

Rules and Regulations

Federal Register

Vol. 63, No. 32

Wednesday, February 18, 1998

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

FEDERAL HOUSING FINANCE BOARD

12 CFR Parts 910 and 912

[No. 98-03]

RIN 3069-AA54

Regulations Governing Book-Entry Federal Home Loan Bank Securities

AGENCY: Federal Housing Finance Board.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Board is adopting a final rule amending its regulations governing procedures for maintaining book-entry (uncertificated) Federal Home Loan Bank securities within the Federal Reserve Banks' system of accounts to eliminate the need to treat such securities as if they were certificated securities and to conform more closely to the manner in which book-entry securities are treated under the laws of the majority of states (as set forth in Article 8 of the Uniform Commercial Code, as revised in 1994).

DATES: This final rule is effective on March 20, 1998.

FOR FURTHER INFORMATION CONTACT: Eric M. Raudenbush, Attorney-Advisor, Office of General Counsel, 202/408-2932, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006.

SUPPLEMENTARY INFORMATION:

I. Background

On December 3, 1996, the Federal Housing Finance Board (Finance Board) published, and requested public comments on, an interim rule that amended part 912 of the Finance Board's regulations, which governs Federal Home Loan Bank (FHLBank) securities maintained in book-entry (uncertificated) form. 61 FR 64021 (Dec. 3, 1996). The interim final rule was intended to update part 912 to reflect new developments in commercial law

regarding ownership and other rights in uncertificated securities and, especially, to parallel the treatment of such securities under Article 8 of the Uniform Commercial Code (UCC), as amended in 1994.

Paragraphs (b) and (c) of section 11 of the Federal Home Loan Bank Act (Bank Act) authorize the Finance Board to issue, upon such terms and conditions as it may establish, consolidated Federal Home Loan Bank (FHLBank) debentures or bonds (collectively, "FHLBank securities"), which are the joint and several obligations of the twelve regional FHLBanks. See 12 U.S.C. 1431(b), (c). The Finance Board has set forth the terms and conditions regarding the issuance of FHLBank securities in part 910 of its regulations. 12 CFR part 910. Although, under the Bank Act, the Finance Board is designated as the "issuer" of FHLBank securities, it has delegated this issuance function, along with such other ministerial functions as the servicing of the FHLBank securities, to the Office of Finance (OF) (a joint office of the FHLBanks) pursuant to section 2B(b)(1) of the Bank Act, 12 U.S.C. 1422b(b)(1), part 941 of the Finance Board's regulations, 12 CFR part 941, and periodic resolutions of the Board of Directors of the Finance Board.

Since 1977, the OF has issued domestic FHLBank securities exclusively in "book-entry" form; that is, as uncertificated securities recorded as entries on the computerized system of accounts maintained by the Federal Reserve Banks (Reserve Banks). Under this arrangement, the Reserve Banks, acting as fiscal agents of the Finance Board, the FHLBanks and the OF: issue book-entry FHLBank securities; maintain related book-entry accounts; pay principal and interest due on book-entry FHLBank securities; and otherwise service such FHLBank securities.

Prior to the adoption of the interim final rule in 1996, the rights and obligations of the FHLBanks, the Reserve Banks, and other persons with respect to the issuance and servicing of book-entry FHLBank securities, and the operation of the associated FHLBank book-entry system, were governed by regulatory text that had been promulgated by the former Federal Home Loan Bank Board (FHLBB)—the Finance Board's predecessor as regulator of the FHLBanks in 1973. See

12 CFR 506a (1974); 38 FR 10969 (May 3, 1973) (proposed rule); 38 FR 26355 (Sept. 20, 1973) (final rule). These regulations, and those of other government sponsored enterprises (GSEs) having similar book-entry arrangements with the Reserve Banks, were patterned after former part 306 of the regulations of the Department of Treasury, 31 CFR part 306 (1996), which governed Reserve Bank book-entry procedures for Treasury securities.

