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## DEPARTMENT OF THE TREASURY

### Office of the Comptroller of the Currency

#### 12 CFR Part 28

[Docket No. 02-02]

RIN 1557-AC05

#### International Banking Activities: Capital Equivalency Deposits

**AGENCY:** Office of the Comptroller of the Currency (OCC), Treasury.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** The Comptroller of the Currency is amending its regulation regarding the capital equivalency deposits (CED) that foreign banks with Federal branches or agencies must establish and maintain pursuant to section 4(g) of the International Banking Act of 1978. This interim rule revises certain requirements regarding CED deposit arrangements to increase flexibility for and reduce burden on certain Federal branches and agencies, based on a supervisory assessment of the risks presented by the particular institution. The OCC is issuing this rule on an interim basis effective January 30, 2002.

**DATES:** *Effective Date:* This rule is effective on January 30, 2002.

*Comment Date:* Comments must be received by April 1, 2002.

**ADDRESSES:** Please direct comments to: Public Information Room, Office of the Comptroller of the Currency, 250 E Street, SW., Mailstop 1-5, Washington, DC, 20219, Attention: Docket No. 02-02. Comments are available for inspection and photocopying at that address. In addition, comments may be sent by facsimile transmission to number 202-874-4448, or by electronic mail to [regs.comments@occ.treas.gov](mailto:regs.comments@occ.treas.gov). Due to recent, temporary disruptions in the

OCC's mail service, commenters are encouraged to use e-mail delivery if possible.

**FOR FURTHER INFORMATION CONTACT:** Martha Clarke, Counsel, Legislative and Regulatory Activities Division, 202-874-5090; or Carlos Hernandez, International Advisor, International Banking and Finance Division, 202-874-4730.

**SUPPLEMENTARY INFORMATION:** This interim rule revises certain requirements regarding CED deposit arrangements to increase flexibility and reduce burden by permitting the OCC to impose deposit requirements based on the same supervision by risk approach that it uses in its supervision of national banks. The interim rule revises 12 CFR 28.15(d) to clarify that the OCC may vary the terms of CED Agreements (Agreement) based on the circumstances and supervisory risks present at a particular branch or agency. For example, an Agreement may permit a foreign bank to withdraw assets from its CED account, reducing the net value of the assets held in the account without OCC approval, as long as the withdrawal does not reduce the value below the minimum CED level required for that institution. Moreover, it may not be necessary in all cases for a foreign bank to pledge its CED assets to the OCC or for the depository bank to be a signatory to the Agreement unless required by the OCC. The OCC will make these determinations on a case by case basis, consistent with its supervisory assessment of the risks presented by the particular institution.

#### Comment Solicitation

The OCC requests comment on all aspects of this interim rule.

The OCC also requests comment on whether the interim rule is written clearly and is easy to understand. On June 1, 1998, the President issued a memorandum directing each agency in the Executive branch to write its rules in plain language. This directive applies to all new proposed and final rulemaking documents issued on or after January 1, 1999. In addition, Public Law 106-102 requires each Federal agency to use plain language in all proposed and final rules published after January 1, 2000. The OCC invites comments on how to make this rule clearer. For example, you may wish to discuss:

- (1) Whether we have organized the material to suit your needs;
- (2) Whether the requirements of the rule are clear; or
- (3) Whether there is something else we could do to make the rule easier to understand.

#### Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the OCC certifies that this proposal will not have a significant economic impact on a substantial number of small entities. The principal effect of the rule is to remove several requirements with respect to deposit arrangements for the CED and reduce burden on qualifying foreign banks with Federal branches and agencies.

#### Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, Public Law 104-4 (Unfunded Mandates Act) requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. The OCC has determined that the interim rule will not result in expenditures by State, local, or tribal governments or by the private sector of \$100 million or more. Accordingly, the OCC has not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

#### Executive Order 12866

The OCC has determined that this rule does not constitute a "significant regulatory action" for the purposes of Executive Order 12866.

#### Effective Date

The rule is effective immediately on an interim basis. Pursuant to 5 U.S.C. 553, agencies may issue a rule without public notice and comment when the agency, for good cause, finds that such notice and public comment are impracticable, unnecessary, or contrary

to the public interest. Section 553 also permits agencies to issue a rule without delaying its effectiveness if the agency finds good cause for the immediate effective date.

