

deputy regional director, to act on disclosure matters under and pursuant to sections 12, 13, 14 and 16 of the Securities Exchange Act of 1934 (15 U.S.C. 78) or this part.

(b) Authority to act on disclosure matters is retained by the FDIC Board of Directors when such matters involve:

(1) Exemption from disclosure requirements pursuant to section 12(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78I(h)); or

(2) Exemption from tender offer requirements pursuant to section 14(d)(8) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(d)(8)).

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. 97-3596 Filed 2-13-97; 8:45 am]

BILLING CODE 6714-01-P

FEDERAL HOUSING FINANCE BOARD

12 CFR Part 931

[No. 97-3]

Technical Amendment to Definition of Deposits in Banks or Trust Companies

AGENCY: Federal Housing Finance Board.

ACTION: Interim final rule with request for comments.

SUMMARY: The Federal Housing Finance Board (Finance Board) is amending the definition of the term "deposits in banks or trust companies" to expressly include a deposit in, or a sale of federal funds to, a branch or agency of a foreign bank located in the United States that is subject to the supervision of the Board of Governors of the Federal Reserve System (Board of Governors), as an investment eligible to fulfill the liquidity requirement imposed on the Federal Home Loan Banks (FHLBanks) by section 11(g) of the Federal Home Loan Bank Act (Bank Act).

DATES: The interim final rule will become effective on February 14, 1997. The Finance Board will accept comments on the interim final rule in writing on or before March 17, 1997.

ADDRESSES: Mail comments to Elaine L. Baker, Executive Secretary, Federal Housing Finance Board, 1777 F Street, NW, Washington, DC 20006. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Janice A. Kaye, Attorney-Advisor, Office

of General Counsel, 202/408-2505, or Christine M. Freidel, Assistant Director, Financial Management Division, Office of Policy, 202/408-2976, Federal Housing Finance Board, 1777 F Street, NW, Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Background

Under section 11(e)(1) of the Bank Act, the FHLBanks have the power to accept deposits from their members, other FHLBanks, or instrumentalities of the United States. See 12 U.S.C. 1431(e)(1). To ensure that each FHLBank has sufficient liquid assets to meet deposit withdrawal demands, section 11(g) of the Bank Act imposes a liquidity requirement. See *id.* 1431(g). The liquidity requirement provides that each FHLBank must invest, upon such terms and conditions as the Finance Board may prescribe, an amount equal to the current deposits the FHLBank holds in specified types of assets. *Id.* Among the assets specified in the Bank Act are "deposits in banks or trust companies." *Id.* 1431(g)(2).

In 1978, the Finance Board's predecessor, the former Federal Home Loan Bank Board (FHLBB), defined by regulation the phrase "deposits in banks or trust companies" to include a deposit in another FHLBank, a demand account with a Federal Reserve Bank, or a deposit in a depository designated by a FHLBank's board of directors that is a member of either the Federal Reserve System (FRS) or the Federal Deposit Insurance Corporation (FDIC). See 43 FR 46835, 46836 (Oct. 11, 1978), *codified at* 12 CFR 521.5 (superseded). When Congress abolished the FHLBB in 1989, see Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Pub. L. 101-73, sec. 401, 103 Stat. 183 (Aug. 9, 1989), the Finance Board transferred the definition, without any change in substantive or technical matters, to § 931.5 of its regulations. See 54 FR 36757 (Aug. 28, 1989), *codified at* 12 CFR 931.5. This definition remained unchanged until July 3, 1996, when the Finance Board adopted a final rule modifying the definition of "deposits in banks or trust companies." The final rule was published in the Federal Register on August 2, 1996, and became effective on September 3, 1996. See 61 FR 40311 (Aug. 2, 1996), *codified at* 12 CFR 931.5. The final rule made clear that the term "banks" includes savings associations, and included federal funds transactions as eligible to fulfill the liquidity requirement imposed on the FHLBanks by section 11(g) of the Bank Act. See 12 U.S.C. 1431(g).

II. Analysis of the Interim Final Rule

In revising the definition of "deposits in banks or trust companies," the Finance Board inadvertently omitted as an eligible investment deposits in certain U.S. branches and agencies of foreign banks. A foreign bank may establish a U.S. branch or agency only with the prior approval of the Board of Governors and an appropriate licensing authority, *i.e.*, either the Comptroller of the Currency or a state banking regulator. U.S. branches and agencies of foreign banks are subject to the supervision of the Board of Governors and must meet many of the rules and regulations applicable to domestic commercial banks.

U.S. branches of foreign banks principally accept wholesale deposits, that is, deposits greater than the \$100,000 FDIC insurance limit. U.S. agencies of foreign banks typically do not accept deposits, although under the laws of some states an agency may have authority to do so. Since December 19, 1991, federal banking laws require foreign banks located in the United States that accept retail deposits (generally, deposits of less than \$100,000), to do so only through a subsidiary bank the deposits of which are insured by the FDIC. See FDIC Improvement Act of 1991, Pub. L. 102-242, Title II, sec. 214(a), 105 Stat. 2303, *codified at* 12 U.S.C. 3104(d). Although U.S. branches of foreign banks are not subsidiary banks, the statute permits branches that had FDIC insurance prior to that date to continue to accept or maintain retail deposits. See *id.* Thus, with the exception of branches whose deposits were insured by the FDIC prior to December 19, 1991, U.S. branches and agencies of foreign banks do not accept retail deposits.