By 1996, the legal concepts upon which former part 912 were based, like those underlying the analogous Department of Treasury regulations, had become outdated. In the early 1970s, when these regulations were developed, the United States government securities market was in a state of transition between one in which most securities existed in definitive form (that is, the traditional certificate) to one in which securities are maintained almost exclusively within computerized book-entry systems. Corresponding law (including state laws based on the UCC) at the time former part 912 was promulgated assumed that possession and delivery of physical certificates were the key elements in the securities holding system. This led the Department of Treasury, the FHLBB, and other GSE regulators to premise their regulations upon the "bearer-definitive security fiction," which deemed each book-entry security to be the equivalent of a bearer-definitive security. The shortcomings of the bearer-definitive security fiction became increasingly apparent over the years, as the rules based on this fiction were found to leave many unanswered questions regarding transactions and rights in book-entry securities.

In addition, the rules proved inadequate to deal with the tiered system of accounts in which book-entry securities are held. Each interest in a book-entry security must be credited to the account of a Reserve Bank "participant"—that is, an entity having an account with a Reserve Bank. Persons or entities, including securities broker-dealers, who wish to acquire an interest in book-entry securities, but who do not have an account with a Reserve Bank, must do so through a Reserve Bank participant. Non-participant broker-dealers who deal in book-entry securities through a participant may, in turn, hold these

securities for other persons or entities who otherwise lack access to the securities markets. Accordingly, a Reserve Bank most likely will have no information regarding the beneficial owners of interests in book-entry securities, but, instead, will consider the participants in whose Reserve Bank accounts the book-entry securities are held to be the "owners" of the interests therein.

In 1994, the American Law Institute and the National Conference of Commissioners on Uniform State Laws ratified a revised version of Article 8 of the UCC (Revised Article 8), which addresses investment securities. Thereafter, in 1996, the Department of Treasury amended its regulations governing the book-entry system for Treasury securities (called "Treasury/Reserve Automated Debt Entry System" or "TRADES") to incorporate many of the concepts regarding transactions and rights in book-entry securities set forth in Revised Article 8 and to defer to state law modeled after Revised Article 8 in many circumstances. See 61 FR 43626 (Aug. 23, 1996) (final rule); 61 FR 8420 (Mar. 4, 1996) (proposed rule). Shortly thereafter, in order to ensure uniformity in the treatment of book-entry government securities, the regulators of GSEs that maintain book-entry securities at Reserve Banks also promulgated new regulations to govern their respective book-entry systems. These regulations parallel the new TRADES regulation, with modifications appropriate to the particular GSE and government securities to which such regulations apply.

As part of this effort, the Finance Board adopted an interim final rule amending part 912 of its regulations, governing book-entry FHLBank securities, in December 1996. The Finance Board chose to act through an interim final rule so that new part 912 would become effective simultaneously with the new TRADES regulation on January 1, 1997, while also giving the agency an opportunity to solicit comments from the public and to give further consideration to some minor issues relating to various aspects of the rule.

II. Analysis of the Final Rule

The Finance Board received no comments on the interim final rule and, therefore, has made no changes thereto in response to public comment. However, pursuant to its own review, the Finance Board has incorporated some minor clarifications into the final rule without altering the substance of the regulation. In the final rule, § 910.3, which cross-references part 912, has

been modified to replace the commas surrounding the phrase "regarding book-entry procedure" with parentheses. This change has been made in order to make clear that all Department of Treasury regulations governing transactions in United States securities except those governing book-entry securities shall apply to FHLBank securities. As this section appeared in the interim final rule, it was possible to read the first sentence as providing that the Department of Treasury's regulations governing book-entry securities were to be incorporated into part 910.

In the final rule, the definition of "Entitlement Holder" and "Participant," which are set forth in § 912.1(c) and § 912.1(j) (designated as § 912.1(h) in the interim final rule), respectively, have been amended to include FHLBanks, which are permitted by statute both to hold FHLBank securities and to maintain accounts with a reserve bank. See 12 U.S.C. 1431(h), 1435. In the interim final rule, these definitions encompassed only entities meeting the definition of a "Person," from which the FHLBanks are expressly excluded.

The majority of changes made have been incorporated in order to reflect more expressly in the regulation the rights and obligations of the Finance Board as statutory issuer of FHLBank securities and of the OF as agent for the Finance Board or the FHLBanks with respect to the securities. In this vein, § 912.1(d) has been amended to make clear that, under section 11 of the Bank Act, the Finance Board is considered to be the issuer of FHLBank securities. See 12 U.S.C. 1431. Section 912.1(e) has been amended to refer to the OF, instead of the FHLBanks, in order to make clear that, in issuing and maintaining FHLBank securities in its book-entry system, a Federal Reserve Bank acts as agent of the OF which, in turn, acts as agent for the Finance Board or the FHLBanks. In addition, definitions of "Finance Board" and "Office of Finance" have been added to § 912.1 to permit the use of these terms within the substantive portion of the regulation. The definition of "Office of Finance" set forth in § 912.1(i) makes clear that the OF acts as agent of the Finance Board when it issues book-entry FHLBank securities, but as agent of the FHLBanks when it performs any functions relating to the maintenance and servicing of these securities.

Given the complex nature of the statutorily-mandated system under which FHLBank securities are issued and serviced, the rights and obligations of the Finance Board, the FHLBanks and the OF may overlap, or may be at times

ambiguous, depending on the function at issue. Accordingly, all references to rights, obligations, or liabilities arising in connection with book-entry FHLBank securities which in the interim final rule referred only to the FHLBanks and the Reserve Banks have been amended in the final rule to refer to the FHLBanks, the Finance Board, the OF and the United States, in addition to the Reserve Banks. These changes affect § 912.1(l) (which was designated as § 912.1(j) in the interim final rule, defining the term "person" to exclude the foregoing entities), § 912.2(a) (specifying the law governing rights and obligations regarding book-entry FHLBank securities), § 912.5(a) (addressing obligations arising from the transfer of interests in book-entry FHLBank securities), and § 912.7 (addressing liabilities arising from transactions in book-entry FHLBank securities).

In addition, in order to more accurately reflect the fact that the Reserve Banks deal with the OF—and not directly with the FHLBanks or the Finance Board (for whom the OF acts as agent)—in matters concerning the book-entry system, references to dealings with the Reserve Banks have been amended to refer to the OF, instead of to the FHLBanks. This change affects § 912.2(a) (addressing procedures established to govern book-entry transactions) and § 912.6(a) (addressing the authority of the Reserve Banks as fiscal agents).

Finally, the Finance Board has amended the interim final rule by adding a new paragraph (a) to § 912.8 and designating the existing text as § 912.8(b). New § 912.8(a) has been added in order to conform to common practice among private parties and other GSEs by authorizing the OF to require an indemnity bond of a party if, in its judgment, or in the judgment of the Finance Board or FHLBanks, such action is necessary to protect the interests of any of these entities.

In summary, although the final rule is intended to provide a legal framework for all book-entry FHLBank securities, it is not a codification of all laws that could affect interests in book-entry FHLBank securities. In general, the regulation provides that (with some exceptions regarding security interests) Federal law will govern the rights and obligations of the FHLBanks, the Finance Board, the OF, the United States and the Reserve Banks arising from book-entry FHLBank securities and the book-entry system, and that state law (to the extent that states have adopted Revised Article 8) will govern all other rights and obligations. The regulation also sets forth the substantive

Federal law that applies to the rights and obligations of the FHLBanks, the Finance Board, the OF, the United States and the Reserve Banks arising from book-entry FHLBank securities and the book-entry system. The most prominent aspect of the substantive law set forth therein is that none of the aforementioned entities is liable to persons having or claiming interests in book-entry securities that are below the participant level in the tiered system of ownership; that is, the FHLBanks, the Finance Board, the OF, the United States and the Reserve Banks need only recognize Reserve Bank participants as holders of interests in book-entry FHLBank securities.

III. Procedural Requirements

This final rule does not meet the criteria for a "significant regulatory action" under Executive Order 12866.

Because the Finance Board adopted the changes to § 910.3 and part 912 in the form of an interim final rule and not as a proposed rule, the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, do not apply.

There are no collections of information contained in this final rule. Therefore, the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, *et seq.*, does not apply.

List of Subjects

12 CFR Part 910

Federal home loan banks, Government securities.

12 CFR Part 912

Federal home loan banks, Federal Reserve System, Government securities, electronic funds transfer.

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

PART 910—CONSOLIDATED BONDS AND DEBENTURES

1. The authority citation for part 910 continues to read as follows:

Authority: 12 U.S.C. 1422b, 1431.

2. Section 910.3 is revised to read as follows:

§ 910.3 Transactions in consolidated bonds.

