(preamble to proposed part 704 revisions). The definition of CDO, however, was overly broad, in that it inadvertently included particular investments that did not—when subject to the other credit risk and asset liability management limitations of part 704—present the risk of excessive losses. This final rule amends the CDO definition to ensure the following are not prohibited: Commercial mortgage backed securities; securities collateralized by Agency mortgage-backed securities (Agency MBS); and securities that are fully guaranteed as to principal and interest by the United States Government and its agencies and government sponsored enterprises.

Paragraph 704.6(b) Exemptions to § 704.6

Section 704.6 generally requires corporate investments meet certain single obligor concentration limits, sector concentration limits, and credit rating requirements. Paragraph 704.6(b) exempts certain investments, including investments generally issued by or guaranteed by the U.S. Government or its agencies or sponsored enterprises, from the requirements of § 704.6. As stated in the preamble to the recent corporate rule revisions, however, the Board did not intend for this exemption to apply to agency MBS in the context of sector limits. 75 FR 64786, 64806 (Oct. 20, 2010) (discussing paragraph 704.6(d)(1)(i)). As drafted, however, not only the sector limits apply to agency MBS, but the other requirements, including single obligor limits and credit rating requirements, inadvertently apply to agency MBS. This correction clarifies the list of exemptions in § 704.6(b) to make clear that Agency MBS are subject to the sector concentration limits in 704.6(d) but not the other requirements of § 704.6.

Appendix A, Model Form H

The rule as published included an incorrect date instruction on Model Form H in Appendix A. *Id.* at 64851. Model Form H included introductory text indicating that the form was for use before October 20, 2011. In fact, because Model Form H deals with perpetual contributed capital, the form should be used only on and after October 20, 2011. The correction replaces the phrase "before" with the phrase "on or after."

II. Interim Final Rule

NCUA issued an interim final rule with request for comment on November 24, 2010. As discussed in the preamble to the interim final rule, the Board issued the rule as an interim final rule because the changes were technical in nature and it was in the public interest to have these corrections become effective on the same date as the other revisions to the corporate rule. 75 FR 47173, 47174 (Oct. 20, 2010).

III. Summary of Comments

NCUA received two comments on the interim final rule, both from credit union trade associations. Neither commenter suggested changes to the rule text, but one of the commenters sought additional clarification regarding NCUA's treatment of commercial mortgage backed securities (CMBS) under the revised definition of CDO. The commenter requested that NCUA state its reasoning for the exclusion of CMBS from the definition of CDO and also state that if the structure of CMBS changes in a way that increases the corporates' risk of loss on these investments, NCUA will remove this exclusion.

This commenter appears to have misunderstood the effect of the change in the definition. The change operates to make CMBS a permissible investment for corporate credit unions—that is, securities collateralized by commercial mortgage *loans.* CDOs collateralized by mortgage *securities,* commercial or residential, remain prohibited under the definition of CDO. Investments in plain-vanilla CMBS, which are collateralized by loans, do not pose the same risk as investments in securities collateralized by other securities where an investor cannot as easily determine the quality of the underlying loans. Also, as the commenter correctly noted, corporate credit union investments in CMBS are subject to the sector concentration limits imposed under § 704.6(d). Finally, NCUA will continually monitor corporates' investments and make adjustments to the corporates' investment authorities where appropriate.

IV. Regulatory Procedures

Section D of the Supplementary Information to the November 2010 interim final rule sets forth the Board's analyses under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR part 1320 Appendix A.1), the Small Business Regulatory Enforcement Fairness Act (Pub. L. 104–121), Executive Order 13132, and the Treasury and General Government Appropriations Act (Pub. L. 105–277, 112 Stat. 2681 1998). *See* 75 FR 71527—71528. Because the final amendments are clarifications and do not alter the substance of the analyses and determinations accompanying that final rule, the Board continues to rely on those analyses and determinations for purposes of this rulemaking.

List of Subjects in 12 CFR Part 704

Credit unions, Corporate Credit Union, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on March 17, 2011.

Mary F. Rupp,

Secretary of the Board.

Accordingly, the interim final rule amending 12 CFR Part 704, which was published at 75 FR 71526 on November 24, 2010, is adopted as a final rule without change.

