

73.37(f) also issued under sec. 301, Pub. L. 96-295, 94 Stat. 789 (42 U.S.C. 5841 note). Section 73.57 is issued under sec. 606, Pub. L. 99-399, 100 Stat. 876 (42 U.S.C. 2169).

2. Section 73.55 is amended by revising paragraphs (d)(1), (d)(4), (d)(5), (d)(7)(i)(A), and (d)(8) to read as follows:

§ 73.55 Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage.

* * * * *

(d) * * *

(1) The licensee shall control all points of personnel and vehicle access into a protected area. Identification and search of all individuals unless otherwise provided herein must be made and authorization must be checked at these points. The search function for detection of firearms, explosives, and incendiary devices must be accomplished through the use of both firearms and explosive detection equipment capable of detecting those devices. The licensee shall subject all persons except bona fide Federal, State, and local law enforcement personnel on official duty to these equipment searches upon entry into a protected area. Armed security guards who are on duty and have exited the protected area on official business may reenter the protected area without being searched for firearms.

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(4) All vehicles, except under emergency conditions, must be searched for items which could be used for sabotage purposes prior to entry into the protected area. Vehicle areas to be searched must include the cab, engine compartment, undercarriage, and cargo area. All vehicles, except as indicated in this paragraph, requiring entry into the protected area must be escorted by a member of the security organization while within the protected area and, to the extent practicable, must be off loaded in the protected area at a specific designated materials receiving area that is not adjacent to a vital area. Escort is not required for designated licensee vehicles or licensee-owned vehicles entering the protected area and driven by licensee employees having unescorted access.

(5) A numbered picture badge identification system must be used for all individuals who are authorized access to protected areas without escort. Badges must be displayed by all individuals while inside the protected area. An individual not employed by the licensee but who requires frequent and extended access to protected and vital areas may be authorized access to such

areas without escort provided that he or she displays a licensee-issued picture badge upon entrance into the protected area which indicates:

- (i) Non-employee—no escort required;
- (ii) Areas to which access is authorized; and
- (iii) The period for which access has been authorized.

* * * * *

(7) * * *

(i) * * *

(A) Establish a current authorization access list for all vital areas. The access list must be updated by the cognizant licensee manager or supervisor at least once every 31 days and must be reapproved at least quarterly. The licensee shall include on the access list only individuals whose specific duties require access to vital areas during nonemergency conditions.

* * * * *

(d)(8) All keys, locks, combinations, and related access control devices used to control access to protected areas and vital areas must be controlled to reduce the probability of compromise. Whenever there is evidence or suspicion that any key, lock, combination, or related access control devices may have been compromised, it must be changed or rotated. The licensee shall issue keys, locks, combinations and other access control devices to protected areas and vital areas only to persons granted unescorted facility access. Whenever an individual's unescorted access is revoked due to his or her lack of trustworthiness, reliability, or inadequate work performance, keys, locks, combinations, and related access control devices to which that person had access must be changed or rotated.

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Dated at Rockville, Maryland, this 14th day of February, 1997.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

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FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 360

RIN 3064-AB92

Resolution and Receivership Rules

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: As part of the FDIC's systematic review of its regulations and

written policies under section 303(a) of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRIA) the FDIC is proposing to amend its regulation addressing "least cost resolutions" to correct a typographical error. The provisions of the regulation relating to the security interests of Federal Home Loan Banks (Banks) in FDIC-administered receiverships, is being removed because of its limited applicability and the federal statutory protections provided to the Banks make it unnecessary to continue to address the issues contained therein by regulation. To the extent specific issues arise regarding the Banks' extensions of credit or security interests in FDIC-administered receiverships, they can be addressed on a case by case basis within the existing statutory structure.

DATES: Comments must be submitted on or before April 21, 1997.

ADDRESSES: Send written comments to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C., 20429. Comments may be hand-delivered to Room F-400, 1776 F Street, N.W. 20429, on business days between 8:30 a.m. and 4:30 p.m.; sent by facsimile: (202) 898-3838; or by Internet: Comments@fdic.gov. Comments may be inspected and photocopied in the FDIC Public Information Center, Room 100, 801 17th Street, N.W., Washington, D.C. 20429, between 9:00 a.m. and 4:30 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Mitchell Glassman, Deputy Director, Division of Resolutions and Receiverships, (202) 898-6525; Rodney D. Ray, Counsel, Legal Division, (202) 898-3556; Catherine A. Ribnick, Counsel, Legal Division, (202) 736-0117, Federal Deposit Insurance Corporation, Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION:

Background

As part of the FDIC's review of its regulations pursuant to section 303 of CDRIA, the FDIC reviewed its receivership regulations to assure that there was a need for their continued existence. If it was determined that a regulation should be retained, it also was reviewed for accuracy and clarity. As part of the review process, the FDIC determined that § 360.1 should be retained but amended to correct a typographical error. It was determined that § 360.2 should be removed because the regulation is of limited applicability and addresses only the concerns of a discrete and limited group of secured creditors, whose interests are already

addressed by federal statutes. Additionally, the regulation was the product of an increasing number of liquidating receiverships precipitated by the nation's thrift crisis, which has since subsided, making it unnecessary to continue to address the issues contained therein by regulation.