The general regulations of the Department of Treasury now or hereafter in force governing transactions in United States securities, except 31 CFR part 357 (regarding book-entry procedure), are hereby incorporated into this part, so far as applicable and as necessarily modified to relate to

consolidated Federal Home Loan Bank bonds, as the regulations of the Board for similar transactions in consolidated Federal Home Loan Bank bonds. The book-entry procedure for consolidated Federal Home Loan Bank bonds is contained in part 912 of this subchapter.

3. Part 912 is revised to read as follows:

PART 912—BOOK-ENTRY PROCEDURE FOR FEDERAL HOME LOAN BANK SECURITIES

Sec.

912.1 Definitions.

912.2 Law governing rights and obligations of Federal Home Loan Banks, Finance Board, Office of Finance, United States and Federal Reserve Banks; rights of any Person against Federal Home Loan Banks, Finance Board, Office of Finance, United States and Federal Reserve Banks.

912.3 Law governing other interests.

912.4 Creation of Participant's Security Entitlement; security interests.

912.5 Obligations of Federal Home Loan Banks and the Office of Finance; no Adverse Claims.

912.6 Authority of Federal Reserve Banks.

912.7 Liability of Federal Home Loan Banks, Finance Board, Office of Finance and Federal Reserve Banks.

912.8 Additional requirements; notice of attachment for Book-entry Federal Home Loan Bank Securities.

912.9 Reference to certain Department of Treasury commentary and determinations.

912.10 Obligations of United States with respect to Federal Home Loan Bank Securities.

Authority: 12 U.S.C. 1422a, 1422b, 1431, 1435.

§ 912.1 Definitions.

For purposes of this part, unless the context otherwise requires or indicates:

(a) *Adverse Claim* means a claim that a claimant has a property interest in a Book-entry Federal Home Loan Bank Security and that it is a violation of the rights of the claimant for another Person to hold, transfer, or deal with the Security.

(b) *Book-entry Federal Home Loan Bank Security* means a Federal Home Loan Bank Security maintained in the book-entry system of the Federal Reserve Banks.

(c) *Entitlement Holder* means a Person or a Federal Home Loan Bank to whose account an interest in a Book-entry Federal Home Loan Bank Security is credited on the records of a Securities Intermediary.

(d) *Federal Home Loan Bank Security* means a consolidated bond, debenture, note, or other obligation of the Federal Home Loan Bank issued by the Finance Board under authority of section 11 of

the Federal Home Loan Bank Act (12 U.S.C. 1431).

(e) *Federal Reserve Bank* means a Federal Reserve Bank or branch, acting as fiscal agent for the Office of Finance, unless otherwise indicated.

(f) *Federal Reserve Bank Operating Circular* means the publication issued by each Federal Reserve Bank that sets forth the terms and conditions under which the Federal Reserve Bank maintains Book-entry Securities accounts and transfers Book-entry Securities.

(g) *Finance Board* means the Federal Housing Finance Board.

(h) *Funds account* means a reserve and/or clearing account at a Federal Reserve Bank to which debits or credits are posted for transfers against payment, Book-entry Securities transaction fees, or principal and interest payments.

(i) *Office of Finance* means the Office of Finance established under part 941 of this chapter, acting as agent of the Finance Board in all matters relating to the issuance of Book-entry Federal Home Loan Bank Securities, or as agent of the Federal Home Loan Banks in the performance of all other necessary and proper functions relating to Book-entry Federal Home Loan Bank Securities, including the payment of principal and interest due thereon.

(j) *Participant* means a Person or a Federal Home Loan Bank that maintains a Participant's Securities Account with a Federal Reserve Bank.

(k) *Participant's Securities Account* means an account in the name of a Participant at a Federal Reserve Bank to which Book-entry Federal Home Loan Bank Securities held for a Participant are or may be credited.

(l) *Person* means and includes an individual, corporation, company, governmental entity, association, firm, partnership, trust, estate, representative, and any other similar organization, but does not mean or include a Federal Home Loan Bank, the Finance Board, the Office of Finance, the United States, or a Federal Reserve Bank.