[FR Doc. 2011–6755 Filed 3–22–11; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. FAA–2011–0246; Amendment No. 91–321; SFAR No. 112]

RIN 2120–AJ93

Prohibition Against Certain Flights Within the Tripoli (HLLL) Flight Information Region (FIR)

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This action prohibits flight operations within the Tripoli (HLLL) Flight Information Region (FIR) by all U.S. air carriers; U.S. commercial operators; persons exercising the privileges of a U.S. airman certificate, except when such persons are operating a U.S.-registered aircraft for a foreign air carrier; and operators of U.S.-registered civil aircraft, except when such operators are foreign air carriers. The FAA finds this action necessary to prevent a potential hazard to persons and aircraft engaged in such flight operations.

DATES: This action is effective March 21, 2011.

FOR FURTHER INFORMATION CONTACT: For technical questions about this final rule, contact: David Catey, William Gonzalez, or Steven Laurenzo, Air Transportation Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. *Telephone:* 202–267–3732, 202–267–4080, and 202–267–8772, respectively. For legal questions contact: Lorna John, Office of the Chief Counsel, AGC–200, Federal

Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3921.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA is responsible for the safety of flight in the United States (U.S.) and for the safety of U.S. civil operators, U.S.-registered aircraft, and U.S.-certificated airmen throughout the world. Also, the FAA is responsible for issuing rules affecting the safety of air commerce and national security. The FAA's authority to issue rules for aviation safety is found in Title 49 of the United States Code. Subtitle I, section 106(g), describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. Section 40101(d)(1) provides that the Administrator shall consider in the public interest, among other matters, assigning, maintaining, and enhancing safety and security as the highest priorities in air commerce. Section 40105(b)(1)(A) requires the Administrator to exercise his authority consistently with the obligations of the United States Government under international agreements. Furthermore, the FAA has broad authority under section 44701(a)(5) to prescribe regulations governing the practices, methods, and procedures the Administrator finds necessary for safety in air commerce and national security.

I. Background

The FAA has safety and national security concerns regarding flight operations in the Tripoli FIR (HLLL). An armed conflict is ongoing in Libya and presents a potential hazard to civil aviation. The runways at Libya's international airports, including the main international airports serving Benghazi (HLLB) and Tripoli (HLLT) may be damaged or degraded. Air navigation services in the Tripoli (HLLL) FIR may also be unavailable or degraded. In addition, the proliferation of air defense weapons, including Man-Portable Air-Defense Systems (MANPADS), and the presence of military operations, including Libyan aerial bombardments and unplanned military flights entering and departing the Tripoli FIR (HLLL), pose a potential hazard to U.S. operators, U.S.-registered aircraft, and FAA-certificated airmen that might operate within the Tripoli FIR (HLLL).

On March 18, 2011, the UN Security Council adopted Resolution 1973. Paragraph 6 of that Resolution mandates a ban on all flights in the airspace of Libya, with certain exceptions detailed in Paragraph 7. Paragraph 7 also requires that any flights in Libya be coordinated with any mechanism established under Paragraph 8 of the Resolution.

Because the circumstances described herein warrant immediate action by the FAA, I find that notice and public comment under 5 U.S.C. 553(b)(3)(B) are impracticable and contrary to the public interest. Further, I find that good cause exists under 5 U.S.C. 553(d) for making this rule effective immediately upon issuance. I also find that this action is fully consistent with the obligations under 49 U.S.C. 40105 to ensure that I exercise my duties consistently with the obligations of the United States under international agreements.

Approval Based on Authorization Request of an Agency of the United States Government

If a department, agency, or instrumentality of the U.S. Government determines that it has a critical need to engage any person covered under SFAR No. 112, § 91.1603(a), including a U.S. air carrier or a U.S. commercial operator for a charter to transport civilian or military passengers or cargo, the U.S. Government department, agency, or instrumentality may request the FAA approve persons covered under SFAR No. 112, § 91.1603(a) to conduct such operations.

An approval request must be made in a letter signed by an appropriate senior official of the requesting department, agency, or instrumentality of the U.S. Government; the letter must be sent to the Associate Administrator for Aviation Safety (AVS–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. Electronic submissions are acceptable, and the requesting agency may request an electronic copy of the FAA's response. Electronic submissions to the FAA should be sent to *sfar112@faa.gov.* A single letter may request approval from the FAA for multiple persons covered under SFAR No. 112, § 91.1603(a), and/or for multiple flight operations. To the extent known, the letter must identify the person(s) expected to be covered under the SFAR on whose behalf the U.S. Government department, agency, or instrumentality is seeking FAA approval, and it must describe—

- The proposed operation(s), including the nature of the mission being supported;
- The service to be provided by the person(s) covered by the SFAR;
- To the extent known, the specific locations within the Tripoli (HLLL) FIR where the proposed operation(s) will be conducted;

The request for approval must also include a list of operators, including subcontractors, with whom the U.S. Government department, agency, or instrumentality requesting FAA approval has a current contract(s), grant(s), or cooperative agreement(s) for specific flight operations in the Tripoli (HLLL) FIR. Additional contracted operators may be identified to the FAA at any time after the FAA approval is issued. Updated lists should be sent to *sfar112@faa.gov.*

If an approval request includes classified information, you may contact Aviation Safety Inspectors David Catey, William Gonzalez, or Steven Laurenzo for instructions on submitting it to the FAA. Their contact information is listed in the **FOR FURTHER INFORMATION CONTACT** section of this final rule.

FAA approval of the operation under SFAR No. 112, § 91.1603(c), does not relieve persons subject to the SFAR of their responsibility to comply with all applicable FAA rules and regulations. Operators of civil aircraft will have to comply with the conditions of their certificate and Operations Specifications (OpSpecs). In addition, operators will have to comply with all rules and regulations of other U.S. Government departments or agencies that may apply to the operation, including, but not limited to, the Transportation Security Regulations issued by the Transportation Security Administration, Department of Homeland Security.

Approval Conditions

When the FAA approves the request, the FAA's Aviation Safety Organization (AVS) will send a letter to the requesting department, agency, or instrumentality confirming that the FAA's approval is subject to the following conditions:

(1) The approval will stipulate those procedures and conditions that limit, to the greatest degree possible, the risk to the operator while still allowing the operator to achieve its operational objectives.

(2) Any approval will specify that the operation is not eligible for coverage under a premium war risk insurance policy issued by the FAA under section 44302 of chapter 443 of title 49, United States Code.

(3) If the operator is already covered by a premium war risk insurance policy issued by the FAA,[1] the FAA will issue

[1] Coverage under FAA premium war risk insurance policies is suspended as a condition of the premium war risk policy at any time an

Continued

an endorsement to the operator's premium war risk insurance policy that specifically excludes coverage for any operations in the Tripoli (HLLL) FIR, including operations under a flight plan that contemplates landing in or taking off from Libyan territory. The endorsement to the premium war risk insurance policy will take effect before the approval's effective date. The operator must further establish that it has obtained substitute war risk coverage for operations in the Tripoli FIR. Additionally, before any approval takes effect, the operator must submit to the FAA a written release of the U.S. Government from all claims and liabilities, and its agreement to indemnify the U.S. Government with respect to any and all third-party claims and liabilities relating to any event arising from or related to the approved operations in the Tripoli (HLLL) FIR. This waiver of claims does not preclude an operator from raising a claim under an effective non-premium war risk insurance policy issued by the FAA.

(4) Other conditions as determined by the FAA.

The FAA will issue OpSpecs to the certificate holder authorizing these operations. The FAA may impose additional conditions on operators through Operations Specifications or letters of authorization. The FAA will notify requesting departments or agencies of FAA approval of civil operations under agreement with a U.S. government agency of any additional conditions beyond those contained in the approval letter.

Request for Exemptions

Any operations not conducted under the approval process discussed above must be conducted under an exemption to this SFAR. A request by any person covered under SFAR No. 112, § 91.1603(a) for an exemption must comply with 14 CFR part 11, and will require exceptional circumstances beyond those contemplated by the approval process set forth in this SFAR. Additionally, the endorsement of any premium war risk insurance policy and a waiver and indemnification agreement will also be required as a condition of any exemption issued under SFAR No. 112, § 91.1603(c). The FAA recognizes that there may be operations conducted by other States with the support of the U.S. government. These operations would not be permitted under the approval process; however, the FAA will process these exemption requests on an expedited basis and prior to any private exemption requests.

