Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 346

RIN 3064–AB62

Foreign Banks

AGENCY: Federal Deposit Insurance Corporation (FDIC or Corporation).

ACTION: Notice of proposed rulemaking.

SUMMARY: Section 107 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (Riegle-Neal Act) amended section 6 of the International Banking Act of 1978 (IBA) to provide that the FDIC shall amend its regulation concerning domestic retail deposit activities by state-licensed branches of foreign banks. The proposal would amend the FDIC's regulations to restrict the amount and types of initial deposits of less than $100,000 which could be accepted by an uninsured state-licensed branch of a foreign bank. The proposal is intended to afford equal competitive opportunity to foreign and domestic banks.

DATES: Comments must be received by September 11, 1995.

ADDRESSES: Send comments to Jerry L. Langley, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429. Comments may be hand-delivered to room 400, 1776 F Street, N.W., Washington, D.C. 20429, on business days between 8:30 a.m. and 5:00 p.m. [FAX number: (202) 898–3838; Internet address: comments@fdic.gov]

FOR FURTHER INFORMATION CONTACT: Charles V. Collier, Assistant Director, Division of Supervision, (202) 898–6850; Jeffrey M. Kopchik, Counsel, Legal Division, (202) 898–3872, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C., 20429.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

No collection of information pursuant to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) is contained in the proposed rule. Consequently, no information was submitted to the Office of Management and Budget for review.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 *et seq.*), it is certified that the proposed rule will not have a significant impact on a substantial number of small entities.

Background

Section 107 of the Riegle-Neal Act (Pub. L. 103–328, 108 Stat. 2358) amended section 6 of the IBA (12 U.S.C. 3104) to provide that the FDIC shall amend its regulation concerning domestic retail deposit activity by state-licensed branches of foreign banks (state-licensed branches).[1] Section 6 of the IBA, 12 U.S.C. 3104, concerns the insurance of deposits maintained at domestic branches and subsidiaries of foreign banks. Generally, section 6 provides that United States branches of foreign banks may not accept domestic retail deposits unless the branch is insured by the FDIC. Section 6 goes on to state that, after December 19, 1991, foreign banks may not establish any *de novo* insured branches in the United States. Section 107 of the Riegle-Neal Act added a new subsection (a) to section 6 of the IBA. This new subsection provides that:

> In implementing this section, the Comptroller and the Federal Deposit Insurance Corporation shall each, by affording equal competitive opportunities to foreign and United States banking organizations in their United States operations, ensure that foreign banking organizations do not receive an unfair competitive advantage over United States banking organizations.

12 U.S.C. 3104(a).

In revising section 6 of the IBA, Congress made it clear that foreign banks operating in the United States should not have an unfair competitive advantage over domestically chartered banks. Thus, Congress directed the FDIC and the OCC to revise their respective regulations implementing IBA section 6 to ensure that foreign banks do not receive an unfair competitive advantage over United States banks by affording equal competitive opportunities to both.

The Current Regulatory Scheme

Section 346.4 of the FDIC's regulations (12 CFR 346.4) requires that any state-licensed branch which is engaged in ''domestic retail deposit activity'' shall be an insured branch. Section 346.6 provides that a state-licensed branch will not be deemed to be engaged in domestic retail deposit activity which requires the branch to be insured if initial deposits of less than $100,000 are derived solely from certain enumerated sources. The acceptance of initial deposits of $100,000 or more is not considered to be retail deposit activity and, thus, deposit insurance is not required for a state-licensed branch which accepts only these types of initial deposits.

Section 346.6 delineates five categories of depositors from which a state-licensed branch may accept initial deposits of less than $100,000 without triggering the insurance requirement. The five categories of depositors are:

(1) Any business entity, including any corporation, partnership, sole proprietorship, association or trust, which engages in commercial activity for profit;

(2) Any governmental unit, including the United States government, any state government, any foreign government and any political subdivision or agency of the foregoing;

(3) Any international organization which is comprised of two or more nations;

(4) Funds received in connection with any draft, check, or similar instrument issued by the branch for the transmission of funds; and

(5) Any depositor who is not a citizen of the United States and who is not a resident of the United States at the time of the initial deposit.

