

# Rules and Regulations

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## FEDERAL DEPOSIT INSURANCE CORPORATION

### 12 CFR Parts 309 and 310

RIN 3064-AD83

#### Disclosure of Information; Privacy Act Regulations; Notice and Amendments

**AGENCY:** Federal Deposit Insurance Corporation (FDIC).

**ACTION:** Final rule.

**SUMMARY:** The Dodd-Frank Wall Street Reform and Consumer Protection Act (Act), abolished the Office of Thrift Supervision (OTS) and, as of July 21, 2011, the statutorily prescribed transfer date (Transfer Date), the functions and regulations of the OTS relating to savings and loan holding companies, Federal savings associations, and State savings associations to the Board of Governors of the Federal Reserve System (FRB), the Office of the Comptroller of the Currency (OCC), and the FDIC, respectively. The Board of Directors is finalizing an interim rule that confirmed that, effective on the Transfer Date, the OTS Freedom of Information Act (FOIA) and Privacy Act (PA) regulations will not be enforced by the FDIC and that, instead, all FOIA and PA issues will be addressed under the FDIC's regulations involving disclosure of information and the PA, as amended.

**DATES:** *Effective Date:* The effective date of the final rule is November 14, 2011.

**FOR FURTHER INFORMATION CONTACT:** Ann Johnson Taylor, Counsel, Legal Division, (202) 898-3573 or [ajohnsontaylor@fdic.gov](mailto:ajohnsontaylor@fdic.gov); Rodney D. Ray, Counsel, Legal Division, (202) 898-3556 or [rroy@fdic.gov](mailto:rroy@fdic.gov); or Martin P. Thompson, Senior Review Examiner, Division of Risk Management Supervision, (202) 898-6767 or [marthompson@fdic.gov](mailto:marthompson@fdic.gov).

**SUPPLEMENTARY INFORMATION:**

### I. Background

The Act, signed into law on July 21, 2010, substantially reorganized the regulation of savings associations and their holding companies. Beginning July 21, 2011, the Transfer Date established in Dodd-Frank, functions formerly performed by the OTS were divided among the FRB, OCC, and FDIC. Section 316(b) of the Act provides that all orders, resolutions, determinations, and regulations issued, made, prescribed, or allowed to become effective by the OTS that were in effect on the day before the Transfer Date continue in effect and are enforceable by the appropriate successor Federal banking agency until modified, terminated, set aside, or superseded in accordance with applicable law by such successor agency, by any court of competent jurisdiction, or by operation of law. Section 323(b) of the Act also provides for the transfer on the Transfer Date of OTS property, including books, accounts, records, reports, files, memoranda, paper, reports of examination, work papers, and correspondence relating to such reports, to the respective agencies, that were used by the OTS on the day before the Transfer Date to support OTS functions.

Section 316(c) of the Act further provides for the identification of OTS regulations relating to the supervision of State savings associations to be transferred to the FDIC. On July 6, 2011, the OCC and FDIC published a Joint Notice (Notice) in the **Federal Register** identifying OTS regulations that will be continued and enforced by each agency. In the Notice, the FDIC indicated that it did not intend to continue or enforce existing OTS regulations regarding the Freedom of Information Act or Privacy Act.

### II. The Final Rule

On June 21, 2011, the FDIC published for comment an interim rule providing the public with notice that the FDIC would apply the FDIC's existing FOIA and PA regulations, as of the Transfer Date, to all records or other matters transferred from the OTS to the FDIC. The interim rule also included certain technical amendments to the FDIC's existing regulations and substituted the Bureau of Consumer Financial Protection for the OTS as a Federal financial institution supervisory agency,

for purposes of § 309.6, to which exempt records could be disclosed.<sup>1</sup>

Although the interim rule became effective for all existing and future FOIA and PA issues involving state savings associations as of the Transfer Date, the interim rule prescribed a 30-day comment period. The comment period ended on August 22, 2011 and no comments were received.

The final rule corrects an erroneous facsimile number contained in § 309.5(b)(1)(ii) of the interim rule.

### III. Regulatory Analysis and Procedure

#### A. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, (RFA) applies only to rules for which an agency publishes a general notice of proposed rulemaking pursuant to 5 U.S.C. 553(b). As discussed in the interim rule, since the FDIC determined that good cause existed to waive the general notice and comment requirements of the APA, the requirement to prepare a final regulatory flexibility analysis, as described at 5 U.S.C. 604 of the RFA does not apply to this final rule.

#### B. Small Business Regulatory Enforcement Fairness Act

The Office of Management and Budget (OMB) has determined that the final rule is not a "major rule" within the meaning of the relevant sections of the Small Business Regulatory Enforcement Act of 1996 (SBREFA) (5 U.S.C. 801, *et seq.*). As required by SBREFA, the FDIC will file the appropriate reports with Congress and the General Accounting Office so that the final rule may be reviewed.