I. Section 360.1 Least-Cost Resolution

Section 13(c)(4)(E)(i) of the Federal Deposit Insurance Act (FDI Act) (12 U.S.C. 1823(c)(4)(E)(i)) generally prohibits the FDIC, after August 31, 1994, from taking any action directly or indirectly, with respect to a depository institution which would have the effect of increasing losses to any deposit insurance fund by protecting the institution's uninsured depositors or other creditors. Section 360.1 was promulgated in compliance with the statutory mandate, contained in section 13(c)(4)(E)(ii) of the FDI Act (12 U.S.C. 1823(c)(4)(E)(ii)), that the FDIC issue regulations implementing clause (i) not later than January 1, 1994. Because the regulation was issued pursuant to statute, it is being retained.

Upon review, however, an erroneous statutory citation was discovered in § 360.1(b) and the regulation is being amended to change the reference from "12 U.S.C. 13(c)(4)(A)" to "12 U.S.C. 1823(c)(4)(A)".

II. Section 360.2 Federal Home Loan Banks as Secured Creditors

Section 360.2 was originally promulgated by the Federal Home Loan Bank Board (FHLBB) on April 27, 1989.¹ At the time, the FHLBB recognized that the incidence of liquidating receivership (liquidating receivership or liquidating receiverships) insurance actions was increasing. Against this background, the FHLBB determined that the regulation was needed, among other reasons, to set forth expressly the Banks' rights regarding collateral securing Federal Home Loan Bank (Bank) advances in situations where a receiver was appointed, not to effect a purchase and assumption agreement, but to liquidate the institution's assets over time, accompanied by a Federal Savings and Loan Insurance Corporation (FSLIC) deposit insurance payment of the deposit accounts.² The regulation was subsequently transferred to the FDIC, pursuant to section 402(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) Pub. L. 101-73, 103 Stat. 183 (1989), when the FHLBB and FSLIC were

abolished. Since its transfer on August 9, 1989, the regulation has remained unchanged.

The section implements and amplifies upon the priority accorded to the Banks' security interests in section 306(d) of the Competitive Equality Banking Act of 1987, Pub. L. 100-86, 101 Stat. 552 (CEBA) (1988) (section 10(e), footnote 1, of the Federal Home Loan Bank Act (FHLB Act) (12 U.S.C. 1430(e), footnote 1).³ Section 360.2(a) requires the receiver to recognize the priority of any security interest held by a Bank for a loan to a member or its affiliate, when the member is placed in receivership.⁴ The remaining paragraphs, (b) through (e), address issues related to the Banks' security interests and collateral, which were not addressed in CEBA.

In addition to the priority accorded the Banks' security interests by CEBA, other federal statutory provisions were enacted subsequent to promulgation of the regulation which provide the Banks' extensions of credit and security interests additional receivership protections. For example, an amendment contained in section 212(a) of FIRREA excepted the Banks' extensions of credit or security interests from FIRREA's detailed provisions addressing contracts entered into before a receiver's or conservator's appointment.⁵ Additionally, section 141(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA) excepted the Banks' extensions of credit or security interests from section 11(d)(5) (12 U.S.C. 1821(d)(5)) of the receivership claims process.⁶

³Section 10(e), footnote 1, provides: Notwithstanding any other provision of law, any security interest granted to a Federal Home Loan Bank by any member of any Federal Home Loan Bank or any affiliate of any such member shall be entitled to priority over the claims and rights of any party (including any receiver, conservator, trustee, or similar party having rights of a lien creditor) other than claims and rights that

(1) Would be entitled to priority under otherwise applicable law; and

(2) Are held by actual bona fide purchasers for value or by actual parties that were secured by actual perfected security interests.

⁴The paragraph essentially tracks section 306(d) of CEBA but adds "whether such security interest is in specifically designated assets or a blanket interest in all assets or categories of assets".

⁵Section 212(a) of FIRREA amended section 11(c) through (j) of the FDI Act (12 U.S.C. 1821(c)-(j)). In the process, it added section 11(e)(13) (12 U.S.C. 1821(e)(13)) to the FDI Act, which states:

No provision of this subsection shall apply with respect to:

(A) Any extension of credit from any Federal home loan bank or Federal Reserve bank to any insured depository institution; or

(B) Any security interest in the assets of the institution securing any such extension of credit.