(m) *Revised Article 8* means Uniform Commercial Code, Revised Article 8, Investment Securities (with Conforming and Miscellaneous Amendments to Articles 1, 3, 4, 5, 9, and 10) 1994 Official Text. Copies of this publication are available from the Executive Office of the American Law Institute, 4025 Chestnut Street, Philadelphia, PA 19104, and the National Conference of Commissioners on Uniform State Laws, 676 North St. Clair Street, Suite 1700, Chicago, IL 60611.

(n) *Securities Intermediary* means:

(1) A Person that is registered as a "clearing agency" under the federal

securities laws; a Federal Reserve Bank; any other person that provides clearance or settlement services with respect to a Book-entry Federal Home Loan Bank Security that would require it to register as a clearing agency under the federal securities laws but for an exclusion or exemption from the registration requirement, it its activities as a clearing corporation, including promulgation of rules, are subject to regulation by a federal or state governmental authority; or

(2) A Person (other than an individual, unless such individual is registered as a broker or dealer under the federal securities laws) including a bank or broker, that in the ordinary course of its business maintains securities accounts for others and is acting in that capacity.

(o) *Security Entitlement* means the rights and property interest of an Entitlement Holder with respect to a Book-entry Federal Home Loan Bank Security.

(p) *State* means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, or any other territory or possession of the United States.

(q) *Transfer Message* means an instruction of a Participant to a Federal Reserve Bank to effect a transfer of a Book-entry Federal Home Loan Bank Security, as set forth in Federal Reserve Bank Operating Circulars.

§ 912.2 Law governing rights and obligations of Federal Home Loan Banks, Finance Board, Office of Finance, United States and Federal Reserve Banks; rights of any Person against Federal Home Loan Banks, Finance Board, Office of Finance, United States and Federal Reserve Banks.

(a) Except as provided in paragraph (b) of this section, the rights and obligations of the Federal Home Loan Banks, the Finance Board, the Office of Finance, the United States and the Federal Reserve Banks with respect to: A Book-entry Federal Home Loan Bank Security or Security Entitlement and the operation of the Book-entry system, as it applies to Federal Home Loan Bank Securities; and the rights of any Person, including a Participant, against the Federal Home Loan Banks, the Finance Board, the Office of Finance, the United States and the Federal Reserve Banks with respect to: A Book-entry Federal Home Loan Bank Security or Security Entitlement and the operation of the Book-entry system, as it applies to Federal Home Loan Bank Securities; are governed solely by regulations of the Finance Board, including the regulations of this part 912, the applicable offering notice, applicable

procedures established by the Office of Finance, and Federal Reserve Bank Operating Circulars.

(b) A security interest in a Security Entitlement that is in favor of a Federal Reserve Bank from a Participant and that is not recorded on the books of a Federal Reserve Bank pursuant to § 912.4(c)(1), is governed by the law (not including the conflict-of-law rules) of the jurisdiction where the head office of the Federal Reserve Bank maintaining the Participant's Securities Account is located. A security interest in a Security Entitlement that is in favor of a Federal Reserve Bank from a Person that is not a Participant, and that is not recorded on the books of a Federal Reserve Bank pursuant to § 912.4(c)(1), is governed by the law determined in the manner specified in § 912.3.

(c) If the jurisdiction specified in the first sentence of paragraph (b) of this section is a State that has not adopted Revised Article 8, then the law specified in the first sentence of paragraph (b) of this section shall be the law of that State as though Revised Article 8 had been adopted by that State.

§ 912.3 Law governing other interests.

(a) To the extent not inconsistent with this part 912, the law (not including the conflict-of-law rules) of a Securities Intermediary's jurisdiction governs:

(1) The acquisition of a Security Entitlement from the Securities Intermediary;

(2) The rights and duties of the Securities Intermediary and Entitlement Holder arising out of a Security Entitlement;

(3) Whether the Securities Intermediary owes any duties to an adverse claimant to a Security Entitlement;

(4) Whether an Adverse Claim can be asserted against a Person who acquires a Security Entitlement from the Securities Intermediary or a Person who purchases a Security Entitlement or interest therein from an Entitlement Holder; and

(5) Except as otherwise provided in paragraph (c) of this section, the perfection, effect of perfection or non-perfection, and priority of a security interest in a Security Entitlement.

(b) The following rules determine a "Securities Intermediary's jurisdiction" for purposes of this section:

(1) If an agreement between the Securities Intermediary and its Entitlement Holder specifies that it is governed by the law of a particular jurisdiction, that jurisdiction is the Securities Intermediary's jurisdiction.

