

June 9, 2011

Ms. Pamela A. Moran  
U.S. Department of Education  
1990 K Street, NW  
Room 8023  
Washington, DC 20006

Dear Pam:

This is a follow-up to our exchange on April 12 regarding SCRA interest rate benefits for federal loan borrowers that are servicemembers. Since that time, our members that process SCRA interest rate benefits on commercial and non-federal loans have shared their processing experience which has shown to be consistent with the types of requests we are seeking for federal loans. In retrospect, providing the Department with this information may have been useful to the Department's consideration of the policy questions presented in the earlier communication. We therefore request reconsideration of our previous recommendations and some new recommendations which we believe will enable servicemembers to receive SCRA interest rate treatment on their federal loans that is comparable to the treatment on their private loans.

Determining the precise period of military service can be problematic due to Department of Defense (DOD) military order format and data variations. Although in some instances military service information is clear, in many instances the information provided on military orders is ambiguous or contains multiple date and instruction information that prevents a lender from making a precise determination. The lack of clarity can cause undesirable processing delays due to the limited availability of servicemember customers. In addition, the ambiguity causes servicemembers to potentially receive less than the full benefits provided for under the SCRA, and can result in inconsistent benefits on various education loans.

The following illustrates the types of information often contained on military orders.

Clear	Ambiguous or Contains Multiple Dates
Report Date : 02 Oct 2010 End Date: 01 Oct 2011	Will proceed on or about: 26 December 2010 Number of days: Not to exceed 365 days Proceed from your current home address and report...not later than 06 July 2010, and then: Report to: Ft. A Reporting date: 07 July 2010 Advance individual training (AIT) location: Ft. B AIT reporting date: 20 September 2010

We believe there is opportunity to enhance customer service and ensure that servicemembers fully benefit from the provisions of the SCRA by authorizing lenders and servicers to adopt any or all of the following discretionary processing recommendations:

- 1) Where the military service start or end date is not clearly specified on military orders, begin the 6% interest rate cap on the earliest date indicated on the military orders, and end the rate cap on the latest date indicated on the military orders.
- 2) Consider the receipt of a servicemember's military orders as sufficient information that the servicemember intends to request the 6% interest rate cap.
- 3) In lieu of or in addition to military orders, utilize information that contains DOD commanding officer certifications such as affidavits, federal deferment forms, and other types of correspondence signed by an applicable military officer or authority as well as military status report information secured from the U.S. Government Computer System ([www.dmdc.osd.mil/appj/scra/scraHome.do](http://www.dmdc.osd.mil/appj/scra/scraHome.do)) provided the information contains the applicable active duty information that is contained in military orders.

We believe the above discretionary processing recommendations will allow servicemembers to avail themselves of the relief and benefits afforded under the SCRA and will do so without causing servicemembers or their families undue administrative burdens. We also believe that the above discretionary processing recommendations will impose no new cost to the Department of Education.

As always, thank you for your prompt attention to assist with this matter. If you are in agreement with the above discretionary processing recommendations, please sign this letter below at your earliest convenience. If, you are not in agreement, we would appreciate an opportunity to discuss further to address any of your concerns.

Sincerely,

Consumer Bankers Association  
Education Finance Council  
National Council of Higher Education  
Loan Programs  
Student Loan Servicing Alliance

Cc: Brian Siegel, Esq.

SEEN AND AGREED:  
U.S. Department of Education

By: \_\_\_\_\_  
Date: \_\_\_\_\_

Consumer Bankers Association  
Education Finance Council  
National Council of Higher Education  
Loan Programs  
Student Loan Servicing Alliance

Dear Colleagues:

This responds to your letter of June 9, 2011 in which you requested that the Department of Education (the Department) respond to questions related to application of the interest rate cap under the Servicemembers Civil Relief Act (SCRA) to loans under the William D. Ford Federal Direct Loan Program and the Federal Family Education Loan Program. You asked that we reconsider your earlier recommendations, which we responded to by e-mail on April 12, 2011, and respond to additional recommendations you included in your June 9<sup>th</sup> letter.

Before we respond to your recommendations, we think it is important to reiterate that the Department of Defense (DOD), not the Department, is the federal agency with authority to interpret and enforce the SCRA requirements. As we noted in our April 12<sup>th</sup> e-mail response, section 527(b)(1) of the SCRA specifically requires the servicemember to provide the creditor with "written notice and a copy of the military orders." The Department's regulations in this area at 34CFR 682.202(a)(8) and 685.202(a)(4) refer to a "request" from the borrower rather than a "notice," but these terms are substantively the same for this purpose. As we stated in our April 12<sup>th</sup> response, it appears clear that the SCRA requires submission of something more from the servicemember than just a copy of the servicemember's military orders.

The following are our responses to the specific processing recommendations you included in your June 9<sup>th</sup> letter:

- 1) Q. Where the military service start and end date is not clearly specified on military orders, begin the 6% interest rate cap on the earliest date indicated on the military orders and end the rate cap on the latest date on the military orders.
  - A. We agree this is a reasonable approach to interpreting the service dates on military orders to identify the start and end dates for the interest rate relief.
- 2) Q. Consider the receipt of a servicemember's military orders as sufficient information that the servicemember intends to request the 6% interest rate cap.
  - A. As we stated in our April 12<sup>th</sup> response, this suggestion is not consistent with the SCRA. It also is not consistent with the Department's regulations in this area because it eliminates the servicemember's request. Although lenders may opt to require less documentation than is required by the SCRA when dealing with their commercial loan portfolios, any decision by the Department to accept less documentation for federal student loans would require consultation with DOD, a determination that such a change is consistent with the RA and a corresponding regulatory change.

We note, however, that neither the SCRA nor the Department's regulations specify a format for the borrower's request. The servicemember may use the military deferment form or any other program form to include a separate request for the 6 percent interest rate cap relief. Incorporating the servicemember's interest rate cap request into the military deferment form to allow the servicemember to simultaneously request both forms of relief would require a change to the current military deferment form.

We are also aware that many deploying servicemembers provide a spouse, family member, or other individual with a power of attorney for financial matters. A request for the interest rate cap relief from the servicemember's representative with a power of attorney accompanied by a copy of the servicemember's military orders is the same as a request from the servicemember. In highlighting the benefits available to military servicemembers on your websites, we believe you should stress to servicemembers the importance of providing the name of any person they have provided with a financial power of attorney to act on their behalf to the loan holder or servicer.

- 3) Q. In lieu of or in addition to military orders, utilize information that contains DOD commanding officer certifications such as affidavits, federal deferment forms, and other types of correspondence signed by an applicable military officer or authority as well as military status report information report information secured from the U.S. Government Computer System provided the information contains the applicable active duty information that is contained in military orders.
  - A. Accepting other documentation "in lieu" of a copy of the servicemember's military orders would effectively eliminate the requirement for a copy of the orders and is inconsistent with both the SCRA and the applicable program regulations. These alternate forms of documentation do not serve as the servicemember's request for the relief. However, some of these forms of documentation can be used to identify the start and end dates of the servicemember's period of service if the military orders do not include this information.

We trust this clarifies the Department's position on these issues.

Sincerely,  
Pamela Moran  
Policy, Planning and Innovation  
Office of Postsecondary Education