This section of the regulation also includes a general exception (commonly referred to as the ''*de minimis* exception'') which provides that an uninsured state-licensed branch may accept initial deposits of less than $100,000 from any depositor if the amount of such deposits does not exceed on an average daily basis five percent of the average of the branch's deposits for the last 30 days of the most recent calendar quarter.

[1] The Riegle-Neal Act requires the FDIC to consult with the Office of the Comptroller of the Currency (OCC) in the process of making these amendments in order to assure uniformity. The FDIC has worked in close consultation with the OCC in order to achieve substantive uniformity.

The Riegle-Neal Act

In directing the FDIC to amend its regulation to ensure that foreign banking organizations do not have an unfair competitive advantage over United States banking organizations, Congress directed the FDIC to ''consider whether to permit'' an uninsured state-licensed branch of a foreign bank to accept initial deposits of less than $100,000 from a smaller class of depositors than is currently delineated in § 346.6. This suggested smaller class is limited to:

(1) Individuals who are not citizens or residents of the United States at the time of the initial deposit;

(2) Individuals who:

(i) Are not citizens of the United States;

(ii) Are residents of the United States; and

(iii) Are employed by a foreign bank, foreign business, foreign government, or recognized international organization;

(3) Persons to whom the branch or foreign bank has extended credit or provided other nondeposit banking services;

(4) Foreign businesses and large United States businesses;

(5) Foreign governmental units and recognized international organizations; and

(6) Persons who are depositing funds in connection with the issuance of a financial instrument by the branch for the transmission of funds.

Moreover, section 107(b)(3) of the Riegle-Neal Act provides that any *de minimis* exception shall not exceed one percent of the average deposits at the branch, as opposed to the current five percent. The FDIC may establish a reasonable transition rule to facilitate any termination of deposit taking activities. See section 107(b)(5)(B) of the Riegle-Neal act.

If these new statutory criteria were adopted verbatim in the FDIC's proposed regulation, they would eliminate an uninsured state-licensed branch's current ability to accept initial deposits of less than $100,000 from any domestic business entity engaged in a commercial activity for profit regardless of size, *i.e.,* only foreign businesses and large United States businesses would be subject to the exception. A verbatim adoption of the new statutory criteria would also remove the current exception for domestic federal or state governmental units. However, uninsured state-licensed branches would still be able to accept initial deposits of less than $100,000 from foreign governmental units.

If Congress had intended the FDIC to adopt these suggested criteria verbatim, it could have so required. However, the statute explicitly provides that the FDIC ''shall consider whether to permit'' an uninsured state-licensed branch to accept initial deposits of less than $100,000 from the enumerated sources. By requiring only that the FDIC consider the statutory criteria, Congress explicitly recognized that the ultimate decision should be made by the FDIC, consistent with the statutory objective set forth in IBA section 6(a), in the exercise of its regulatory discretion and expertise.

Deposit Taking Activities of Uninsured Foreign Branches

The objective set forth by Congress in section 6(a) of the IBA is to afford equal competitive opportunities to foreign and United States banking organizations by ensuring that foreign banks do not receive an unfair competitive advantage. In order to accomplish this task, the FDIC reviewed data compiled by the staff of the Board of Governors of the Federal Reserve System concerning the deposit taking activities of uninsured U.S. branches and agencies of foreign banks. This information is significant in assessing the ability of uninsured branches and agencies to compete with United States banking organizations. As of year-end 1994, uninsured branches and agencies of foreign banks held $386 billion of total deposits. Of that total, approximately 78 percent were accepted from other banks or non-U.S. entities. Of the approximately 22 percent of total deposits accepted from U.S. entities, virtually all were accepted in initial amounts in excess of $100,000. Thus, this data indicates that as a group, uninsured U.S. branches of foreign banks do not compete with United States banking organizations for retail deposits. See also ''Banking in a Global Economy: Economic Benefits to the United States from the Activities of International Banks'', Institute of International Bankers, September, 1993, p. 27 (IIB Study). Generally, foreign banks have established operations in the United States in order to provide services to the international operations of their home country customers. *Id.* at 10.