(2) If an agreement between the Securities Intermediary and its

Entitlement Holder does not specify the governing law as provided in paragraph (b)(1) of this section, but expressly specifies that the securities account is maintained at an office in a particular jurisdiction, that jurisdiction is the Securities Intermediary's jurisdiction.

(3) If an agreement between the Securities Intermediary and its Entitlement Holder does not specify a jurisdiction as provided in paragraph (b)(1) or (b)(2) of this section, the Securities Intermediary's jurisdiction is the jurisdiction in which is located the office identified in an account statement as the office serving the Entitlement Holder's account.

(4) If an agreement between the Securities Intermediary and its Entitlement Holder does not specify a jurisdiction as provided in paragraph (b)(1) or (b)(2) of this section and an account statement does not identify an office serving the Entitlement Holder's account as provided in paragraph (b)(3) of this section, the Securities Intermediary's jurisdiction is the jurisdiction in which is located the chief executive office of the Securities Intermediary.

(c) Notwithstanding the general rule in paragraph (a)(5) of this section, the law (but not the conflict-of-law rules) of the jurisdiction in which the Person creating a security interest is located governs whether and how the security interest may be perfected automatically or by filing a financing statement.

(d) If the jurisdiction specified in paragraph (b) of this section is a State that has not adopted Revised Article 8, then the law for the matters specified in paragraph (a) of this section shall be the law of that State as though Revised Article 8 had been adopted by that State. For purposes of the application of the matters specified in paragraph (a) of this section, the Federal Reserve Bank maintaining the Securities Account is a clearing corporation, and the Participant's interest in a Federal Home Loan Bank Book-entry Security is a Security Entitlement.

§ 912.4 Creation of Participant's Security Entitlement; security interests.

(a) A Participant's Security Entitlement is created when a Federal Reserve Bank indicates by book entry that a Book-entry Federal Home Loan Bank Security has been credited to a Participant's Securities Account.

(b) A security interest in a Security Entitlement of a Participant in favor of the United States to secure deposits of public money, including, without limitation, deposits to the Treasury tax and loan accounts, or other security interest in favor of the United States that

is required by Federal statute, regulation, or agreement, and that is marked on the books of a Federal Reserve Bank is thereby effected and perfected, and has priority over any other interest in the Securities. Where a security interest in favor of the United States in a Security Entitlement of a Participant is marked on the books of a Federal Reserve Bank, such Federal Reserve Bank may rely, and is protected in relying, exclusively on the order of an authorized representative of the United States directing the transfer of the Security. For purposes of this paragraph (b), an "authorized representative of the United States" is the official designated in the applicable regulations or agreement to which a Federal Reserve Bank is a party, governing the security interest.

(c)(1) The Federal Home Loan Banks, the Finance Board, the Office of Finance, the United States and the Federal Reserve Banks have no obligation to agree to act on behalf of any Person or to recognize the interest of any transferee of a security interest or other limited interest in a Security Entitlement in favor of any Person except to the extent of any specific requirement of Federal law or regulation or to the extent set forth in any specific agreement with the Federal Reserve Bank on whose books the interest of the Participant is recorded. To the extent required by such law or regulation or set forth in an agreement with a Federal Reserve Bank, or the Federal Reserve Bank Operating Circular, a security interest in a Security Entitlement that is in favor of a Federal Reserve Bank or a Person may be created and perfected by a Federal Reserve Bank marking its books to record the security interest. Except as provided in paragraph (b) of this section, a security interest in a Security Entitlement marked on the books of a Federal Reserve Bank shall have priority over any other interest in the Securities.

(2) In addition to the method provided in paragraph (c)(1) of this section, a security interest in a Security Entitlement, including a security interest in favor of a Federal Reserve Bank, may be perfected by any method by which a security interest may be perfected under applicable law as described in § 912.2(b) or § 912.3. The perfection, effect of perfection or non-perfection, and priority of a security interest are governed by that applicable law. A security interest in favor of a Federal Reserve Bank shall be treated as a security interest in favor of a clearing corporation in all respects under that law, including with respect to the effect of perfection and priority of the security

interest. A Federal Reserve Bank Operating Circular shall be treated as a rule adopted by a clearing corporation for such purposes.

