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FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 346

RIN 3064–AB62

Foreign Banks

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

ACTION: Final rule.

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 final rule amends the FDIC's regulations to restrict the amount and types of initial deposits of less than $100,000 which can be accepted by an uninsured state-licensed branch of a foreign bank. The final rule is intended to afford equal competitive opportunities to foreign and domestic banks.

EFFECTIVE DATE: The final rule is effective on April 1, 1996.

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:

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.

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

[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.

(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.

As pointed out in the preamble to the proposed regulation, if Congress had intended the FDIC to adopt these suggested criteria verbatim, it could have so required. *See* 60 FR 36075. 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.

The Proposal

On July 13, 1995, the FDIC published for public comment a notice of proposed rulemaking seeking to implement section 107 of the Riegle-Neal Act. 60 FR 36074 (July 13, 1995).[2] The proposal provided that uninsured state-licensed branches of foreign banks would be permitted to 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 expanded and added certain exceptions, consistent with Congressional intent. The comment period closed on September 11, 1995. In response to the notice, the FDIC received a total of four comment letters, three from industry trade associations and one from an association representing state bank regulators. One commenter fully supported the FDIC's proposal with no suggested revisions. The remaining three commenters supported the proposal, but suggested certain revisions. Of the three commenters who suggested revisions, two urged the FDIC to expand the § 346.6 exceptions to permit uninsured state-licensed branches to accept more types of initial deposits of less than $100,000. Conversely, one commenter urged the FDIC to restrict one of the proposed exceptions in order to lessen the number of initial deposits of less than $100,000 that may be accepted by an uninsured branch. The commenters' specific suggestions and the FDIC's responses thereto are discussed in detail below.

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. The preamble to the proposed regulation set forth in great detail the information and data which the FDIC reviewed in considering this question. 60 FR 36075. The FDIC concluded that ''uninsured state-licensed branches of foreign banks do not have an overall unfair competitive advantage over domestic banking organizations.'' *Id.* All of the comment letters agreed with this conclusion.

The Comments and Final Rule

Two commenters suggested that the proposed § 346.6(a)(3) exception, the so-called ''nondeposit banking services exception'', be expanded to include affiliates of the person to whom the branch or foreign bank has extended credit or provided some other nondeposit banking service as well as persons who have received such services from an affiliate of the branch or foreign bank. The commenters urged this change by pointing out that, in today's complex business world, depositors often operate through affiliates. Similarly, foreign banks which operate uninsured branches in the United States often offer certain financial services through affiliates of the bank. The commenters urged the FDIC to recognize this characteristic of the contemporary business environment in the final regulation. Significantly, one commenter pointed out that since the definition of ''foreign bank'' in the IBA, 12 U.S.C. 3101(7), explicitly includes any affiliate of the foreign bank, § 346.6(a)(3) of the final regulation should include these affiliates as well.

The FDIC has carefully considered this comment and agrees that the § 346.6(a)(3) exception should be expanded to include persons who have received a loan or other nondeposit banking service from an affiliate of the branch or foreign bank. This revision recognizes that the IBA definition of ''foreign bank'' includes affiliates. However, this exception does not include a person who has dealt with any affiliate of a foreign bank in any capacity. In crafting this regulation, the FDIC is required to interpret and harmonize section 107 of the Riegle-Neal Act, the IBA and the Federal Deposit Insurance Act (FDI Act). Despite the fact that the IBA definition of ''foreign bank'' includes any subsidiary or affiliate, the § 346.1(a) definition of ''foreign bank'' includes only the bank itself. This difference recognizes that § 346 of the FDIC's rules regulates the deposit taking activities of foreign banks operating branches in the United States. It is not intended to regulate or somehow sanction the activities of affiliates or subsidiaries of the foreign bank which may desire to operate in this country. Section 107(b)(2)(C) of the Riegle-Neal Act is limited to ''persons to whom the branch or foreign bank *has extended credit or provided other nondeposit banking services.*'' [Emphasis added]. It does not cover persons who have dealt with any affiliate of the foreign bank in any capacity. The FDIC interprets this qualifying phrase to indicate Congress' intent that, despite the broad definition of ''foreign bank'' contained in the IBA, the only affiliates of a foreign bank which should be included in the § 346.6(a)(3) exception are those which are capable of extending credit or providing some other nondeposit banking service to a prospective depositor. For example, if a depositor desiring to make an initial deposit of less than $100,000 in an uninsured branch has leased a safe deposit box from an affiliate of the foreign bank within the past twelve months, that deposit would qualify under the § 346.6(a)(3) exception since the prospective depositor would be the recipient of a nondeposit banking service. Any state-licensed branch that is unsure whether a deposit of less than $100,000 could be accepted pursuant to the § 346.6(a)(3) exception should contact the FDIC for guidance.