#### C. Paperwork Reduction Act

No collections of information pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) are contained in the final rule.

#### D. Plain Language

Section 722 of the Gramm-Leach-Bliley Act (Pub. L. 106-102, 113 Stat. 1338, 1471), requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The FDIC has sought to present the final rule in a simple and straightforward manner and received no comments on the interim rule.

<sup>1</sup> 76 FR 35963 (June 21, 2011).

*E. Riegle Community Development and Regulatory Improvement Act*

The final rule does not impose any new reporting or disclosure requirements on insured depository institutions under the Riegle Community Development and Regulatory Improvement Act.

**List of Subjects in 12 CFR Parts 309 and 310**

Banks, banking, Freedom of information, Privacy, Savings associations.

For the reasons stated above, the Board of Directors of the Federal Deposit Insurance Corporation adopts the interim final rule published June 21, 2011, at 76 FR 35963, as final with the following change:

**PART 309—DISCLOSURE OF INFORMATION**

■ 1. The authority citation for part 309 continues to read as follows:

**Authority:** 5 U.S.C. 552; 12 U.S.C. 1819 “Seventh” and “Tenth.”

**§ 309.5 [Amended]**

■ 2. In § 309.5, in paragraph (b)(1)(ii), remove the fax number “(703) 562-7977; and add in its place the fax number “(703) 562-2797”

By order of the Board of Directors.

Dated at Washington, DC this 11th day of October 2011.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. 2011-26635 Filed 10-13-11; 8:45 am]

**BILLING CODE 6714-01-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 25**

**[Docket No. FAA-2011-1106; Special Conditions No. 25-448-SC]**

**Special Conditions: Boeing Model 767-400ER Series Airplanes; Seats With Inflatable Lapbelts**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final special conditions; request for comments.

**SUMMARY:** These special conditions are issued for the Boeing Model 767-400ER series airplane. These airplanes, as modified by Continental Airlines, will have a novel or unusual design feature associated with seats with inflatable lapbelts. The applicable airworthiness

regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

**DATES:** The effective date of these special conditions is October 6, 2011. We must receive your comments by November 28, 2011.

**ADDRESSES:** Send comments identified by docket number FAA-2011-1106 using any of the following methods:

- *Federal eRegulations Portal:* Go to <http://www.regulations.gov> and follow the online instructions for sending your comments electronically.

- *Mail:* Send comments to Docket Operations, M-30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue, SE., Room W12-140, West Building Ground Floor, Washington, DC 20590-0001.

- *Hand Delivery of Courier:* Take comments to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 8 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Fax:* Fax comments to Docket Operations at 202-493-2251.

*Privacy:* The FAA will post all comments it receives, without change, to <http://www.regulations.gov/>, including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477-19478), as well as at <http://DocketsInfo.dot.gov>.

*Docket:* Background documents or comments received may be read at <http://www.regulations.gov> at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** John Shelden, FAA, Airframe and Cabin Safety Branch, ANM-115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone 425-227-2785; facsimile 425-227-1149.

**SUPPLEMENTARY INFORMATION:** The FAA has determined that notice of, and opportunity for prior public comment on, these special conditions are impracticable because these procedures would significantly delay issuance of the design approval and thus delivery of the affected aircraft. In addition, the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA therefore finds that good cause exists for making these special conditions effective upon issuance.

**Comments Invited**

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive by the closing date for comments. We may change these special conditions based on the comments we receive.

**Background**

On March 3, 2011, Continental Airlines applied for a supplemental type certificate to install inflatable lapbelts for head injury protection on passenger seats on Boeing Model 767-400ER series airplanes (hereafter referred to as “767-400ER”), similar to Special Condition Numbers 25-431-SC for Boeing Model 787 series airplanes, 25-386-SC for Boeing Model 737 series airplanes, 25-187A-SC for Boeing Model 777 series airplanes, and 25-148-SC for Boeing Model 767-300 series airplanes. These special conditions are to allow installation of inflatable lapbelts for head injury protection on certain seats in Boeing Model 767-400ER series airplanes.

The inflatable lapbelt is designed to limit occupant forward excursion in the event of an accident. This will reduce the potential for head injury, thereby reducing the Head Injury Criteria (HIC) measurement. The inflatable lapbelt behaves similarly to an automotive inflatable airbag, but in this case the airbag is integrated into the lapbelt and inflates away from the seated occupant. While inflatable airbags are now standard in the automotive industry, the use of an inflatable lapbelt is novel for commercial aviation.

Title 14, Code of Federal Regulations (14 CFR) 25.785 requires that occupants be protected from head injury by either the elimination of any injurious object within the striking radius of the head,