§ 912.5 Obligations of the Federal Home Loan Banks and the Office of Finance; no Adverse Claims.

(a) Except in the case of a security interest in favor of the United States or a Federal Reserve Bank or otherwise as provided in § 912.4(c)(1), for the purposes of this part 912, the Federal Home Loan Banks, the Office of Finance and the Federal Reserve Banks shall treat the Participant to whose Securities Account an interest in a Book-entry Federal Home Loan Bank Security has been credited as the person exclusively entitled to issue a Transfer Message, to receive interest and other payments with respect thereof and otherwise to exercise all the rights and powers with respect to the Security, notwithstanding any information or notice to the contrary. Neither the Federal Home Loan Banks, the Finance Board, the Office of Finance, the United States, nor the Federal Reserve Banks are liable to a Person asserting or having an Adverse Claim to a Security Entitlement or to a Book-entry Federal Home Loan Bank Security in a Participant's Securities Account, including any such claim arising as a result of the transfer or disposition of a Book-entry Federal Home Loan Bank Security by a Federal Reserve Bank pursuant to a Transfer Message that the Federal Reserve Bank reasonably believes to be genuine.

(b) The obligation of the Federal Home Loan Banks and the Office of Finance to make payments of interest and principal with respect to Book-entry Federal Home Loan Bank Securities is discharged at the time payment in the appropriate amount is made as follows:

(1) Interest on Book-entry Federal Home Loan Bank Securities is either credited by a Federal Reserve Bank to a Funds Account maintained at the Federal Reserve Bank or otherwise paid as directed by the Participant.

(2) Book-entry Federal Home Loan Bank Securities are paid, either at maturity or upon redemption, in accordance with their terms by a Federal Reserve Bank withdrawing the securities from the Participant's Securities Account in which they are maintained and by either crediting the amount of the proceeds, including both principal and interest, where applicable, to a Funds Account at the Federal Reserve Bank or otherwise paying such principal and interest as directed by the Participant. No action by the Participant is required in connection with the payment of a Book-entry Federal Home

Loan Bank Security, unless otherwise expressly required.

§ 912.6 Authority of Federal Reserve Banks.

(a) Each Federal Reserve Bank is hereby authorized as fiscal agent of the Office of Finance: to perform functions with respect to the issuance of Book-entry Federal Home Loan Bank Securities, in accordance with the terms of the applicable offering notice and with procedures established by the Office of Finance; to service and maintain Book-entry Federal Home Loan Bank Securities in accounts established for such purposes; to make payments of principal, interest and redemption premium (if any), as directed by the Office of Finance; to effect transfer of Book-entry Federal Home Loan Bank Securities between Participants' Securities Accounts as directed by the Participants; and to perform such other duties as fiscal agent as may be requested by the Office of Finance.

(b) Each Federal Reserve Bank may issue Operating Circulars not inconsistent with this part 912, governing the details of its handling of Book-entry Federal Home Loan Bank Securities, Security Entitlements, and the operation of the Book-entry system under this part 912.

§ 912.7 Liability of Federal Home Loan Banks, Finance Board, Office of Finance and Federal Reserve Banks.

The Federal Home Loan Banks, the Finance Board, the Office of Finance and the Federal Reserve Banks may rely on the information provided in a tender, transaction request form, other transaction documentation, or Transfer Message, and are not required to verify the information. Neither the Federal Home Loan Banks, the Finance Board, the Office of Finance, the United States, nor the Federal Reserve Banks shall be liable for any action taken in accordance with the information set out in a tender, transaction request form, other transaction documentation, or Transfer Message, or evidence submitted in support thereof.

§ 912.8 Additional requirements; notice of attachment for Book-entry Federal Home Loan Bank Securities.

(a) *Additional requirements.* In any case or any class of cases arising under the regulations in this part 912, the Office of Finance may require such additional evidence and a bond of indemnity, with or without surety, as may in its judgment, or in the judgment of the Federal Home Loan Banks or the Finance Board, be necessary for the protection of the interests of the Federal

Home Loan Banks, the Finance Board, the Office of Finance or the United States.

(b) *Notice of attachment.* The interest of a debtor in a Security Entitlement may be reached by a creditor only by legal process upon the Securities Intermediary with whom the debtor's securities account is maintained, except where a Security Entitlement is maintained in the name of a secured party, in which case the debtor's interest may be reached by legal process upon the secured party. The regulations in this part 912 do not purport to establish whether a Federal Reserve Bank is required to honor an order or other notice of attachment in any particular case or class of cases.

§ 912.9 Reference to certain Department of Treasury commentary and determinations.

(a) The Department of Treasury TRADES Commentary (31 CFR part 357, appendix B) addressing the Department of Treasury regulations governing book-entry procedure for Treasury Securities is hereby referenced, so far as applicable and as necessarily modified to relate to Book-entry Federal Home Loan Bank Securities, as an interpretive aid to this part 912.

(b) Determinations of the Department of Treasury regarding whether a State shall be considered to have adopted Revised Article 8 for purposes of 31 CFR part 357, as published in the **Federal Register** or otherwise, shall also apply to this part 912.

§ 912.10 Obligations of United States with respect to Federal Home Loan Bank Securities.

Federal Home Loan Bank Securities are not obligations of the United States and are not guaranteed by the United States.

By the Board of Directors of the Federal Housing Finance Board

Dated: January 21, 1998.

Bruce A. Morrison,

Chairman.

[FR Doc. 98-4070 Filed 2-17-98; 8:45 am]

BILLING CODE 6725-01-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97-NM-177-AD; Amendment 39-10343; AD 98-04-31]

RIN 2120-AA64

Airworthiness Directives; Fairchild Model F27 and FH227 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Fairchild Model F27 and FH227 series airplanes, that requires revising the Airplane Flight Manual (AFM) to specify procedures that would prohibit flight in severe icing conditions (as determined by certain visual cues), limit or prohibit the use of various flight control devices while in severe icing conditions, and provide the flight crew with recognition cues for, and procedures for exiting from, severe icing conditions. This amendment is prompted by results of a review of the requirements for certification of the airplane in icing conditions, new information on the icing environment, and icing data provided currently to the flight crews. The actions specified by this AD are intended to minimize the potential hazards associated with operating the airplane in severe icing conditions by providing more clearly defined procedures and limitations associated with such conditions.

EFFECTIVE DATE: March 25, 1998.

ADDRESSES: Information pertaining to this rulemaking action may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, 3rd Floor, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: Ezra Sasson, Aerospace Engineer, Systems and Flight Test Branch, ANE-172, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, 3rd Floor, Valley Stream, New York 11581-1200; telephone (516) 256-7520; fax (516) 568-2716.

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 all Fairchild Model F27 and FH227 series airplanes was published in the **Federal Register** on

September 16, 1997 (62 FR 48574). That action proposed to require revising the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to specify procedures that would:

- Require flight crews to immediately request priority handling from Air Traffic Control to exit severe icing conditions (as determined by certain visual cues);
- Prohibit flight in severe icing conditions (as determined by certain visual cues);
- Prohibit use of the autopilot when ice is formed aft of the protected surfaces of the wing, or when an unusual lateral trim condition exists; and
- Require that all icing wing inspection lights be operative prior to flight into known or forecast icing conditions at night.

That action also proposed to require revising the Normal Procedures Section of the FAA-approved AFM to specify procedures that would:

- Limit the use of the flaps and prohibit the use of the autopilot when ice is observed forming aft of the protected surfaces of the wing, or if unusual lateral trim requirements or autopilot trim warnings are encountered; and
- Provide the flight crew with recognition cues for, and procedures for exiting from, severe icing conditions.

Since the Issuance of the Proposal

The FAA has received information verifying that propeller spinners on Fairchild Model F27 and FH227 series airplanes will not accumulate ice because the propeller spinners are heated. Consequently, the FAA has determined that it is unnecessary to include the propeller spinners as part of the visual cues specified in paragraph (a) of the proposal that addresses "accumulation of ice on the engine nacelles and propeller spinners farther aft than normally observed." Therefore, the FAA has removed reference to the propeller spinners as a visual cue from the final rule, and has retained reference to the "accumulation of ice on the engine nacelles" in the final rule.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the following comments received.

In addition to the proposed rule described previously, in September 1997, the FAA issued 24 other similar proposals that address the subject unsafe condition on various airplane models (see below for a listing of all 24