With regard to affiliates of the depositor, the arguments are not as compelling. First, and most persuasively, the IBA does not define the term ''depositor'', ''customer'' or

[2] The OCC's notice of proposed rulemaking was published at 60 FR 34907 (July 5, 1995).

''person''. Thus, there is no indication that Congress intended to include affiliates of persons to whom the branch or foreign bank has extended credit or provided some other nondeposit banking service. Second, while depositors may operate through affiliates in a fashion similar to the foreign branch or bank, the inclusion of affiliates in this context may very well conflict with the section 107(b)(2)(D) exception which limits retail deposit taking to ''large United States businesses''. That is, the inclusion of affiliates of a depositor who has received some nondeposit banking service could very well include small subsidiaries of the depositor. Thus, the FDIC has decided not to expand this exception to include affiliates of the depositor.

It was also suggested that the proposed § 346.6(a)(3) nondeposit banking service exception be expanded to apply to situations where the affiliate has provided depository services to the customer or its affiliate. The FDIC is of the opinion that this further expansion of the exception is unwarranted. The key to section 107(b)(2)(C) of the Riegle-Neal Act is its limitation to ''nondeposit'' banking services. It would be inappropriate for the FDIC to disregard this limitation even while recognizing that, except for the mandatory change to the *de minimis* rule, Congress provided the Corporation with only suggested parameters for the types of deposits of less than $100,000 that uninsured state-licensed branches should be permitted to accept.

One commenter recommended that the FDIC modify the proposal to permit uninsured state-licensed branches to accept initial deposits of less than $100,000 from all businesses, including foundations and other entities which are not engaged in commercial activity for profit. Section 346.6(a)(1) of the current regulation exempts initial deposits of less than $100,000 from ''any business entity * * * engaged in commercial activity for profit''. It is the FDIC's understanding that, after the *de minimis* exception, this exception is the one most often utilized by state-licensed branches. The commenter argued that adopting this suggestion would make the regulation less burdensome and easier to administer, as well as promote international trade finance.

The FDIC remains unconvinced that the final regulation should permit uninsured branches to accept deposits of less than $100,000 from any business entity, including those not engaged in a commercial activity for profit, such as foundations. Section 107 of the Riegle-Neal Act expresses Congress' expectation that the overall scope of § 346.6 would be reduced. While the ultimate decision concerning what exceptions should be included in the final regulation is to be made by the FDIC in the exercise of its regulatory discretion and expertise, the FDIC cannot ignore Congressional intent.

In the alternative, the commenter who suggested an exception for all business deposits also suggested that the proposed § 346.6(a)(4) exception for large United States' businesses should be expanded by revising the definition of ''large United States business'' that appears in § 346.1(t) of the proposal. The commenter proposed that alternate criteria be added to the definition so that any business with total assets of more than $1 million or 50 or more employees would also be considered a ''large United States business''. However, the commenter did not include any support for its use of the $1 million of assets or 50 or more employees criteria. Another commenter expressed the opposite concern, that the FDIC's suggested $1 million in gross revenue figure should be increased to $25 million or possibly $100 million, in order to narrow the exception. In view of these contradictory suggestions and the absence of data supporting them, the FDIC has decided not to make any changes to the definition of ''large United States business'' as set forth in the proposed regulation.

