

- *E-mail:* Comments to Alfred M. Pollard, General Counsel, may be sent by e-mail to RegComments@fhfa.gov. Please include “RIN 2590-AA19” in the subject line of the message.

• *Federal eRulemaking Portal*: <http://www.regulations.gov>. Follow the instructions for submitting comments. If you submit your comment to the Federal eRulemaking Portal, please also send it by e-mail to FHFA at RegComments@fhfa.gov to ensure timely receipt by the agency. Include the following information in the subject line of your submission: Comments/RIN 2590-AA19.

FOR FURTHER INFORMATION CONTACT:

Janice A. Kullman, Assistant General Counsel, telephone (202) 414-8970 (not a toll-free number), Federal Housing Finance Agency, Fourth Floor, 1700 G Street, NW., Washington, DC 20552. The telephone number for the Telecommunications Device for the Deaf is (800) 877-8339.

SUPPLEMENTARY INFORMATION:

I. Comments

The Federal Housing Finance Agency (FHFA) invites comment on all aspects of the proposed regulation, and will consider all relevant comments before issuing the final regulation. Copies of all comments will be posted without change, including any personal information you provide, such as your name and address, on the FHFA Web site at <http://www.fhfa.gov>. In addition, copies of all comments received will be available for examination by the public on business days between the hours of 10 a.m. and 3 p.m. at the Federal Housing Finance Agency, Fourth Floor, 1700 G Street, NW., Washington, DC 20552. To make an appointment to inspect comments, please call the Office of General Counsel at (202) 414-3751.

II. Background

The Housing and Economic Recovery Act of 2008 (HERA), Public Law No. 110-289, 122 Stat. 2654, amended the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4501 *et seq.*) (Safety and Soundness Act) to establish FHFA as an independent agency of the Federal Government.¹ FHFA was established to oversee the prudential operations of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (collectively, the Enterprises), and the Federal Home Loan Banks (Banks) (collectively, the regulated entities), and to ensure that they operate in a safe and sound manner including being capitalized adequately; foster liquid, efficient, competitive and resilient national housing finance markets; comply with the Safety and

Soundness Act and rules, regulation, guidelines and orders issued under the Safety and Soundness Act, and the respective authorizing statutes of the regulated entities; and carry out their missions through activities authorized and consistent with the Safety and Soundness Act and their authorizing statutes; and, that the activities and operations of the regulated entities are consistent with the public interest. FHFA also has regulatory authority over the Office of Finance under 12 U.S.C. 4511.

Section 6303(b) of the Intelligence Reform and Terrorism Prevention Act of 2004, Public Law No. 108-458 (Dec. 17, 2004), in amending section 10 of the Federal Deposit Insurance Act, established a post-employment restriction for senior examiners of the Office of the Comptroller of the Currency, Federal Reserve System, Federal Deposit Insurance Corporation, and Office of Thrift Supervision.² In response, the Board of Governors of the Federal Reserve System (Federal Reserve) and the other financial regulators issued regulations on November 17, 2005, to reflect the new post-employment restriction.

The Safety and Soundness Act provides that each examiner of FHFA “shall be subject to the same disclosures, prohibitions, obligations and penalties as are applicable to examiners employed by the Federal Reserve Banks.” 12 U.S.C. 4517(e). In light of that provision, this proposed regulation sets forth post-employment restrictions that are essentially the same as the restrictions in the post-employment regulation of the Federal Reserve at 12 CFR part 264a, including penalty provisions.

The Federal Reserve relies on section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) for the penalty enforcement section of its regulation. FHFA relies on similar provisions in section 1376 and 1377 of the Safety and Soundness Act (12 U.S.C. 4636 and 4636a, respectively).

III. Section-by-Section Analysis

The following is a section-by-section analysis of the proposed regulation.

Subpart A

Subpart A would be reserved. FHFA intends to cross-reference the Supplemental Standards of Ethical Conduct for Employees of the Federal Housing Finance Agency when such standards are published.