In addition, the FDIC reviewed a 1994 study conducted by the OCC entitled ''Are Foreign Banks Out-Competing U.S. Banks in the U.S. Market?'' The study found that although the United States market share of subsidiaries, branches and agencies of foreign banks increased during the 1980's and early 1990's, foreign banks operating in the United States consistently performed less well than domestic banks in terms of profitability, efficiency and credit quality. Thus, the OCC study supports the conclusion that United States banking organizations are competing quite well with their foreign counterparts operating in the United States.

Section 107(b)(4) of the Riegle-Neal Act requires that the FDIC consider the importance of maintaining and improving the availability of credit to all sectors of the United States economy, including the international trade finance sector, in affording equal competitive opportunities to foreign and United States banking organizations. United States branches and agencies of foreign banks play a substantial role in financing the export of U.S. goods and services to their home countries. See IIB Study, p. 35 (citing 1993 Federal Reserve Bank of New York statistics). Thus, the FDIC must be careful not to disadvantage state-licensed branches in order not to constrict the exportation of U.S. produced goods and services.

The Proposal

The FDIC has given careful consideration to Congress' directive that foreign banking organizations not receive an unfair competitive advantage over United States banking organizations. The FDIC has also considered the importance of maintaining and improving the availability of credit to all sectors of the United States economy, including the international trade finance sector. To that end, the Corporation has examined in detail the available data and the suggested criteria contained in section 107(b) of the Riegle-Neal Act in comparison to the criteria currently delineated in § 346.6(a) of the FDIC's regulations. In general, the FDIC has concluded that uninsured state-licensed branches of foreign banks do not have an overall unfair competitive advantage over domestic banking organizations. Therefore, the proposal provides that uninsured state-licensed branches of foreign banks may accept initial deposits of less than $100,000 from the six categories of depositors specified in sections 107(b)(2) (A) through (F) of the Riegle-Neal Act. In addition, the proposal expands and adds certain exceptions which are discussed in the following paragraphs. These additional exceptions are consistent with Congress' concern that the FDIC not adversely affect international trade finance.

Section 346.6(a)(3) of the proposed regulation adopts the criterion suggested in section 107(b)(2)(C) of the Riegle-Neal Act that uninsured state-licensed branches should be able to accept initial deposits of less than $100,000 from persons to whom the branch or foreign bank has extended credit or provided

other nondeposit banking services. However, the proposal refines this exception somewhat by specifying that the extension of credit or provision of other nondeposit banking services had to have occurred during the past twelve months. The proposal expands the statutory language to include persons with whom the branch or foreign bank has entered into a written agreement to extend credit or provide other nondeposit banking services within the next twelve months. The Corporation is of the opinion that this addition may be a logical extension of the statutory criterion which would not provide foreign banking organizations with any unfair competitive advantage.

Section 346.6(a)(4) of the proposal adopts the exception contained in section 107(b)(2)(D) of the Riegle-Neal Act concerning foreign businesses and adds thereto ''persons from whom an Edge Corporation may accept deposits under § 211.4(e)(1) of Regulation K of the Board of Governors of the Federal Reserve System''. Generally, this would include foreign governments, their agencies and instrumentalities, foreign persons, organizations engaged in international business activities, other Edge corporations, foreign banks, other depository institutions, etc. Once again, the FDIC is of the opinion that the addition of this class of depositors is a natural outgrowth of section 107(b)(2)(D) of the Riegle-Neal Act and would not result in an unfair competitive advantage being given to foreign banking organizations.

Section 107(b)(2)(F) of the Riegle-Neal Act refers to ''persons who are depositing funds in connection with the issuance of a financial instrument by the branch for the transmission of funds''. This language is substantially similar to the exception contained in § 346.6(a)(4) of the existing regulation, except that the current regulation's reference to ''draft, check or similar instrument'' has been replaced by the use of the term ''financial instrument''. Section 346.6(a)(6) of the Proposal includes the exception for funds deposited in connection with the issuance of a financial instrument by the branch for the transmission of funds, but also includes an exception for funds deposited in connection with the transmission of such funds by any electronic means. The addition of this language in the proposal concerning funds deposited in connection with electronic transfers is intended to reflect the FDIC's established interpretation of § 346.6(a)(4) of the current regulation.

