, attempting to use forwarding addresses and addresses from the defendant's data, respectively.
  - (b) Outreach. Outreach efforts may be necessary to encourage affected account holders to cash checks or return a Claim Form, Declaration or Release to become eligible for payment. We have found that calling campaigns are an effective mechanism for performing this outreach. The settlement administrator should have the capability of engaging call center agents to call account holders who have not responded to mailed notices or cashed remediation checks. These campaigns will allow call center agents to discuss the settlement benefits, explain how to participate and to take requests to reissue checks or notices. As with the address information on file with the financial institution, it is also not uncommon for servicemembers' phone numbers to be outdated. The financial institution or settlement administrator should be prepared to employ the services of an external batch public records search database to locate updated phone numbers for servicemembers using Social Security Numbers, name and address information.
  - (c) Re-Issuing Checks. As discussed in Section 2 above, the enforcing agency may consider an account remediated only when a check sent to a servicemember has cleared the settlement account. As such, it may be necessary to re-issue settlement checks, either at the request of the servicemember or in bulk to those servicemembers who have not cashed checks that are beyond the set expiration or "stale" date. The settlement administrator will void the outstanding checks and potentially place a stop payment to prevent duplicative payments before re-sending any payments. In our experience, regular reconciliation of the settlement account is critical to the success of such a check re-issuance process.