Subpart B—Post-Employment Restriction for Senior Examiners

Section 1212.1 Purpose and scope

Proposed § 1212.1 would provide that the purpose of subpart B is to set forth special post-employment restrictions that are applicable to senior examiners that are in addition to the post-employment restriction for FHFA employees under section 12 U.S.C. 4523, which is restated in 5 CFR part 9001. The post-employment restriction applicable to FHFA employees under 12 U.S.C. 4523 provides that officers and employees of FHFA who are compensated at a certain salary level are not permitted to accept compensation from the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (Enterprises) for a period of two years after leaving FHFA.

Section 1212.2 Definitions

This proposed section would set forth definitions applicable to subpart B.

Consultant would be defined as a person who works directly on matters for, or on behalf of, a regulated entity, or the Office of Finance.

Director would mean the Director of FHFA or his or her designee.

Employee would be defined as an officer or employee of FHFA, including a special Government employee.

Federal Home Loan Bank or Bank would be defined as a Bank established under the Federal Home Loan Bank Act; the term “Federal Home Loan Banks” means, collectively, all the Federal Home Loan Banks.

Office of Finance would be defined as the Office of Finance of the Federal Home Loan Bank System.

Regulated entity would be defined as the Federal National Mortgage Association and any affiliate thereof, the Federal Home Loan Mortgage Corporation and any affiliate thereof, or any Federal Home Loan Bank; the term “regulated entities” would be defined to mean, collectively, the Federal National Mortgage Association and any affiliate thereof, the Federal Home Loan Mortgage Corporation and any affiliate thereof, and the Federal Home Loan Banks.

Safety and Soundness Act would be defined as the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, as amended by the Federal Housing Finance Regulatory Reform Act of 2008, Division A of the Housing and Economic Recovery Act of 2008, Public Law No. 110-289, 122 Stat. 2654 (2008).

Senior examiner would be defined as an FHFA employee who has been:

¹ See Division A, titled the “Federal Housing Finance Regulatory Reform Act of 2008,” Title I, Section 1101 of HERA.

² 12 U.S.C. 1820(k).

- Authorized by FHFA to conduct examinations or inspections on behalf of FHFA;

- Assigned continuing, broad and lead responsibility for examining a regulated entity or the Office of Finance; and

- Assigned responsibilities for examining, inspecting, and supervising the regulated entity or the Office of Finance that—

- Represents a substantial portion of the employee's assigned responsibilities; and

- Requires the employee to interact routinely with officers or employees of the regulated entity or the Office of Finance.

To be considered a “senior examiner,” an employee must meet each of the criteria listed above. Thus, an examiner who spends a substantial portion of his or her time conducting or leading a targeted examination, but who does not have broad and lead responsibility for the overall examination program with respect to a regulated entity or the Office of Finance would not be considered a “senior examiner” with respect to that regulated entity or the Office of Finance. An examiner who divides his or her time across a portfolio of regulatory entities, each of which does not represent a substantial portion of the examiner's responsibilities, also would not be considered a “senior examiner.” Such an examiner is not likely to develop the type and degree of relationship with any one regulated entity or the Office of Finance that the proposed post-employment restriction is designed to address. FHFA believes that an examiner has continuing responsibility for a regulated entity or the Office of Finance only when the examiner's responsibilities for the regulated entity or the Office of Finance are expected to continue for a period of time that would enable the examiner to develop a meaningful, dedicated, and sustained relationship with the regulated entity or the Office of Finance. FHFA believes that such a period of time would be at least two months.

To help examiners comply with the post-employment restrictions, FHFA intends that the designated agency ethics official (DAEO) or the alternate DAEO would notify examiners in writing if they are subject to either the one-year post-employment restriction or the two-year post-employment restriction under 12 U.S.C. 4523, or both. The DAEO or alternate DAEO would also provide examiners information about how to conform to one or both of the restrictions.

FHFA expects that the examiner-in-charge (EIC) of a Bank or the Office of Finance would be subject to the one-year post-employment restriction from working at the Bank or Office of Finance for which he or she served as EIC, but not necessarily other Banks which he or she may examine. In addition, the portfolio managers, who each generally oversee four Banks, would be subject to the one-year post-employment restriction for each Bank they oversee. These two groups of employees are responsible for establishing the scope of annual exams and assigning the composite rating for the Banks and therefore meet the definition of senior examiner. There may be rare instances of other examiners who meet the definition, but FHFA would not expect that an examiner supervising one aspect of safety and soundness for all the Banks would fall into the definition of the term “senior examiner.” Such a subject matter examiner would not have substantial enough contacts with any one particular bank to warrant a post-employment restriction. FHFA estimates that approximately 15 examiners who serve as EICs and portfolio managers for the Banks and the Office of Finance would be considered “senior examiners” for the purposes of this proposed regulation.

Examiners who examine the Enterprises are subject to the two-year post-employment restriction set forth in 12 U.S.C. 4523 if they earn a certain salary, as is every FHFA employee. This two-year post-employment restriction would subsume the one-year post-employment restriction with respect to accepting employment at the Enterprises because any examiner who is a “senior examiner” would already be precluded from accepting employment from an Enterprise because of his or her salary level. While there are approximately 30 examiners whose salary is below the threshold that would trigger the two-year post-employment restriction, those examiners do not have broad and lead responsibility for examining a regulated entity or the Office of Finance and therefore would not meet the definition of “senior examiner.” FHFA believes that any examiner of an Enterprise who is a “senior examiner” would also be subject to the two-year post-employment restriction under 12 U.S.C. 4523.

Section 1212.3 Post-employment restriction for senior examiners

Proposed § 1212.3 would prohibit a senior examiner from knowingly accepting compensation as an employee, officer, director, or consultant of a regulated entity or the

Office of Finance for one year after leaving the employment of FHFA if he or she has examined the regulated entity or the Office of Finance for two or more months during the last 12 months of employment at FHFA.

A person would be deemed to be a consultant for purposes of the one-year post-employment restriction if such person “directly works on matters for, or on behalf of” the relevant regulated entity or the Office of Finance. FHFA intends this provision to mean that a former senior examiner who joins a consulting or other firm or is self-employed as a consultant may not, during the one-year post-employment period, participate in any work that the firm is conducting for a regulated entity or the Office of Finance that the former senior examiner would be prohibited from doing directly. The former senior examiner would not, however, violate the post-employment restrictions by joining a firm that performs work for such a regulated entity or the Office of Finance as long as the former senior examiner does not personally participate in any such work.

The proposed post-employment restriction would not apply to any officer or employee of FHFA or any former officer or employee of FHFA who ceased to be an officer or employee of FHFA before the effective date of subpart B of this part.

Section 1212.4 Waiver

Proposed § 1212.4 would allow the Director, at the written request of a former senior examiner, to waive in writing, application of the one-year post-employment restriction, on a case-by-case basis, if the Director determines that granting the waiver would not affect the integrity of the supervisory program of FHFA. FHFA expects that waivers would be granted only in special circumstances.

Section 1212.5 Penalties

Proposed § 1212.5 would require FHFA to seek one or both of the following penalties against a former senior examiner who violates the one-year post-employment restriction:

- (1) An order removing the individual from his or her position at, or prohibiting the individual from further participation in the affairs of, the regulated entity or the Office of Finance for a period of up to five years, and prohibiting the individual from participating in the conduct of the affairs of any regulated entity or the Office of Finance for a period of up to five years; or
- (2) a civil money penalty of not more than \$250,000.

The former senior examiner against whom FHFA seeks to impose these penalties would have the procedural rights set forth in 12 U.S.C. 4636 and 4636a, as applicable, and any implementing regulations issued by FHFA.

Regulatory Impacts

Paperwork Reduction Act

The proposed regulation does not contain any information collection requirement that requires the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires that a regulation that has a significant economic impact on a substantial number of small entities, small businesses, or small organizations must include an initial regulatory flexibility analysis describing the regulation's impact on small entities. Such an analysis need not be undertaken if the agency has certified that the regulation does not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). FHFA has considered the impact of the proposed regulation under the Regulatory Flexibility Act. FHFA certifies that the proposed regulation is not likely to have a significant economic impact on a substantial number of small business entities because the regulation is applicable only to employees and officers and former employees and officers of FHFA, who are not small entities for purposes of the Regulatory Flexibility Act.

List of Subjects in 12 CFR part 1212

Administrative practice and procedure, Conflicts of interest, Ethics, Federal Housing Finance Agency.

Accordingly, for the reasons stated in the preamble, under the authority of 12 U.S.C. 4526 and 4517(e), FHFA proposes to amend 12 CFR Chapter XII by adding part 1212 to Subchapter A to read as follows:

PART 1212—POST-EMPLOYMENT RESTRICTION FOR SENIOR EXAMINERS

Subpart A—[Reserved]

Subpart B—Post-Employment Restriction for Senior Examiners

Sec.

1212.1 Purpose and scope.

1212.2 Definitions.

1212.3 Post-employment restriction for senior examiners.

1212.4 Waiver.

1212.5 Penalties.

Authority: 12 U.S.C. 4526, 12 U.S.C. 4517(e).

Subpart A—[Reserved]

Subpart B—Post-Employment Restriction for Senior Examiners

§ 1212.1 Purpose and scope.

This subpart sets forth a one-year post-employment restriction applicable to senior examiners of the Federal Housing Finance Agency (FHFA). This restriction is in addition to the post-employment restriction applicable to employees of FHFA under section 12 U.S.C. 4523.

§ 1212.2 Definitions.

For purposes of subpart B of this part, the term:

Consultant means a person who works directly on matters for, or on behalf of, a regulated entity or the Office of Finance.

Director means the Director of FHFA or his or her designee.

Employee means an officer or employee of FHFA, including a special Government employee.

Federal Home Loan Bank or *Bank* means a Bank established under the Federal Home Loan Bank Act; the term “Federal Home Loan Banks” means, collectively, all the Federal Home Loan Banks.

Office of Finance means the Office of Finance of the Federal Home Loan Bank System, or any successor thereto.

Regulated entity means the Federal National Mortgage Association and any affiliate thereof, the Federal Home Loan Mortgage Corporation and any affiliate thereof, any Federal Home Loan Bank; the term “regulated entities” means, collectively, the Federal National Mortgage Association and any affiliate thereof, the Federal Home Loan Mortgage Corporation and any affiliate thereof, and the Federal Home Loan Banks.

Safety and Soundness Act means the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, as amended by the Federal Housing Finance Regulatory Reform Act of 2008, Division A of the Housing and Economic Recovery Act of 2008, Public Law No. 110–289, 122 Stat. 2654 (2008).

Senior examiner means an employee of FHFA who has been:

(1) Authorized by FHFA to conduct examinations or inspections on behalf of FHFA;

(2) Assigned continuing, broad and lead responsibility for examining a regulated entity or the Office of Finance; and,

(3) Assigned responsibilities for examining, inspecting and supervising the regulated entity or the Office of Finance that—

(i) Represents a substantial portion of the employee's assigned responsibilities; and

(ii) Requires the employee to interact routinely with officers or employees of the regulated entity or the Office of Finance.

§ 1212.3 Post-employment restriction for senior examiners.

(a) *Prohibition.* An employee of FHFA who serves as the senior examiner of a regulated entity or the Office of Finance for two or more months during the last 12 months of his or her employment with FHFA may not, within one year after leaving the employment of FHFA, knowingly accept compensation as an employee, officer, director, or consultant from a regulated entity or the Office of Finance unless the Director grants a waiver pursuant to § 1212.4.

(b) *Effective date.* The post-employment restriction in paragraph (a) of this section shall not apply to any officer or employee of FHFA or any former officer or employee of FHFA who ceased to be an officer or employee of FHFA before the effective date of Subpart B of this part.

§ 1212.4 Waiver.

