

**AUDIT OF COMPLIANCE WITH APPLICABLE REQUIREMENTS OF
THE SERVICEMEMBERS CIVIL RELIEF ACT OF 2003**

Navient Corporation

PERFORMED FOR
U.S. DEPARTMENT OF EDUCATION
OFFICE OF FEDERAL STUDENT AID

Prepared by
Deva & Associates, P.C.
Report Date: November 10, 2016

CONTRACT NUMBER: ED-FSA-13-D-0011

TASK ORDER NUMBER: 0004

AUDIT OF COMPLIANCE WITH APPLICABLE REQUIREMENTS OF SCRA

NAVIENT CORPORATION

Table of Contents

<u>Section</u>	<u>Page</u>
I. Independent Auditor's Report on Compliance with Applicable Requirements of the Servicemembers Civil Relief Act of 2003 (SCRA)	1
II. Finding and Observations	3
APPENDIX A – Applicable Requirements of SCRA	A-1
APPENDIX B – Audit Sampling Methodology	B-1

SECTION I

**INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE WITH APPLICABLE
REQUIREMENTS OF THE SERVICEMEMBERS CIVIL RELIEF ACT OF 2003**

Independent Auditor's Report on Compliance with Applicable Requirements of the Servicemembers Civil Relief Act of 2003

To the Chief Compliance Officer,
U.S. Department of Education, Office of Federal Student Aid:

Compliance

We have audited Navient Corporation's (Navient) compliance with the requirements of the Servicemembers Civil Relief Act of 2003 (SCRA) as applicable to the Title IV loans serviced by Navient on behalf of the U.S. Department of Education (DoED), Office of Federal Student Aid (FSA) during the audit review period June 2009 through May 2014. Appendix A of this report summarizes the applicable SCRA requirements with regard to capping interest rates for active duty servicemembers.

Management's Responsibilities

Navient's management is responsible for compliance with the requirements of SCRA limiting the interest rate on active duty servicemember's loan(s). Navient has been contracted by FSA to service its Title IV loans.

Auditor's Responsibilities

FSA engaged Deva & Associates, P.C. to audit Navient's compliance with SCRA. Our responsibility is to express an opinion on Navient's compliance with SCRA based on our audit.

We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America; and the standards applicable to performance audits contained in Government Auditing Standards issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether noncompliance with the requirements referred to above could have a material effect on the Title IV loans serviced by Navient on behalf of FSA. An audit includes examining, on a test basis, evidence about Navient Corporation's compliance with those requirements and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion. Our audit does not provide a legal determination of Navient Corporation's compliance with those requirements.

Deva & Associates, P.C.

Auditor's Opinion

In our opinion, Navient complied, in all material respects, with the requirements of SCRA referred to above that are applicable to Title IV loans serviced by Navient on behalf of DoED-FSA during the period June 2009 through May 2014.

Deva & Associates, P.C.

DEVA & ASSOCIATES, P.C.
Certified Public Accountants

Rockville, Maryland
November 10, 2016

SECTION II

FINDING AND OBSERVATIONS

FINDING AND OBSERVATIONS

One Finding and two Observations related to Navient's compliance with SCRA were identified during the audit. The Finding had no financial impact as the borrowers subsequently received SCRA benefits from Navient. The Finding and Observations are detailed as follows:

FINDING 1. D&A noted three instances where borrowers requested SCRA benefits and Navient incorrectly denied the requests.

During the audit review period of June 2009 through May 2014, Navient reported receiving 15,995 requests for SCRA benefits. A sample of 646 servicemember requests was selected for review. The following three requests were incorrectly denied when processed by Navient (representing an error rate of 0.46 percent). Subsequently, Navient retroactively provided SCRA benefits to all three borrowers; therefore, no corrective action is required to resolve the issues noted during the audit.

- Sample 94: On October 1, 2012, Navient received the borrower's request for SCRA benefits, which was approved on November 1, 2012, but subsequently denied on November 30, 2012 during Navient's internal dual review process. Navient's review indicated that borrower submitted enlistment documentation in lieu of the required military orders. Navient's ENCORE imaging system included a signed letter from the Commanding Officer of the 2nd Battalion, 7th Marines dated July 9, 2012, which indicated the regiment was deploying to Afghanistan from September 2012 until May 2013. Upon inquiry, Navient indicated that the letter did not constitute military orders and therefore the servicer was justified in denying the benefit. The letter did not identify the borrower by name, but instructed that any questions or concerns be addressed to the First Lieutenant. The letter did not appear to be an enlistment document. No additional correspondence with the borrower was found in Navient's CLASS-ED loan servicing system or ENCORE system after the denial, which is inconsistent with the servicer's policies and procedures. On October 22, 2015, Navient processed the SCRA benefits retroactive to September 20, 2010 based on the servicemember's active status in the Department of Defense's (DOD) Defense Manpower Data Center (DMDC) database.
- Sample 108: On October 11, 2011, Navient received the borrower's request for a deferment request. Navient examined the borrower's eligibility for SCRA benefits based on the documentation received with the deferment request, but denied the SCRA benefits with an explanation that the servicemember's loans were not disbursed prior to the start of active duty. A review of the borrower's military orders indicated active duty started November 27, 2010. The borrower had six loans listed in Navient's CLASS-ED system that were disbursed prior to this date. Therefore, the borrower had loans that were eligible for SCRA benefits. In 2015, the borrower received restitution from Navient under a Department of Justice (DOJ) Consent Order.
- Sample 146: On August 29, 2012, Navient received the borrower's request for SCRA benefits and the servicemember's military orders. Navient erroneously denied the request as a result of a manual processing error. In March 2013, the borrower re-submitted a request for

FINDING AND OBSERVATIONS

SCRA benefits and corresponding military orders, which were approved by Navient on March 20, 2013 and applied retroactive to June 15, 2011, the start date of active duty.