The OCC finds good cause to issue this rule without notice and public comment and without a delayed effective date. The change will enable the OCC to make determinations on a case by case basis, consistent with its supervisory assessment of the risks presented by a particular institution, as to whether a foreign bank should continue to be required to pledge its CED assets to the OCC or to obtain the OCC's approval to reduce the aggregate value of the CED assets by withdrawal. These requirements are costly and burdensome, and where they are not required for safety and soundness reasons, it is in the public interest to make this interim rule effective immediately so that qualifying foreign banks that do not pose safety or soundness issues may take advantage immediately of the cost savings and burden reduction benefits of the change. The OCC is seeking public comment on all aspects of this interim rule and will consider those comments when promulgating the final rule. The OCC will publish in the **Federal Register** a response to any significant adverse comments received, along with modifications to the rule, if any.

Subject to certain exceptions, 12 U.S.C. 4802(b)(1) provides that new regulations and amendments to regulations prescribed by a federal banking agency that impose additional reporting, disclosure, or other new requirements on an insured depository institution must take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form. The interim rule imposes no additional reporting, disclosure, or other new requirements on insured depository institutions. Instead it removes restrictions for qualifying foreign banks with Federal branches and agencies. For this reason, section 4802(b)(1) does not apply to this rulemaking.

#### Paperwork Reduction Act

The OCC may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The information collection requirements contained in 12 CFR Part 28 have been approved under OMB control number 1557-0102.

The information collection requirements contained in this rule are contained in section 28.15(d). Under

this section as amended, capital equivalency deposits may not be reduced in value below the minimum required for that branch or agency without prior OCC approval, and Federal branches and agencies are required to maintain records.

*Estimated number of respondents:* 35.

*Estimated number of responses:* 35.

*Estimated burden hours per response:* 1 hour.

*Estimated number of recordkeepers:* 35.

*Estimated number of recordkeeping burden hours:*

*Estimated total burden hours:*

The OCC has a continuing interest in the public's opinion regarding collections of information. Members of the public may submit comments regarding any aspects of the collections of information to Jessie Dunaway, OCC Clearance Officer, 250 E Street, SW., Mailstop 8-4, Washington, DC 20219. Due to the temporary delay in mail delivery, you may prefer to send your comments by electronic mail to: [jessie.dunaway@occ.treas.gov](mailto:jessie.dunaway@occ.treas.gov).

The OCC invites comments on:

(1) Whether the collections of information are necessary for the proper performance of the agency's functions, including whether the information has practical utility;

(2) The accuracy of the estimate of the burden;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected;

(4) Ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology;

(5) Estimates of capital or start-up costs and costs of operation, maintenance, and purchases of services to provide information.

#### List of Subjects in 12 CFR Part 28

Foreign banking, National banks, Reporting and recordkeeping requirements.

#### Authority and Issuance

For the reasons set forth in the preamble, the OCC amends part 28 of chapter I of title 12 of the Code of Federal Regulations as follows:

#### PART 28—INTERNATIONAL BANKING ACTIVITIES

1. The authority citation for part 28 is amended to read as follows:

**Authority:** 12 U.S.C. 1 *et seq.*, 24(Seventh), 93a, 161, 602, 1818, 3101 *et seq.*, and 3901 *et seq.*

2. In § 28.15, paragraphs (d)(1) and (d)(2) are revised to read as follows:

#### § 28.15 Capital equivalency deposits.

\* \* \* \* \*

(d) \* \* \* \*

(1) May not be reduced in value below the minimum required for that branch or agency without the prior approval of the OCC;

(2) Must be maintained pursuant to an agreement prescribed by the OCC that shall be a written agreement entered into with the OCC for purposes of section 8 of the Federal Deposit Insurance Act, 12 U.S.C. 1818; and

\* \* \* \* \*

Dated: January 18, 2002.

**John D. Hawke, Jr.,**

*Comptroller of the Currency.*

[FR Doc. 02-2171 Filed 1-29-02; 8:45 am]

**BILLING CODE 4810-33-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2001-NE-45-AD; Amendment 39-12595; AD 2002-01-04]

RIN 2120-AA64

#### Airworthiness Directives; General Electric Company CF6-80E1 Model Turbofan Engines

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) that is applicable to General Electric Company CF6-80E1 model turbofan engines. This action requires flex borescope inspections of high pressure turbine (HPT) stage two (S2) nozzle guide vanes (NGV) installed in CF6-80E1 model turbofan engines. This amendment is prompted by an uncontained engine failure attributed to HPT S2 NGV distress. The actions specified in this AD are intended to prevent blade failure from HPT S2 NGV distress, which could result in an uncontained engine failure.

**DATES:** Effective February 14, 2002. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of February 14, 2002.

Comments for inclusion in the Rules Docket must be received on or before April 1, 2002.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation