

VI. Severity of Violations

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(b) * * *

(1) * * * A Severity Level I violation would be subject to a base civil penalty of up to 100% of the maximum base civil penalty of \$106,790.

(2) * * * A Severity Level II violation would be subject to a base civil penalty up to 50% of the maximum base civil penalty (\$53,395).

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IX. Enforcement Actions

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1. Notice of Violation

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(e) * * *

(1) DOE may assess civil penalties of up to \$106,790 per violation per day on contractors (and their subcontractors and suppliers) that are indemnified by the Price-Anderson Act, 42 U.S.C. 2210(d). See 10 CFR 851.5(a).

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PART 1013—PROGRAM FRAUD CIVIL REMEDIES AND PROCEDURES

■ 24. The authority citation for part 1013 continues to read as follows:

Authority: 31 U.S.C. 3801–3812; 28 U.S.C. 2461 note.

■ 25. Section 1013.3 is amended by revising paragraphs (a)(1)(iv) and (b)(1)(ii) to read as follows:

§ 1013.3 Basis for civil penalties and assessments.

(a) * * *

(1) * * *

(iv) Is for payment for the provision of property or services which the person has not provided as claimed, shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than \$12,537 for each such claim.

* * * * *

(b) * * *

(1) * * *

(ii) Contains or is accompanied by an express certification or affirmation of the truthfulness and accuracy of the contents of the statement, shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than \$12,537 for each such statement.

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PART 1017—IDENTIFICATION AND PROTECTION OF UNCLASSIFIED CONTROLLED NUCLEAR INFORMATION

■ 26. The authority citation for part 1017 continues to read as follows:

Authority: 42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; 42 U.S.C. 2168; 28 U.S.C. 2461 note.

■ 27. Section 1017.29 is amended by revising paragraph (c) to read as follows:

§ 1017.29 Civil penalty.

* * * * *

(c) *Amount of penalty.* The Director may propose imposition of a civil penalty for violation of a requirement of a regulation under paragraph (a) of this section or a compliance order issued under paragraph (b) of this section, not to exceed \$296,132 for each violation.

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PART 1050—FOREIGN GIFTS AND DECORATIONS

■ 28. The authority citation for part 1050 continues to read as follows:

Authority: The Constitution of the United States, Article I, Section 9; 5 U.S.C. 7342; 22 U.S.C. 2694; 42 U.S.C. 7254 and 7262; 28 U.S.C. 2461 note.

■ 29. Section 1050.303 is amended by revising the last sentence in paragraph (d) to read as follows:

§ 1050.303 Enforcement.

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(d) * * * The court in which such action is brought may assess a civil penalty against such employee in any amount not to exceed the retail value of the gift improperly solicited or received plus \$22,450.

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FEDERAL DEPOSIT INSURANCE CORPORATION**12 CFR Part 337**

RIN 3064–ZA30

Unsafe and Unsound Banking Practices: Brokered Deposits

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notification of additional designated business relationship that meets the primary purpose exception.

SUMMARY: The FDIC is identifying an additional business relationship, or “designated exception,” that meets the “primary purpose” exception to the deposit broker definition. The business relationship relates to specific, non-discretionary custodial services offered by third parties to depositors or depositors’ agents. Entities that meet the criteria detailed below will be permitted to rely upon the primary purpose

exception without submitting a notice or application.

DATES:

Effective date: January 10, 2022.

Applicability date: December 29, 2021.

FOR FURTHER INFORMATION CONTACT:

Division of Risk Management Supervision: Rae-Ann Miller, Associate Director, (202) 898–3898, rmiller@fdic.gov. Legal Division: Vivek V. Khare, Counsel, (202) 898–6847, vkhare@fdic.gov.

SUPPLEMENTARY INFORMATION:**I. Background**

On December 15, 2020, the FDIC adopted a final rule on brokered deposits and the interest rate restrictions that apply to less than well capitalized insured depository institutions (“IDIs”).¹ For brokered deposits, the final rule established a new framework for analyzing certain parts of the “deposit broker” definition, including a new interpretation for the “primary purpose” exception and the business relationships that meet the exception. The final rule took effect on April 1, 2021. Full compliance with the rule was extended to January 1, 2022.

II. Primary Purpose Exception

Section 29 of the FDI Act provides that the primary purpose exception applies to an “agent or nominee whose primary purpose is not the placement of funds with depository institutions.”² In the final rule, the FDIC provided that the primary purpose exception will apply when the primary purpose of the agent or nominee’s business relationship with its customers is not the placement of funds with depository institutions.³ In addition, the FDIC identified a number of business relationships (or “designated exceptions”) that meet the “primary purpose” exception. The final rule also provided that, as part of the enumerated list of designated exceptions, the FDIC would make publicly available any additional business arrangements not described in the rulemaking that the FDIC later determines meet the primary purpose exception (without requiring an application).⁴

III. Additional Designated Exception

As described below, the FDIC has identified the following additional business arrangement that meets the primary purpose exception and intends

¹ 86 FR 6742 (Jan. 22, 2021); 12 CFR 337.6.

² 12 U.S.C. 1831f.

³ 86 FR 6742, 6749 (Jan. 22, 2021).

⁴ *Id.* at 6755; 12 CFR 337.6(a)(5)(v)(I)(1)(xiv).

to make conforming changes to the Call Report instructions in coordination with the Federal Financial Institutions Examination Council.⁵

The agent or nominee is “engaged in the business of placing” customer funds at IDIs, in a custodial capacity, based upon instructions received from a depositor or depositor’s agent specific to each IDI and deposit account, and the agent or nominee neither plays any role in determining at which IDI(s) to place any customers’ funds, nor negotiates or set rates, terms, fees, or conditions, for the deposit account.

Over the past several months, in response to questions received, the FDIC has been considering the role that certain custodial agents play in various deposit placement arrangements. Specifically, in some deposit placement arrangements, a depositor, or a depositor’s agent, uses a custodial agent in placing depositor or customer funds at IDIs. Based on the “deposit broker” definition, these agents likely meet the “engaged in the business of placing” part of the definition because they receive third party funds and place those funds at more than one IDI.⁶

The FDIC recognizes, however, that in certain arrangements, the agent or nominee, in a custodial capacity, places deposits but has no discretion over where the deposits are placed and acts solely upon instructions given by the depositor or the depositor’s agent specific to each deposit account. Moreover, in these arrangements, when the agent or nominee, acting in a custodial capacity, places deposits based upon instructions received from a depositor or depositor’s agent, it does so without playing any role in determining at which banks the depositor’s funds are to be placed nor does the agent negotiate or set rates, terms, fees, or conditions for the deposit account.

As such, in these specific arrangements, it is the FDIC’s view that the agent or nominee’s primary purpose in placing deposits at IDIs is to provide non-discretionary custodial services on behalf of the depositor or depositor’s agent. Therefore, such entities will be deemed to meet the primary purpose exception. Accordingly, through this Notice, the FDIC is identifying this specific business relationship as a designated business relationship that meets the primary purpose exception. Entities that meet the criteria described in this Notice will be permitted to rely

⁵ The additional designated exception will be posted to the FDIC’s Banker Resource Center (Brokered Deposits web page), available at: <https://www.fdic.gov/resources/bankers/brokered-deposits/>, will be updated to reflect this additional designated business exception.

⁶ 12 CFR 337.6(a)(5)(i)(A).

upon the exception without the submission of an application or notice.

As noted above, a custodial agent that plays any role in determining at which IDI(s) to place any customers’ funds will not be eligible for the designated exception. As an example, a custodial agent that plays any role in creating, operating, or using an algorithm that is used to determine or recommend at which IDI(s) any customer funds are placed would be viewed as playing a role in determining at which banks the depositor’s funds are to be placed and thus not eligible for the designated exception.

Involvement of Additional Third Party Deposit Brokers

The FDIC notes that a depositor or depositor’s agent that meets the deposit broker definition and uses the services of a custodial agent that meets this designated exception to place deposits would result in such deposits being classified as brokered deposits. The involvement of the non-discretionary custodial agent does not change the classification of deposits placed by, or through the facilitation of, an entity that otherwise meets the deposit broker definition.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on December 29, 2021.

James P. Sheesley,

Assistant Executive Secretary.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2014–1075; Special Conditions No. 25–599A–SC]

Special Conditions: Dassault Aviation Model Falcon 6X Airplane; Hydrophobic Windshield Coatings in Lieu of Windshield Wipers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions, amendment.

SUMMARY: These amended special conditions are issued for the Dassault Model Falcon 6X airplane. This airplane will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport-category airplanes. This design feature is hydrophobic windshield coatings in

lieu of windshield wipers. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: This action is effective on Dassault on January 10, 2022.

FOR FURTHER INFORMATION CONTACT: Paul Pellicano, AIR–625, Performance and Environment Section, Technical Innovation Policy Branch, Policy and Innovation Division, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337; telephone and fax 404–474–5558, email Paul.Pellicano@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

On July 1, 2012, Dassault Aviation applied for a type certificate for their new Model Falcon 5X airplane. Special conditions were issued for that design on September 15, 2015 (80 FR 55226). However, Dassault has decided not to release an airplane under the model designation Falcon 5X, instead choosing to change that model designation to Falcon 6X.

In February of 2018, due to engine supplier issues, Dassault extended the type certificate application date for their Model Falcon 5X airplane under new Model Falcon 6X. This amendment to the original special conditions reflects the model-name change. This airplane is a twin-engine business jet with seating for 19 passengers and a maximum takeoff weight of 77,460 pounds. The Dassault Model Falcon 6X airplane design remains unchanged from the Model Falcon 5X in all material respects other than different engines.

Type Certification Basis

Under the provisions of Title 14, Code of Federal Regulations (14 CFR) 21.17, Dassault Aviation must show that the Model Falcon 6X airplane meets the applicable provisions of part 25, as amended by Amendments 25–1 through 25–146.

If the Administrator finds that the applicable airworthiness regulations (*i.e.*, 14 CFR part 25) do not contain adequate or appropriate safety standards for the Dassault Model Falcon 6X airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they