Section 107(b)(2) of the Riegle-Neal Act does not contain an exception for deposits from the federal or state governments. Currently, initial deposits of less than $100,000 may be accepted from any state or federal governmental unit. The FDIC has given this matter considerable thought and we are not aware of any evidence which would indicate that the ability to accept initial deposits of less than $100,000 from state or federal governmental units confers any unfair competitive advantage on an uninsured state-licensed branch in comparison to insured domestic banking organizations. The statistics indicate that uninsured foreign branches and agencies accept virtually no deposits from domestic government entities.[2] Thus, it appears to the FDIC that the inclusion of this exception would not provide foreign banking organizations with an unfair competitive advantage over United States banking organizations. The FDIC is proposing a retention of the existing exception for domestic governmental units. Proposed § 346.6(a)(5).

The proposal also amends § 346.6(b), ''Application for an Exemption''. This section has been revised to provide that any request by an uninsured state-licensed branch to be permitted to accept initial deposits of less than $100,000 from a depositor not included in proposed § 346.6(a) shall include information addressing how the acceptance of such deposits will maintain or improve the availability of credit to all sectors of the United States economy, including the international trade finance sector, and how it will not give the foreign bank an unfair competitive advantage over domestic banks. Proposed § 345.6(b)(3). The proposal also provides that the FDIC Board of Directors must consider these factors in making its determination. Proposed § 346.6(b)(1).

Commenters are encouraged to provide their views as to whether the exceptions incorporated into the proposed regulation are appropriate in light of the statutory objective set forth in section 6(a) of the IBA. The FDIC also encourages comment on whether additional exceptions should be added, including a discussion of how the proposed exception would satisfy the statutory objective set forth in IBA section 6(a).

[2] More specifically, the statistics indicate that uninsured branches and agencies receive only 2.3% of their total deposits from ''Other Deposits'', the category which would include domestic governmental units. It is fair to assume that domestic governmental units most likely comprise less than the entire 2.3%. The figures do not indicate what percentage of the 2.3% are initial deposits of less than $100,000, but once again it is reasonable to assume that it is less than the total.

Definitions

The proposal would expand § 346.1 to include definitions of the terms ''foreign business'', ''large United States business'', and ''person''. Proposed §§ 346.1 (s) through (u). In addition, the existing definitions of ''foreign bank'', ''initial deposit'' and ''affiliate'' contained in §§ 346.1 (a), (k) and (o) would be amended. Proposed §§ 346.1 (a), (k) and (o). The FDIC is of the opinion that the addition of these definitions would assist the industry in interpreting the regulation in a clear and consistent manner.

The proposal would define ''large United States business'' as any entity, including but not limited to a corporation, partnership, sole proprietorship, association, foundation or trust, which is organized under the laws of the United States or any state thereof and: (1) Whose securities are registered on a national securities exchange or quoted on the National Association of Securities Dealers Automated Quotation System; or (2) Has annual gross revenues in excess of $1,000,000 for the fiscal year immediately preceding the initial deposit. The FDIC believes that this definition would meet Congress' concern expressed in IBA section 6(a) without having a negative impact on the availability of credit to all sectors of the United States economy.

The proposed definition of ''foreign business'' would include businesses organized under the laws of a foreign country, their United States subsidiaries and businesses owned or controlled by foreign nationals. This definition would encompass the ''plain meaning'' definition of foreign business as well as accommodating businesses organized under United States law, but owned or controlled by foreign entities or foreign nationals. These businesses may prefer to do business with a branch of a foreign bank from their home country regardless of whether the branch is FDIC insured.

The FDIC requests comment on the proposed definitions. We also request comment on whether certain of the proposed definitions are unnecessary or whether others should be added.

De Minimis Exception and Transition Rule

Section 107(b)(5) of the Riegle-Neal Act permits the FDIC to establish ''reasonable transition rules to facilitate any termination of any deposit-taking activities that were permissible under regulations that were in effect before the date of [its enactment]''. The proposal would provide for a five year transition period, beginning on the effective date

of the final regulation. Proposed § 346.6(c). Under this transition proposal, uninsured state-licensed branches would have five years to reclassify initial deposits received prior to the effective date of the final regulation into one of the new exceptions contained in proposed §§ 346.6(a) (1) through (6) or the new one percent *de minimis* exception contained in proposed § 346.6(a)(7). In the case of a time deposit, the branch would have until the first maturity date to reclassify the deposit. In the event that the existing deposit does not qualify under any of the new exceptions and cannot be included in the new one percent *de minimis* category, the branch would be required to close the account and divest the deposit.