One comment letter requested clarification of the application of the proposed transition rule which is set forth in § 346.6(c) of the proposed regulation. That commenter pointed out that, with regard to time deposits, the proposal could require state-licensed branches to reclassify or divest some time deposits very shortly after the effective date of the final regulation if the deposit matures during this period. This commenter suggested that the proposal be modified to give state-licensed branches a reasonable period of time to reclassify or divest time deposits that mature very shortly after the final regulation's effective date. The FDIC agrees with this suggestion and has amended § 346.6(c)(2) of the proposal to provide that state-licensed branches will have at least 90 days after the effective date of the final regulation to reclassify or divest such time deposits.

This comment letter also recommended that branches should be required to reclassify or divest only those deposits which were accepted under the five percent *de minimis* exception, as opposed to deposits accepted pursuant to any of the § 346.6(a) exceptions. The FDIC considered this option at great length, but in order to achieve the uniformity required by the statute, the agency is adhering to the transition rule as described in the proposal which requires the reclassification or divestiture of all deposit accounts which were originally accepted pursuant to any of the § 346.6(a) exceptions.

This same comment letter expressed some confusion concerning other aspects of how the FDIC will apply the transition rule. In an effort to avoid confusion, the FDIC would like to clarify that a deposit (including a time deposit) may be reclassified at any time during the transition period. If a time deposit matures prior to the end of the five year transition period, it must be reclassified or divested at that time. However, no time deposit need be reclassified or divested sooner than 90 days after the effective date of the final regulation.

In the preamble to the proposed regulation, 60 FR 36077, the FDIC noted that it was considering adding a new exception that would permit an uninsured state-licensed branch to accept initial deposits of less than $100,000 from immediate family members of individuals who qualify for any of the exceptions listed in proposed §§ 346.6(a) (1) through (6). The one commenter who mentioned this issue supported the idea of including such an additional exception in the final rule and stated that such an exception would not create any unfair competitive advantage for foreign banks. The FDIC has considered this issue at length and has concluded that such an exception would be overly broad and inconsistent with Congressional intent. However, the FDIC has decided to revise § 346.6(a)(3) of the proposal to include immediate family members of natural persons to whom the branch or foreign bank (including any affiliate thereof) 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.

With regard to § 346.6(b), ''Application for an exemption'', it was suggested that the FDIC should permit the request to be submitted by the bank's senior management rather than requiring authorization by the foreign bank's board of directors. The FDIC agrees that this change would make the regulation less burdensome. Moreover, in a somewhat different context, § 346.101(d) of the FDIC's regulations permits an application evidencing approval by senior management if a board resolution is not required by the foreign bank's organizational

documents. Thus, the FDIC has decided to amend § 346.6(b) in the same fashion.

One commenter requested confirmation of its interpretation of the preamble to the proposed rule that existing deposits which were not originally subject to the § 346.6 exceptions, because the initial deposit establishing the account was $100,000 or more, would not be subject to the revised regulation even if the first deposit in the account after the effective date of final regulation is less than $100,000. This interpretation is correct. The only deposits which must be reclassified or divested after this final rule becomes effective are those which were established with less than $100,000 pursuant to one of the exceptions set forth in current §§ 346.6(a) (1) through (6).

Calculation of the De Minimis

One commenter expressed some confusion concerning how the *de minimis* amount should be calculated and whether this amendment changes the calculation method currently being used under the existing regulation. This final amendment to § 346 is not intended to change how the *de minimis* amount is calculated. The *de minimis* amount is computed as a fraction, the numerator of which consists of the total amount of deposits which have been accepted pursuant to the *de minimis* exception. The FDIC wishes to make it clear that the numerator is comprised of the total amount of deposits accepted under the *de minimis* exception, not just the amount of the initial deposits of less than $100,000 which were accepted to open the accounts. The denominator of the fraction consists of the average amount of third party deposits maintained by the branch during the last thirty calendar days of the most recent calendar quarter. See 44 FR 40057, 40061 (July 9, 1979); FDIC Legal Division Staff Advisory Opinion (unpublished) dated December 16, 1985 from Katharine H. Haygood, Esq.