Under both the current and previous definitions of the term "deposits in banks or trust companies," FHLBank deposits in the small number of U.S. branches the deposits of which are insured by the FDIC, are eligible investments for purposes of section 11(g) of the Bank Act since the definitions include deposits in FDIC-insured depository institutions. See 12 CFR 931.5 (1995 superseded); 12 CFR 931.5 (1996). FHLBank deposits in the U.S. branches and agencies whose deposits are not insured by the FDIC are not eligible investments. See *Id.*

Since all U.S. branches and agencies of foreign banks operate in a similar manner regardless of their FDIC-insurance status, and all are subject to the same legal requirements and the supervision of the Board of Governors, the Finance Board believes that the

inadvertent distinction made in the definition based on whether the institution's deposits are FDIC-insured is neither required nor appropriate. In order to eliminate the distinction and treat all U.S. branches and agencies of foreign banks equally, the Finance Board is amending the definition of "deposits in banks or trusts" in § 931.5 to include as eligible investments for purposes of section 11(g) of the Bank Act, FHLBank deposits in any U.S. branch or agency of a foreign bank that has legal authority to accept deposits or engage in federal funds transactions. To achieve this result, the Finance Board has added a new § 931.5(c)(3) that includes expressly a deposit in, or federal funds transactions with, a U.S. branch or agency of a foreign bank that is subject to the supervision of the Board of Governors and is designated by a FHLBank's board of directors. The terms "branch," "agency," and "foreign bank" have the same meaning as in the International Banking Act of 1978, as amended. See 12 U.S.C. 3101(1), (3), (7).

The changes made by the interim final rule also are consistent with the provisions of federal law that require the treatment of all U.S. branches and agencies of foreign banks to be similar to the treatment of domestic depository institutions.

III. Notice and Public Participation

The Finance Board finds that the notice and comment procedure required by the Administrative Procedure Act is unnecessary, impracticable, and contrary to the public interest in this instance because the change made by the interim final rule is technical in nature and applies only to the FHLBanks. See 5 U.S.C. 553(b)(3)(B). In addition, as explained above, the changes made by the interim final rule are necessary to comply with various provisions of federal law. Nevertheless, because the Finance Board believes public comments aid in effective rulemaking, it will accept written comments on the interim final rule on or before March 17, 1997.

IV. Effective Date

For the reasons stated in part III above, the Finance Board for good cause finds that the interim final rule should become effective on February 14, 1997. See 5 U.S.C. 553(d)(3).

V. Regulatory Flexibility Act

The Finance Board is adopting the technical amendment to part 931 in the form of an interim final rule and not as a proposed rule. Therefore, the provisions of the Regulatory Flexibility

Act do not apply. See 5 U.S.C. 601(2), 603(a).

VI. Paperwork Reduction Act

No collections of information pursuant to the Paperwork Reduction Act of 1995 are contained in this interim final rule. See 44 U.S.C. 3501, *et seq.* Consequently, the Finance Board has not submitted any information to the Office of Management and Budget for review.

List of Subjects in 12 CFR Part 931

Banks, banking, Federal home loan banks.

Accordingly, the Federal Housing Finance Board hereby amends title 12, chapter IX, part 931 of the Code of Federal Regulations, as follows:

PART 931—DEFINITIONS

1. The authority citation for part 931 continues to read as follows:

Authority: 12 U.S.C. 1422a, 1422b, 1427, and 1431(g).

2. Section 931.5 is revised to read as follows:

§ 931.5 Deposits in banks or trust companies.

Include:

- (a) A deposit in another Bank;
- (b) A demand account in a Federal Reserve Bank; and
- (c) A deposit in, or a sale of federal funds to:
 - (1) An insured depository institution, as defined in section 2(12)(A) of the Act, that is designated by a Bank's board of directors;
 - (2) A trust company that is a member of the Federal Reserve System or insured by the Federal Deposit Insurance Corporation, and is designated by a Bank's board of directors; or
 - (3) A U.S. branch or agency of a foreign bank, as defined in the International Banking Act of 1978, as amended (12 U.S.C. 3101 *et seq.*), that is subject to the supervision of the Board of Governors of the Federal Reserve System, and is designated by a Bank's board of directors.

By the Board of Directors of the Federal Housing Finance Board
Bruce A. Morrison,
Chairperson.

[FR Doc. 97-3403 Filed 2-13-97; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96-NM-153-AD; Amendment 39-9925; AD 97-04-01]

RIN 2120-AA64

Airworthiness Directives; Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 737 series airplanes, that requires modification of the aileron centering spring and trim mechanism. This amendment is prompted by a review of the design of the flight control systems on Model 737 series airplanes. The actions specified by this AD are intended to prevent jamming of the aileron control system during flight due to fracturing of the springs in the aileron centering units; this condition, if not corrected, could result in reduced lateral control of the airplane.

DATES: Effective March 21, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 21, 1997.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Don Kurle, Senior Engineer, Systems and Equipment Branch, ANM-130S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2798; fax (206) 227-1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 737 series airplanes was published in the Federal Register on August 28, 1996 (61 FR 44247). That action proposed to require modification