Initial deposits received on or after the effective date of the final regulation would be required to qualify under one of the new exceptions or may be accepted under the new one percent *de minimis* exception. The FDIC wishes to make it clear that the new one percent *de minimis* exception would apply prospectively and would overlap with the existing five percent *de minimis* exception during the five year transition period.

Other Issues

The FDIC is considering including several other exceptions which have not been included in the proposed regulation. Proposed § 346.6(a)(3) delineates the exception for persons to whom the branch or foreign bank has or has agreed to extend credit or provide other nondeposit banking services. The FDIC is considering expanding this exception to include affiliates of the depositor as well as any financial institution affiliate of the branch or foreign bank. The FDIC requests comment on whether this exception would be desirable and consistent with the Congressional objective set forth in IBA section 6(a). Detailed comments concerning the phrasing of such an exception, including the definition of the term ''financial institution affiliate'' are requested.

The FDIC is also considering adding a new exception that would permit a state-licensed uninsured branch to accept initial deposits of less than $100,000 from immediate family members of individuals that qualify for an exception pursuant to proposed §§ 346.6(a) (1) through (6). Once again, commenters are requested to address the effect of such an exception of the competitive opportunities between United States and foreign banking organizations as well as credit availability to all sectors of the United States economy.

List of Subjects in 12 CFR Part 346

Bank deposit insurance, Foreign banking, Reporting and recordkeeping requirements.

For the reasons set out in the Preamble, the FDIC Board of Directors hereby proposes to amend 12 CFR part 346 as follows:

PART 346—[AMENDED]

1. The authority citation for part 346 continues to read as follows:

Authority: 12 U.S.C. 1813, 1815, 1817, 1819, 1820, 3103, 3104, 3105, 3108.

2. Section 346.1 is amended by adding a sentence to the end of paragraph (a), revising the first sentence of paragraph (k), revising paragraph (o), and adding paragraphs (s) through (u) to read as follows:

§ 346.1 Definitions.

* * * * *

(a) * * * For purposes of § 346.6, the term foreign bank does not include any bank organized under the laws of any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands the deposits of which are insured by the Corporation pursuant to the Act.

* * * * *

(k) *Initial deposit* means the first deposit transaction between a depositor and the branch on or after [the effective date of the final regulation]. * * *

* * * * *

(o) *Affiliate* means any entity that controls, is controlled by, or is under common control with another entity. An entity shall be deemed to ''control'' another entity if the entity directly or indirectly owns, controls, or has the power to vote 25 percent or more of any class of voting securities of the other entity or controls in any manner the election of a majority of the directors or trustees of the other entity.

* * * * *

(s) *Foreign business* means any entity, including but not limited to a corporation, partnership, sole proprietorship, association, foundation or trust, which is organized under the laws of a country other than the United States or any United States entity which is owned or controlled by an entity which is organized under the laws of a country other than the United States or a foreign national.

(t) *Large United States business* means any entity including but not limited to a corporation, partnership, sole proprietorship, association, foundation or trust which is organized under the laws of the United States or any state thereof, and:

(1) Whose securities are registered on a national securities exchange or quoted on the National Association of Securities Dealers Automated Quotation System; or

(2) Has annual gross revenues in excess of $1,000,000, for the fiscal year immediately preceding the initial deposit.

(u) *Person* means an individual, bank, corporation, partnership, trust, association, foundation, joint venture, pool, syndicate, sole proprietorship, unincorporated organization, or any other form of entity.

3. Section 346.6 is revised to read as follows:

§ 346.6 Exemptions from the insurance requirement.

