

# NCUA LETTER TO CREDIT UNIONS

**NATIONAL CREDIT UNION ADMINISTRATION  
1775 Duke Street, Alexandria, VA 22314**

**DATE:** June 2009 **LETTER NO.:** 09-CU-12

**TO:** Federally Insured Credit Unions

**SUBJ:** Interagency Examination Procedures on Credit Extended to the Military and their Dependents

**ENCL:** (1) Limitations on Terms of Consumer Credit Extended to Service Members and Dependents Exam Procedures  
(2) Limits on Terms of Credit Extended to Military Checklist.xls  
(3) Servicemembers' Civil Relief Act of 2003 (SCRA) Exam Procedures  
(4) SCRA Checklist.xls

Dear Board of Directors:

The purpose of this letter is to provide credit unions with guidelines to assess compliance with the Department of Defense's (DoD) regulation 32 C.F.R. Part 232 "Limitations on Terms of Consumer Credit Extended to Service Members and Dependents," and, with the Servicemembers' Civil Relief Act of 2003 (SCRA).

## Limitations on Terms of Consumer Credit Extended to Service Members and Dependents

The Federal Financial Institutions Examination Council (FFIEC)<sup>1</sup> recently issued uniform examination procedures to assess compliance with DoD's rule which became effective on October 1, 2007. We are providing you with a copy of the examination procedures to ensure you are familiar with NCUA's expectations if your credit union offers "payday loans," "vehicle title loans," and "tax refund anticipations loans," the products covered by the DoD's regulation.

DoD's regulation establishes limitations to the total fees and charges lenders may assess for the products covered by the regulation. In addition, lenders offering covered products must provide clear disclosures to the covered borrowers and refrain from practices encouraging poor debt management. Based upon the ongoing efforts of federally-insured

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<sup>1</sup> Federal Financial Institutions Examination Council member agencies include Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, National Credit Union Administration, Office of the Comptroller of the Currency, Office of Thrift Supervision, and the State Liaison Committee.

credit unions to combat predatory lending, NCUA does not anticipate DoD's regulation will materially affect your operations. Moreover, federal credit unions are already subject to a statutory interest rate ceiling of 18 percent,<sup>2</sup> a limitation that has historically reinforced the affordable pricing of loan products.<sup>3</sup>

For additional background information, NCUA Regulatory Alert 07-RA-08 (October 2007) provides a complete discussion of DoD's rule and is available at: <http://www.ncua.gov/Resources/RegulatoryAlerts/Files/2007/07-RA-08.pdf>.

### Servicemembers' Civil Relief Act of 2003

The FFIEC also recently issued uniform exam procedures to assess compliance with the SCRA. This act replaced the Soldiers' and Sailors' Civil Relief Act of 1940 and was amended by the Housing and Economic Recovery Act of 2008 (HERA). Major relief provisions of the SCRA include the following:

- Creditors must reduce the interest rate on a servicemember's debts to no more than 6 percent per year, upon receiving a written request for relief and a copy of the military orders. An interest rate reduction for a mortgage loan extends for one year after the end of the servicemember's military service.
- Contracts for purchases of real or personal property, for which the servicemember paid a deposit or made a payment before entering military service, may not be rescinded or terminated for breach of contract before or during his or her military service.
- The lessee servicemember may terminate certain residential and automobile leases after providing the lessor written notice of the request for termination along with a copy of the military orders.
- Real or personal property owned by a servicemember before military service, which secures a mortgage, trust deed, or similar security interest, cannot be sold, foreclosed upon, or seized during the military service or for 9 months thereafter, without a court order. Also, a landlord may not evict a servicemember or his or her dependents without a court order.

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<sup>2</sup> Under the Federal Credit Union Act, federal credit unions are subject to a 15 percent interest rate ceiling unless the NCUA Board establishes a higher rate after considering certain statutory criteria. 12 U.S.C. §1757(5)(A)(vi). Based on action taken at the January 24, 2008 meeting, the interest rate ceiling for federal credit unions is 18 percent, expressed in terms of an Annual Percentage Rate (APR), as defined by Regulation Z.

<sup>3</sup> APR computations do not include certain fees and charges, such as application fees and costs for ancillary products not directly related to the extension of credit. In contrast, the Military Annual Percentage Rate computed for the purpose of DoD's regulation includes all application fees, the costs associated with insurance products, and fees for credit-related ancillary products.

Creditors may not take adverse actions against servicemembers because they applied for, or received a stay, postponement, or suspension of obligations or liabilities pursuant to the SCRA. The enclosed exam procedures provide a complete discussion of the amended Servicemembers' Civil Relief Act of 2003.

If you have any questions or concerns, please contact your NCUA Regional Office or State Supervisory Authority.

Sincerely,

Michael E. Fryzel  
Chairman

Enclosures