Effective Date

Section 302(b) of the Riegle Community Development and Regulatory Improvement Act of 1994 (Pub. L. 103–325, September 29, 1994) provides that new regulations and amendments to regulations prescribed by the federal banking agencies shall take effect on the first day of a calendar quarter which begins on or after the date on which the regulation is published in final form, unless the agency determines for good cause that the regulation should become effective at an earlier date or the regulation is required to become effective at some other date determined by law. The Administrative Procedure Act (5 U.S.C. 551 *et seq.*) provides that regulations shall become effective thirty days after their publication in the Federal Register. 5 U.S.C. 553. Thus, this amendment to Part 346 of its regulations shall become effective on April 1, 1996.

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 amends 12 CFR part 346 to read as follows:

PART 346—FOREIGN BANKS

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 paragraph (o), and adding paragraphs (s) through (v) 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 Federal Deposit Insurance Act.

* * * * *

(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.

(v) *Immediate family member of a natural person* means the spouse, father, mother, brother, sister, son or daughter of that natural person.

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 (including immediate family members of natural persons) to whom the branch or foreign bank (including any affiliate thereof) 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 should be in writing and authorized by the board of directors of the foreign bank. If a resolution is not required pursuant to the applicant's organizational documents, the request shall include evidence of approval by the bank's senior management. 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 retail deposit lawfully accepted pursuant to this section prior to April 1, 1996:

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

(2) If the deposit does not qualify pursuant to paragraph (a) or (b) of this section, no later than:

(i) In the case of a non-time deposit, five years from April 1, 1996; or

(ii) In the case of a time deposit, the first maturity date of the time deposit after April 1, 1996 or the date that is 90 days after April 1, 1996, whichever is later.

By order of the Board of Directors, dated at Washington, D.C., this 6th day of February, 1996.

Federal Deposit Insurance Corporation.

Jerry L. Langley,

Executive Secretary.

[FR Doc. 96–3274 Filed 2–13–96; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93–CE–21–AD; Amendment 39–9516; AD 94–07–10 R1]

Airworthiness Directives; Fairchild Aircraft SA226 and SA227 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment revises AD 94–07–10, which currently requires the following on Fairchild Aircraft SA226 and SA227 series airplanes: Repetitively inspecting (visually) the wing skin for cracks; dye penetrant inspecting the rib straps if the wing skin is found cracked; and, if any crack is found in the rib straps, repairing the rib straps and modifying the wing skin. That AD references an incorrect dye penetrant inspection when the wing skin is found cracked. This action maintains the requirements of AD 94–07–10, but incorporates reference to the correct dye penetrant inspection for when the wing skin is found cracked. The actions specified by this AD are intended to prevent failure of the wing skin at the top aft outboard corner of the battery box, which could result in structural damage to the wing.

DATES: Effective March 25, 1996.

The incorporation by reference of certain publications listed in the regulations was previously approved by the Director of the Federal Register as of May 27, 1994.

ADDRESSES: Service information that applies to this AD may be obtained from Fairchild Aircraft, P.O. Box 790490, San Antonio, Texas 78279–0490; telephone (210) 824–9421. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 93–CE–21–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Hung Viet Nguyen, Aerospace Engineer, FAA, Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone (817) 222–5155; facsimile (817) 222–5960.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to Fairchild Aircraft SA226 and SA227 series airplanes was published in the Federal Register on June 23, 1995 (60 FR 32628). The action proposed to revise AD 94–07–10 to retain the requirement of repetitively inspecting the wing skin for cracks, and would maintain the dye penetrant inspection requirement but require it in accordance with the correct portion of the ACCOMPLISHMENT INSTRUCTIONS section of the applicable service bulletin. This action also proposed to maintain the option of modifying the wing skin as terminating action for the repetitive inspections. Accomplishment of the proposed actions would be in accordance with one of the following, as applicable:

—Fairchild Service Bulletin (SB) 226–57–018, Issued: January 28, 1993, Revised: June 3, 1993 (pages 4 through 11 and 13 through 15), Revised: July 1, 1993 (page 12) and Revised: October 25, 1993 (pages 1 through 3);