

## PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (REGULATION Y)

1. The authority citation for Part 225 continues to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1831i, 1831p-1, 1843(c)(8), 1844(b), 1972(l), 3106, 3108, 3310, 3331-3351, 3907, and 3909.

2. In § 225.2, paragraph (q) is added to read as follows:

### § 225.2 Definitions.

\* \* \* \* \*

(q) *Well-capitalized*—(1) *Bank holding company*. In the case of a bank holding company, *well-capitalized* means that:

(i) On a consolidated basis, the bank holding company maintains a total risk-based capital ratio of 10.0 percent or greater, as defined in Appendix A of this part;

(ii) On a consolidated basis, the bank holding company maintains a Tier 1 risk-based capital ratio of 6.0 percent or greater, as defined in Appendix A of this part;

(iii) On a consolidated basis, the bank holding company maintains either:

(A) A Tier 1 leverage ratio of 4.0 percent or greater; or

(B) If the bank holding company has a composite 1 rating under the BOPEC (or comparable) rating system or has implemented the risk-based capital measure for market risk, a Tier 1 leverage ratio of 3.0 percent or greater; and

(iv) The bank holding company is not subject to any written agreement, order, capital directive, or prompt corrective action directive issued by the Board to meet and maintain a specific capital level for any capital measure.

(2) *Insured depository institution*. In the case of an insured depository institution, *well-capitalized* means that the institution maintains at least the capital levels required to be *well-capitalized* under the capital adequacy regulations or guidelines applicable to the institution that have been adopted by the appropriate federal banking agency for the institution under section 38 of the Federal Deposit Insurance Act.

By order of the Board of Governors of the Federal Reserve System, October 23, 1996.

William W. Wiles,

Secretary of the Board.

[FR Doc. 96-27691 Filed 10-31-96; 8:45 am]

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## 12 CFR Part 263

[Docket No. R-0938]

### Rules of Practice for Hearings

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Final rule.

**SUMMARY:** The Board of Governors of the Federal Reserve System (Board) is amending its Rules of Practice for Hearings to include a section listing increases in the maximum amounts of each civil money penalty (CMP) under its jurisdiction. The Board is required to enact such regulation by the Debt Collection Improvements Act of 1996 (Debt Collection Act), which requires agencies to adjust their statutorily based civil money penalties to account for inflation.

**EFFECTIVE DATE:** October 24, 1996.

#### FOR FURTHER INFORMATION CONTACT:

Alan E. Sorcher, Senior Attorney (202/452-3564), Legal Division, Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551. For users of Telecommunication Device for the Deaf (TDD) *only*, please contact Dorothea Thompson (202/452-3544).

**SUPPLEMENTARY INFORMATION:** The Debt Collection Act<sup>1</sup> amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (Inflation Adjustment Act), 28 U.S.C. 2461 *note*, to require each subject agency to enact regulations to adjust each civil money penalty provided by law within its jurisdiction for inflation in accordance with an inflation adjustment formula stated in section 5(b) of the Inflation Adjustment Act. Implementing regulations must be issued within 180 days of enactment of the Debt Collection Act, and at least once every four years thereafter.

The adjustment required is based on the percentage increase in the Consumer Price Index between June of the calendar year when the penalty amount was last set or adjusted and June of the calendar year preceding the adjustment. The statute also provides rules as to rounding off these adjustments, and limits the amount of the initial adjustment to no more than ten percent of the amount of the civil money penalty. The increases in penalty amounts apply only to violations which occur after the effective date of this rule.

#### Public Comment Not Required

This rule is not subject to the provisions of 5 U.S.C. 553 requiring

<sup>1</sup> Pub.L. 104-134, section 31001(s), 110 Stat. 1321-358 (Apr. 26, 1996), codified at 28 U.S.C. 2461 *note*.

notice, public participation, and deferred effective amendment. The Debt Collection Act provides Federal agencies with no discretion in the adjustment of CMPs to the rate of inflation, and it also requires the new regulation to take effect on October 23, 1996. Moreover, the regulation that the Board is adopting to implement the Debt Collection Act is ministerial, technical, and noncontroversial. For these reasons, the Board finds good cause to determine that public notice and comment for this new regulation is unnecessary, impractical, and contrary to the public interest, pursuant to the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(3)(B). These same reasons also provide the Board with good cause to adopt an effective date for this regulation that is less than 30 days after the date of publication in the Federal Register, pursuant to the APA, 5 U.S.C. 553(d).

#### Regulatory Flexibility Act:

No significant impact.

#### Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Ch. 3506; 5 CFR 1320 Appendix A.1), the Board reviewed the rule under the authority delegated to the Board by the Office of Management and Budget. No collections of information pursuant to the Paperwork Reduction Act are contained in the final rule.

#### List of Subjects in 12 CFR Part 263

Administrative practice and procedure, Claims, Crime, Equal Access to Justice, Federal Reserve System, Lawyers, Penalties.

For the reasons set forth in the preamble, the Board of Governors is amending 12 CFR Part 263 as follows:

## PART 263—RULES OF PRACTICE FOR HEARINGS

1. The authority citation for 12 CFR Part 263 is revised to read as follows:

Authority: 5 U.S.C. 504; 12 U.S.C. 248, 324, 504, 505, 1817(j), 1818, 1828(c), 1831o, 1831p-1, 1847(b), 1847(d), 1884(b), 1972(2)(F), 3105, 3107, 3108, 3907, 3909; 15 U.S.C. 21, 78o-4, 78o-5, 78u-2; and 28 U.S.C. 2461 *note*.