OBSERVATION 1. D&A noted one instance where a servicemember provided sufficient documentation to establish eligibility for SCRA benefits, which Navient failed to communicate to the borrower.

During the audit review period of June 2009 through May 2014, Navient reported 109,392 unique servicemembers that were on active military duty and held an outstanding Title IV loan(s) during the same year. A sample of 662 servicemembers was selected for review from this second pool. The servicemember identified as Sample 562 was not notified by Navient of their eligibility for SCRA benefits although sufficient documentation was received by the servicer. On September 10, 2012, the borrower submitted a request for a deferment along with their military orders to establish active duty military status. In 2015, the borrower subsequently received restitution from Navient under the DOJ Consent Order.

SCRA does not require the servicer to inform the borrower of their potential eligibility; therefore, no compliance violation was identified. However, Navient's policies and procedures, which includes a form letter (H298) used to notify borrowers of their SCRA eligibility was not consistently applied to this borrower.

OBSERVATION 2. Prior to February 2011, Navient did not require Servicemembers to submit a written request for SCRA benefits.

Navient's policies and procedures prior to February 2011 permitted responsible loan servicing staff to process SCRA benefits for borrowers who provided evidence of active military orders to Navient for other matters such as deferment requests. Although servicemembers received benefits that were not formally requested as required by §527, subsequent guidance issued by FSA would have resulted in SCRA benefits based on the servicemember's active status in the DOD's DMDC database.

APPENDIX A

APPLICABLE REQUIREMENTS OF SCRA
--

APPENDIX A – APPLICABLE REQUIREMENTS OF SCRA

THE SERVICEMEMBERS CIVIL RELIEF ACT OF 2003

On December 19, 2003, SCRA expanded the former Soldiers' and Sailors' Civil Relief Act. The purpose of SCRA is to provide a wide range of protections for individuals entering or called to active duty in the military or already deployed service members. SCRA is intended to postpone or suspend certain civil obligations so that the service-member may devote full attention to duty and relieve the stress on the family members of those deployed service members.

This law did not apply to loans made under Title IV of the Higher Education Act (HEA) of 1965, as amended, until it was modified by the Higher Education Opportunity Act (HEOA), dated August 14, 2008. The HEOA amended the HEA, Sections 428(d) and 438 to include these loans under the SCRA benefit.

SCRA Section 527 provides a maximum rate of interest on debts incurred before military service, as follows:

Interest Rate Limitation

- 1. Limitation to 6 percent** - An obligation or liability bearing interest at a rate in excess of 6 percent per year that is incurred by a servicemember, or the servicemember and the servicemember's spouse jointly, before the servicemember enters military service shall not bear interest at a rate in excess of 6 percent;
 - a. During the period of military service and one year thereafter, in the case of an obligation or liability consisting of a mortgage, trust deed, or other security in the nature of a mortgage; or
 - b. During the period of military service, in the case of any other obligation or liability.
- 2. Forgiveness of interest in excess of 6 percent** - Interest at a rate in excess of 6 percent per year that would otherwise be incurred but for the prohibition in paragraph 1 is forgiven.
- 3. Prevention of acceleration of principal** - The amount of any periodic payment due from a servicemember under the terms of the instrument that created an obligation or liability covered by this section shall be reduced by the amount of the interest forgiven under paragraph (2) that is allocable to the period for which such payment is made.

Implementation of Limitation

- 1. Written notice to creditor** - In order for an obligation or liability of a servicemember to be subject to the interest rate limitation in subsection 1. a above, the servicemember shall provide to the creditor written notice and a copy of the military orders calling the servicemember to military service and any orders further extending military service, not later than 180 days after the date of the servicemember's termination or release from military service.

APPENDIX A – APPLICABLE REQUIREMENTS OF SCRA

- 2. Limitation effective as of date of order to active duty** - Upon receipt of written notice and a copy of orders calling a servicemember to military service, the creditor shall treat the debt in accordance with subsection 1. a above, effective as of the date on which the servicemember is called to military service.

Creditor Protection

A court may grant a creditor relief from the limitations of this section if, in the opinion of the court, the ability of the servicemember to pay interest upon the obligation or liability at a rate in excess of 6 percent per year is not materially affected by reason of the servicemember's military service.

APPENDIX B

AUDIT SAMPLING METHODOLOGY

APPENDIX B – AUDIT SAMPLING METHODOLOGY

Navient's compliance with SCRA requirements was assessed by sampling two lists (pools) of servicemembers and the associated SCRA activity during the period June 1, 2009 through May 31, 2014 (audit review period). Statistical sampling techniques were utilized to determine a sufficient sample for each pool. In accordance with the Statement of Objectives, the statistical sample sizes were determined using a 99 percent confidence level and a 5 percent precision level. Samples were selected using a random number generator.

The first pool represented a listing of 15,995 servicemember requests for SCRA benefits submitted to Navient during the audit review period. Navient's listing identified both requests that were approved and denied. Based on the number of requests reported, a random sample of 646 requests was selected for review.

The second pool represented five annual listings of servicemembers identified by Navient that were eligible for SCRA benefits for the years 2009 through 2013. These lists included a total of 285,047 servicemembers that had or had not requested benefits during the audit review period. The listings were consolidated by Social Security Number (SSN), which identified a pool of 109,392 unique servicemembers subject to sampling. A random sample of 662 servicemembers was selected for review.