⁶Section 141(b) of FDICIA amended section 11(d)(5)(D) (12 U.S.C. 1821(d)(5)(D)) of the FDI Act

Based upon a review of the section and its history, it appears that the section is of limited applicability because the FHLBB intended for it to address issues related solely to the Banks' security interests in liquidating receiverships. Since the regulation was promulgated, Congress also has conferred significantly more benefits upon the Banks than are enjoyed by most other secured creditors in FDIC-administered receiverships. Finally, the section was the product of an increasing number of institutions being placed in liquidating receiverships in the late 1980's, when the nation was confronted with a crisis in the thrift industry, which has since subsided. Therefore, the Board of Directors has determined that there is insufficient justification for the section's continued existence and that the matters addressed therein can be adequately addressed on a case by case basis within the existing statutory structure. Although the regulation is being removed as part of the CDRIA process, however, the FDIC intends to continue to assist the Banks with the resolution of specific issues regarding their extensions of credit or security interests, on a case by case basis, as the need arises.

Paperwork Reduction Act

No collections of information pursuant to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 et. seq.) are contained in this notice. Consequently, no information has been submitted to the Office of Management and Budget for review.

Regulatory Flexibility Act

The Board of Directors certifies that the proposed rule does not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The Board of Directors action is being taken to correct a statutory citation in an existing regulation and to remove a section of the regulation addressing certain aspects of secured claims held by Banks in FDIC-administered receiverships. The Banks are not within the Regulatory Flexibility Act's definition of "small entities". Accordingly, the Act's requirements

to add section 11(d)(5)(D)(iii) (12 U.S.C. 1821(d)(5)(D)(iii)), which states:

No provision of this paragraph shall apply with respect to:

(I) Any extension of credit from any Federal home loan bank or Federal Reserve bank to any institution described in paragraph (3)(A); or

(II) Any security interest in the assets of the institution securing any such extension of credit.

¹ The regulation was originally designated 12 CFR 569c.8-1.

² See 54 FR 19155 (May 4, 1989).

regarding an initial and final regulatory flexibility analysis are inapplicable.

List of Subjects in 12 CFR Part 360

Savings associations.

For the reasons set out in the preamble, part 360 of chapter III of title 12 of the Code of Federal Regulations is proposed to be amended as follows:

PART 360—RESOLUTION AND RECEIVERSHIP RULES

1. The authority citation for part 360 continues to read as follows:

Authority: 12 U.S.C. 1821(d)(11), 1821(e)(8)(D)(i), 1823(c)(4); Sec. 401(h), Pub. L. 101-73, 103 Stat. 357.

2. Section 360.1 is amended by revising paragraph (b) to read as follows:

§ 360.1 Least-cost resolution.

* * * * *

(b) Purchase and assumption transactions. Subject to the requirement of section 13(c)(4)(A) of the FDI Act (12 U.S.C. 1823(c)(4)(A)), paragraph (a) of this section shall not be construed as prohibiting the FDIC from allowing any person who acquires any assets or assumes any liabilities of any insured depository institution, for which the FDIC has been appointed conservator or receiver, to acquire uninsured deposit liabilities of such institution as long as the applicable insurance fund does not incur any loss with respect to such uninsured deposit liabilities in an amount greater than the loss which would have been incurred with respect to such liabilities if the institution had been liquidated.

§ 360.2 [Removed and reserved]

3. Section 360.2 is removed and reserved.

By order of the Board of Directors.

Dated at Washington, D.C., this 4th day of February, 1997.

Federal Deposit Insurance Corporation

Jerry L. Langley,

Executive Secretary.

[FR Doc. 97-4019 Filed 2-19-97; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96-NM-106-AD]

RIN 2120-AA64

Airworthiness Directives; Airbus Model A320 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A320 series airplanes. This proposal would require an initial inspection of fastener holes on certain outer frames of the fuselage to detect fatigue cracking, and modification of this area by cold expanding these holes and installing oversized fasteners. This proposal is prompted by a report from the manufacturer indicating that, during full-scale fatigue testing of the test article, fatigue cracking was detected in the area where the center fuselage joins the wing. The actions specified by the proposed AD are intended to prevent fatigue cracking and consequent reduced structural integrity of this area, which could lead to rapid depressurization of the fuselage.

DATES: Comments must be received by March 31, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 96-NM-106-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tim Backman, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW, Renton, Washington 98055-4056; telephone (206) 227-2797; fax (206) 227-1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained

in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 96-NM-106-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 96-NM-106-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on certain Airbus Model A320 series airplanes. The DGAC advises that it has received a report from the manufacturer indicating that fatigue cracks were detected during full-scale fatigue testing of the test article after 90,001 simulated flights. These cracks were found in fastener holes in the flange caps of outer right frame 40 and outer left frame 41, adjacent to Stringer 23; this is the area where the center fuselage joins the wing. This condition, if not prevented, consequently could reduce the structural integrity of this area, and lead to rapid decompression of the fuselage.

Explanation of Related and Relevant Service Information

Airbus has issued Service Bulletin A320-53-1026, dated August 5, 1994, which describes procedures for conducting repetitive eddy current rotating probe inspections of fastener holes on certain outer frames of the fuselage to detect fatigue cracking and repair, if necessary. These holes are located on the forward and aft faces of the flange caps on outer left and right frames 37 through 41, adjacent to Stringer 23; this is the area where the center fuselage joins the wing.