Regulatory Analysis

This rulemaking action is taken under an emergency situation within the meaning of Section 6(a)(3)(d) of Executive Order 12866, Regulatory Planning and Review. It also is considered an emergency regulation under Paragraph 11g of the Department of Transportation (DOT) Regulatory Policies and Procedures. In addition, it is a significant rule within the meaning of the Executive Order and DOT's policies and procedures. The FAA expects there will be some costs associated with this emergency rule, but is unable to quantify those costs at this time. However, the FAA also expects that few, if any, operators subject to this SFAR are actually operating in the Tripoli (HLLL) FIR given the current state of affairs. Accordingly, the costs of this SFAR would be minimal.

As the FAA Administrator I certify that this rule will not have a significant economic impact on a substantial number of small entities as defined in Regulatory Flexibility Act of 1980 (Pub. L. 96–354), as amended. Because the rule is being issued for aviation safety, it is not considered an unnecessary obstacle to international trade under the Trade Agreements Act of 1979 (Pub. L. 96–39) and does not create an unfunded mandate for any entity.

Availability of Rulemaking Documents

You can get an electronic copy of rulemaking documents using the Internet by—

1. Searching the Federal eRulemaking Portal (*http://www.regulations.gov*);

2. Visiting the FAA's Regulations and Policies Web page at *http://www.faa.gov/regulations_policies/* or

3. Accessing the Government Printing Office's Federal Digital System at: *http://www.gpo.gov/fdsys/.*

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the amendment or docket number of this rulemaking.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. If you are a small entity and you have a question regarding this document, you may contact your local FAA official, or the person listed under the **FOR FURTHER INFORMATION CONTACT** heading at the beginning of the preamble. You can find out more about SBREFA on the Internet at *http://www.faa.gov/regulations_policies/rulemaking/sbre_act/.*

List of Subjects in 14 CFR Part 91

Air traffic control, Aircraft, Airmen, Airports, Aviation safety, Freight, Libya.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends Chapter I of Title 14, Code of Federal Regulations, as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

■ 1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(g), 1155, 40103, 40113, 40120, 44101, 44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531; articles 12 and 29 of the Convention on International Civil Aviation (61 Stat. 1180).

■ 2. In part 91, add Subpart M, consisting of § 91.1603 to read as follows:

Subpart M—Special Federal Aviation Regulations

§ 91.1603 Special Federal Aviation Regulation No. 112—Prohibition Against Certain Flights Within the Tripoli (HLLL) Flight Information Region (FIR).

(a) *Applicability.* This section applies to the following persons:

(1) All U.S. air carriers and U.S. commercial operators;

(2) All persons exercising the privileges of an airman certificate issued by the FAA, except when such persons are operating a U.S.-registered aircraft for a foreign air carrier; and

(3) All operators of U.S.-registered civil aircraft, except operators of such aircraft that are foreign air carriers.

(b) *Flight prohibition.* Except as provided in paragraphs (c) and (d) of this section, no person described in paragraph (a) of this section may conduct flight operations within the Tripoli (HLLL) FIR.

(c) *Permitted operations.* This section does not prohibit persons described in paragraph (a) of this section from conducting flight operations within the Tripoli (HLLL) FIR under the following conditions:

(1) Flight operations are conducted under a contract, grant or cooperative agreement with another department,

operation is covered by non-premium war risk insurance through a contract with a department, agency, or instrumentality of the U.S. Government under 49 U.S.C. 44305.

agency, or instrumentality of the United States Government with the approval of the FAA, or by an exemption issued by the Administrator. The FAA will process requests for approval or exemption in a timely manner, with an order of preference first for those operations in support of U.S. government-sponsored activities, second for those operations in support of government-sponsored activities of another State with the support of a U.S. government agency, and third for all other operations.

(2) Flight operations are coordinated with any mechanism established by paragraph 8 of U.N. Security Council Resolution 1973 (2011).

(d) *Emergency situations.* In an emergency that requires immediate decision and action for the safety of the flight, the pilot in command of an aircraft may deviate from this section to the extent required by that emergency. Except for U.S. air carriers and commercial operators that are subject to the requirements of 14 CFR parts 119, 121, 125, or 135, each person who deviates from this section must, within 10 days of the deviation, excluding Saturdays, Sundays, and Federal holidays, submit to the nearest FAA Flight Standards District Office a complete report of the operations of the aircraft involved in the deviation, including a description of the deviation and the reasons for it.

