Office of the Secretary, DOT § 380.34a  

a bond in the form of appendix A. If the arrangement does not give as much protection as a bond against the risk of the charter operator’s bankruptcy, the bank shall be liable in the event of bankruptcy to the same extent as if it had entered into a bond.

(3) Any agreement under paragraph (c)(2)(iii) of this section shall include a statement that, in the event that the other provisions of the agreement do not provide protection to charter participants comparable to that provided under a bond in the form of appendix A, the bank shall assume, for the benefit of the charter participants, all the liabilities it would have if it entered into the bond.

(4) The security agreement shall be effective on or before the date the charter prospectus is filed with the Department.

(5) The security agreement shall be specifically identified by the issuing securer with a numbering system so that the Department can identify the security agreement with the specific charter or charters to which it relates. These data may be set forth in an addendum attached to the security agreement, which addendum must be signed by the charter operator or foreign charter operator and the securer.

(6) When security is provided by a surety bond, such bond shall be issued by a bonding or surety company that is listed in Best’s Insurance Reports (Fire and Casualty) with a general policyholders’ rating of “A” or better. The bonding or surety company shall be one legally authorized to issue bonds of that type in the State in which the charter originates. For purposes of this section the term “State” includes any territory or possession of the United States, or the District of Columbia.

(7) When security is provided by a security agreement other than a bond, the agreement shall be issued by a national bank complying with the provisions of 12 CFR 7.7010(a), or by a State bank complying with applicable State laws that give authority to issue such agreements, and all such banks must be insured by the Federal Deposit Insurance Corporation.

(d) The security agreement required by this section shall provide that unless the charter participant files a claim with the charter operator or foreign charter operator, or, if it is unavailable, with the securer, within 60 days after termination of the charter, the securer shall be released from all liability under the security agreement to such charter participant. Terminations mean the date of arrival (or in the case of a canceled charter, the intended date of arrival) of the return flight. If there is no return flight in a participant’s itinerary, termination means the date or intended date of departure of the last flight in the participant’s itinerary.

§ 380.34a Substitution of direct air carrier’s security or depository agreement.

(a) A direct air carrier may substitute its own security agreement and/or depository arrangements, as specified in this section, for those required of the charter operator under §380.34, but only for charter trips in which all the air transportation is provided by one direct air carrier. Charter operators are relieved from §380.34 to the extent that the direct carrier substitutes its own arrangements.

(b) The direct air carrier may substitute its security agreement for all of the arrangements required of the charter operator under §380.34 (a) or (b). Alternatively, it may substitute its depository agreement for the depository agreement required of the charter operator under §380.34(b)(2). If the direct carrier substitutes its depository agreement, it may also obtain and substitute a security agreement for the one otherwise required of the charter operator under §380.34(b)(1). If the direct carrier substitutes its depository agreement only, the charter operator must supply the security agreement required under §380.34(b)(1).

(c) If the direct carrier substitutes a security agreement for all the charter operator’s requirements under §380.34, the charter operator shall include in the charter prospectus, in place of the information in §380.28(a)(2) regarding the charter operator’s security agreement:

(1) A statement by the direct air carrier on OST Form 4535 that it will take responsibility for all charter participant payments (including those for
§ 380.35 Disbursements from depository account.

No charter operator or direct air carrier shall cause its agents or the depository bank to make disbursements or