At the written request of a senior examiner or former senior examiner, the Director may waive the post-employment restriction in § 1212.3 if he or she certifies, in writing, and on a case-by-case basis, that granting a waiver of such restriction would not affect the integrity of the supervisory program of FHFA.

§ 1212.5 Penalties.

(a) *General.* A senior examiner who, after leaving the employment of FHFA, violates the restriction set forth in § 1212.3 shall be subject to one or both of the following penalties—

(1) An order:

(i) Removing the individual from office at the regulated entity or the Office of Finance or prohibiting the individual from further participation in the affairs of the relevant regulated entity or the Office of Finance for a period of up to five years; and

(ii) Prohibiting the individual from participating in the affairs of any regulated entity or the Office of Finance for a period of up to five years; and/or

(2) A civil money penalty of not more than \$250,000.

(b) *Other penalties.* The penalties set forth in paragraph (a) of this section are not exclusive, and a senior examiner

who violates the restrictions in § 1212.3 also may be subject to other administrative, civil, or criminal remedies or penalties as provided in law.

(c) *Procedural rights.* The procedures applicable to actions under paragraph (a) of this section are those provided in the Safety and Soundness Act under section 1376, in connection with the imposition of a civil money penalty; under section 1377, in connection with a removal and prohibition order (12 U.S.C. 4636 and 4636a, respectively); and under any regulations issued by FHFA implementing such procedures.

Dated: May 27, 2009.

James B. Lockhart III,

Director, Federal Housing Finance Agency.

[FR Doc. E9-13620 Filed 6-9-09; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2009-0525; Directorate Identifier 2009-NM-027-AD]

RIN 2120-AA64

Airworthiness Directives; Bombardier Model CL-600-2B19 (Regional Jet Series 100 & 440) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above that would supersede an existing AD. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

AD CF-2002-12 [which corresponds to FAA AD 2003-04-21, amendment 39-13070] mandated installation of revised overwing emergency exit placards showing that the exit door should be opened and disposed from a seated position. However, it was later discovered that the new placards illustrated an incorrect hand position for removal of the exit upper handle cover. These incorrect instructions could cause difficulty or delay when opening the overwing emergency exit.

As a result, the timely and safe evacuation of passenger and crew may be impeded. The proposed AD would require actions that are intended to

address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by July 10, 2009.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Fax:* (202) 493-2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514-855-5000; fax 514-855-7401; e-mail thd.crj@aero.bombardier.com; Internet <http://www.bombardier.com>. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425-227-1221 or 425-227-1152.

Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT:

Christopher Alfano, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE-171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228-7340; fax (516) 794-5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No.

FAA-2009-0525; Directorate Identifier 2009-NM-027-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

On February 19, 2003, we issued AD 2003-04-21, Amendment 39-13070 (68 FR 9509, February 28, 2003). A correction of that AD was published in the **Federal Register** on March 25, 2003 (68 FR 14309). That AD required actions intended to address an unsafe condition on the products listed above.

Since we issued AD 2003-04-21, it was discovered that the new placards illustrated an incorrect hand position for removal of the exit upper handle cover. Transport Canada Civil Aviation, which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF-2009-02, dated January 19, 2009 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

AD CF-2002-12 [which corresponds to FAA AD 2003-04-21] mandated installation of revised overwing emergency exit placards showing that the exit door should be opened and disposed from a seated position. However, it was later discovered that the new placards illustrated an incorrect hand position for removal of the exit upper handle cover. These incorrect instructions could cause difficulty or delay when opening the overwing emergency exit.

As a result, the timely and safe evacuation of passenger and crew may be impeded. The required actions include replacing the incorrect placards with revised placards. You may obtain further information by examining the MCAI in the AD docket.

This NPRM adds certain airplanes to the applicability; we have determined that these additional airplanes are affected by the identified unsafe condition. These airplanes were added as they also have the same interior configuration. This NPRM also removes certain airplanes from the applicability; airplanes with serial numbers 7075, 7099, 7136, 7140, 7152, 7176, and 7351 have been removed because they have different placards installed.