(e) *Expiration.* This Special Federal Aviation Regulation will remain in effect for 3 years from the effective date. The FAA may amend, rescind, or extend this Special Federal Aviation Regulation as necessary.

Issued in Washington, DC on March 20, 2011.

J. Randolph Babbitt,

Administrator.

[FR Doc. 2011–6942 Filed 3–21–11; 4:15 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91 and 119

Moratorium on New Exemptions for Passenger Carrying Operations Conducted for Compensation and Hire in Other Than Standard Category Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Policy statement.

SUMMARY: This document announces a temporary moratorium on new requests, or changes to exemptions from certain sections of Title 14, Code of Federal Regulations (14 CFR) for the purpose of carrying passengers for compensation or hire on Living History Flight Experiences (LHFE). It explains the history of these exemptions and the reason for the temporary moratorium.

DATES: This moratorium becomes effective on March 23, 2011.

FOR FURTHER INFORMATION CONTACT: Raymond Stinchcomb, General Aviation and Commercial Division, General Aviation Operations Branch (AFS–830), Flight Standards Service, FAA, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8212.

SUPPLEMENTARY INFORMATION:

Background

In 1996, the FAA granted an exemption from various requirements of part 91 and part 119 to an aviation museum/foundation allowing the exemption holder to operate a large, crew-served, piston-powered, multiengine, World War II (WWII) bomber carrying passengers for the purpose of preserving U.S. military aviation history. In return for donations, the contributors would receive a local flight in the restored bomber. Without these contributions, the petitioner asserted that the cost of operating and maintaining the airplane would be prohibitive.

The FAA determined that these airplanes were operated under a limited and experimental category airworthiness certificate. Without type certification under Title 14 Code of Federal Regulations (14 CFR) § 21.27, they are not eligible for standard airworthiness certificates. The high cost of type certification under § 21.27 makes this avenue impractical for operators providing living history flights. Comparable airplanes manufactured under a standard airworthiness certificate did not exist. Thus, the FAA determined that an exemption was an appropriate way to preserve aviation history and keep the airplanes operational. In granting the exemption, the FAA found there was an overwhelming public interest in preserving U.S. aviation history, just as the preservation of historic buildings, historic landmarks, and historic neighborhoods have been determined to be in the public interest. While aviation history can be represented in static displays in museums, in the same way historic landmarks could be represented in a museum, the public has shown support for and a desire to have these historic aircraft maintained and operated to allow them to experience flight in these aircraft.

A 2004 policy explicitly limited the scope of LHFE exemptions to WWII or earlier vintage airplanes. The reasons enumerated in the statement addressed both public interest (*e.g.* the unique opportunity to experience flight in a B–17 or B–24 while such aircraft can still be safely maintained) and public safety (*i.e.* older and slower multiengine airplanes allow time for appropriate corrective measures in the event of an in-flight emergency and such crews must meet FAA qualifications and training requirements). The FAA stated that the agency did not believe it prudent to grant exemptions from the FAA regulations to operators of supersonic jets.

In response to numerous requests to expand the scope of the exemptions, the FAA requested comments on a proposed policy in 2006, and subsequently published a new policy on October 9, 2007 (72 FR 57196).

The 2007 policy statement agreed to consider any request for exemption for passenger-carrying flights in non-standard category aircraft, especially former military turbine-engine-powered aircraft, on a case-by-case basis. For petitioners intending to operate experimental exhibition, surplus foreign or domestic aircraft, and/or turbojet or turbine-powered aircraft, it stated that the FAA would closely examine the proposed operation with respect to safety of flight, passenger safety considerations, and safety of the non-participating public during the operational period and within the operational area before approving a LHFE exemption. Other criteria included passenger/crew egress, emergency egress systems such as ejection seats, documentation or statistical make and model operational history, historical significance of the particular aircraft, maintenance history, operational failure modes, and aging aircraft factors. The 2007 policy also observed that some of the aircraft in question are complex in nature, requiring special skills to operate safely, and that military equipment such as ejection seat systems can pose additional risk to aircraft occupants, ground personnel, and non-participating bystanders on the ground.

Also in the 2007 statement, the FAA cautioned that those requesting an exemption from a particular standard or set of standards must demonstrate that (1) there is an overriding public interest in providing a financial means for a non-profit organization to continue to preserve and operate these historic aircraft, and (2) adequate measures