(a) *Deposit activities not requiring insurance.* A state branch will not be deemed to be engaged in a domestic retail deposit activity which requires the branch to be an insured branch under § 346.4 if initial deposits in an amount of less than $100,000 are derived solely from the following:

(1) Individuals who are not citizens or residents of the United States at the time of the initial deposit;

(2) Individuals who:

(i) Are not citizens of the United States;

(ii) Are residents of the United States; and

(iii) Are employed by a foreign bank, foreign business, foreign government, or recognized international organization;

(3) Persons to whom the branch or foreign bank has extended credit or provided other nondeposit banking services within the past twelve months or has entered into a written agreement to provide such services within the next twelve months;

(4) Foreign businesses, large United States businesses, and persons from whom an Edge Corporation may accept deposits under § 211.4(e)(1) of Regulation K of the Board of Governors of the Federal Reserve System, 12 CFR 211.4(e)(1);

(5) Any governmental unit, including the United States government, any state government, any foreign government and any political subdivision or agency of any of the foregoing, and recognized international organizations;

(6) Persons who are depositing funds in connection with the issuance of a financial instrument by the branch for the transmission of funds or the transmission of such funds by any electronic means; and

(7) Any other depositor but only if the amount of deposits under this paragraph

(a)(7) does not exceed on an average daily basis one percent of the average of the branch's deposits for the last 30 days of the most recent calendar quarter, excluding deposits in the branch of other offices, branches, agencies or wholly owned subsidiaries of the bank and the branch does not solicit deposits from the general public by advertising, display of signs, or similar activity designed to attract the attention of the general public. A foreign bank which has more than one state branch in the same state may aggregate deposits in such branches (excluding deposits of other branches, agencies or wholly owned subsidiaries of the bank) for the purpose of this paragraph (a)(7). The average shall be computed by using the sum of the close of business figures for the last 30 calendar days ending with and including the last day of the calendar quarter divided by 30. For days on which the branch is closed, balances from the last previous business day are to be used.

(b) *Application for an exemption.* (1) Whenever a foreign bank proposes to accept at a state branch initial deposits of less than $100,000 and such deposits are not otherwise excepted under paragraph (a) of this section, the foreign bank may apply to the FDIC for consent to operate the branch as a noninsured branch. The Board of Directors may exempt the branch from the insurance requirement if the branch is not engaged in domestic retail deposit activities requiring insurance protection. The Board of Directors will consider the size and nature of depositors and deposit accounts, the importance of maintaining and improving the availability of credit to all sectors of the United States economy, including the international trade finance sector of the United State economy, whether the exemption would give the foreign bank an unfair competitive advantage over United States banking organizations, and any other relevant factors in making this determination.

(2) Any request for an exemption under this paragraph (b) should be in writing and authorized by the board of directors of the foreign bank. The request should be filed with the Regional Director of the Division of Supervision for the region where the state branch is located.

(3) The request should detail the kinds of deposit activities in which the branch proposes to engage, the expected source of deposits, the manner in which deposits will be solicited, how this activity will maintain or improve the availability of credit to all sectors of the United States economy, including the international trade finance sector, that the activity will not give the foreign bank an unfair competitive advantage over United States banking organizations and any other relevant information.

(c) *Transition period.* An uninsured state branch may maintain a deposit lawfully accepted prior to [effective date of final regulation]:

(1) If the deposit qualifies pursuant to paragraph (a) or (b) of this section; or

(2) No later than until:

(i) Five years from [effective date of final regulation]; or

(ii) In the case of a time deposit, the first maturity date of the time deposit.

By order of the Board of Directors, dated at Washington, D.C., this 27th day of June, 1995.

Federal Deposit Insurance Corporation.

Jerry L. Langley,

Executive Secretary.

[FR Doc. 95–17140 Filed 7–12–95; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–52–AD]

Airworthiness Directives; Fokker Model F28 Mark 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Fokker Model F28 Mark 0100 series airplanes. This proposal would require a visual inspection to detect damage to the flexible fuel drain line of the auxiliary power unit (APU), and replacement of the drain line, if necessary. This proposal also would require installation of two additional clamps to secure the flexible fuel drain line to the fuel supply line of the APU. This proposal is prompted by reports of electrical arcing between the flexible fuel drain line and the APU starter motor. The actions specified by the proposed AD are intended to prevent such electrical arcing, which could result in a fire in the APU.

DATES: Comments must be received by August 21, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–52–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2141; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–NM–52–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–52–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.