### Subpart C—Rules and Procedures for Assessment and Collection of Civil Money Penalties

2. A new § 263.65 is added to subpart C to read as follows:

#### § 263.65 Civil penalty inflation adjustments.

(a) *Inflation adjustments*. In accordance with the Federal Civil

Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note), the Board has set forth in paragraph (b) of this section adjusted maximum penalty amounts for each civil money penalty provided by law within its jurisdiction. The adjusted civil penalty amounts provided in paragraph (b) of this section replace only the amounts published in the statutes authorizing the assessment of penalties. The authorizing statutes contain the complete provisions under which the Board may seek a civil money penalty. The increased penalty amounts apply only to violations occurring after October 24, 1996.

(b) *Maximum civil money penalties.* The maximum civil money penalties as set forth in the referenced statutory sections are adjusted as follows:

- (1) 12 U.S.C. 324:
  - (i) Inadvertently late or misleading reports, *inter alia*—\$2,000.
  - (ii) Other late or misleading reports, *inter alia*—\$22,000.
  - (iii) Knowingly or recklessly false or misleading reports, *inter alia*—\$1,100,000.
- (2) 12 U.S.C. 504, 505, 1817(j)(16), 1818(i)(2) and 1972(F):
  - (i) First tier—\$5,500.
  - (ii) Second tier—\$27,500.
  - (iii) Third tier—\$1,100,000.
- (3) 12 U.S.C. 1832(c)—\$1,100.
- (4) 12 U.S.C. 1847(b)—\$27,500.
- (5) 12 U.S.C. 1847(d):
  - (i) First tier—\$2,000.
  - (ii) Second tier—\$22,000.
  - (iii) Third tier—\$1,100,000.
- (6) 12 U.S.C. 1884—\$110.
- (7) 12 U.S.C. 3909(d)—\$1,100.
- (8) 15 U.S.C. 78u-2:
  - (i) 15 U.S.C. 78u-2(b)(1)—\$5,500 for a natural person and \$55,000 for any other person.
  - (ii) 15 U.S.C. 78u-2(b)(2)—\$55,000 for a natural person and \$275,000 for any other person.
  - (iii) 15 U.S.C. 78u-2(b)(3)—\$110,000 for a natural person and \$550,000 for any other person.
- (9) 42 U.S.C. 4012a(f)(5):
  - (i) For each violation—\$350.
  - (ii) For the total amount of penalties assessed under 42 U.S.C. 4012a(f)(5) against an institution or enterprise during any calendar year—\$105,000.

By order of the Board of Governors of the Federal Reserve System, October 28, 1996.  
William W. Wiles,  
*Secretary of the Board.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 25

[Docket No. NM-128; Special Conditions No. 25-ANM-121]

#### Special Conditions: deHavilland DHC-8-400 Airplane; High-Intensity Radiated Fields

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final special conditions.

**SUMMARY:** These special conditions are issued to the de Havilland Aircraft Company of Canada for the de Havilland DHC-8-400 airplane. This airplane will utilize new avionics/electronic systems that provide critical data to the flightcrew. The applicable regulations do not contain adequate or appropriate safety standards for the protection of these systems from the effects of high-intensity radiated fields. 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.

**EFFECTIVE DATE:** December 2, 1996.

**FOR FURTHER INFORMATION CONTACT:** Tim Backman, FAA, Standardization Branch, ANM-113, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98055-4056, telephone (206) 227-2797 or facsimile (206) 227-1149.

#### SUPPLEMENTARY INFORMATION:

##### Background

On January 31, 1995, the de Havilland Aircraft Company of Canada, Garratt Boulevard, Downsview, Ontario M3K1Y5, applied for an amendment to their Type Certificate No. A13NM to include their new model Dash 8 Series 400 (DHC-8-400), Model 401/402 airplane, which is a derivative of the DHC-8-300. The DHC-8-400 is a high wing, T-tail, twin engine, turbopropeller powered regional transport. Each engine will be capable of delivering 4830 shaft horsepower. The flight controls are manual, except for the tandem rudder which will be hydraulically powered. The airplane has a seating capacity of up to 78, and a maximum takeoff weight of 62,500 pounds.

##### Type Certification Basis

Under the provisions of 14 CFR § 21.101, deHavilland must show that the DHC-8-400 meets the applicable provisions of the regulations

incorporated by reference in Type Certificate No. A13NM, or the applicable regulations in effect on the date of application for the change of the Model 300. The regulations incorporated by reference in the type certificate are commonly referred to as the "original type certification basis." The regulations incorporated by reference in Type Certificate No. A13NM include part 25, as amended by Amendments 25-1 through 25-51, and certain other later amended sections of part 25 that are not relevant to these special conditions. In addition, deHavilland has chosen to comply with the applicable regulations in effect on March 6, 1995; specifically part 25 as amended by Amendments 25-1 through 25-83. In addition to the applicable airworthiness regulations and special conditions, the DHC-8-400 must comply with the fuel vent and exhaust emission requirements of part 34, effective September 10, 1990, plus any amendments in effect at the time of certification; and the noise certification requirements of part 36, effective December 1, 1969, as amended by Amendment 36-1 through the amendment in effect at the time of certification. No exemptions are anticipated. These special conditions will form an additional part of the type certification basis.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25, as amended) do not contain adequate or appropriate safety standards for the DHC-8-400 because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16 to establish a level of safety equivalent to that established in the regulations.

Special conditions, as appropriate, are issued in accordance with § 11.49 of the FAR after public notice, as required by §§ 11.28 and 11.29(b), and become part of the type certification basis in accordance with § 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

##### Novel or Unusual Design Features

The DHC-8-400 airplane avionics enhancement will utilize electronic systems that perform critical functions,