(h) *Substantial loss* means:

(1) An obligation that is delinquent for ninety (90) or more days and on which there remains an outstanding balance of more than $50,000;

(2) An unpaid final judgment in excess of $50,000 regardless of whether it becomes forgiven in whole or in part in a bankruptcy proceeding;

(3) A deficiency balance following a foreclosure of collateral in excess of $50,000, regardless of whether it becomes forgiven in whole or in part in a bankruptcy proceeding;

(4) Any loss in excess of $50,000 evidenced by an IRS Form 1099–C (Information Reporting for Discharge of Indebtedness).

§ 340.3 What are the restrictions on the sale of assets by the FDIC if the buyer wants to finance the purchase with a loan from the FDIC?

A person may not borrow money or accept credit from the FDIC in connection with the purchase of any assets from the FDIC or any failed institution if:

(a) There has been a default with respect to one or more obligations totaling in excess of $1,000,000 owed by that person or its associated person; and

(b) The person or its associated person made any fraudulent misrepresentations in connection with any such obligation(s).

§ 340.4 What are the restrictions on the sale of assets by the FDIC regardless of the method of financing?

(a) A person may not acquire any assets from the FDIC or from any failed institution if the person or its associated person:

(1) Has participated, as an officer or director of a failed institution or of an affiliate of a failed institution, in a material way in one or more transaction(s) that caused a substantial loss to that failed institution;

(2) Has been removed from, or prohibited from participating in the affairs of, a failed institution pursuant to any final enforcement action by the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve System, the FDIC, or any of their successors;

(3) Has demonstrated a pattern or practice of defalcation regarding obligations to any failed institution; or

(4) Has been convicted of committing or conspiring to commit any offense under 18 U.S.C. 215, 656, 657, 1005, 1006, 1007, 1014, 1032, 1341, 1343 or 1344 affecting any failed institution and there has been a default with respect to one or more obligations owed by that person or its associated person.

(b) For purposes of paragraph (a) of this section, a person has participated ''in a material way in a transaction that caused a substantial loss to a failed institution'' if, in connection with a substantial loss to a failed institution, the person has been found in a final determination by a court or administrative tribunal, or is alleged in a judicial or administrative action brought by the FDIC or by any component of the government of the United States or of any state:

(1) To have violated any law, regulation, or order issued by a federal or state banking agency, or breached or defaulted on a written agreement with a federal or state banking agency, or breached a written agreement with a failed institution;

(2) To have engaged in an unsafe or unsound practice in conducting the affairs of a failed institution; or

(3) To have breached a fiduciary duty owed to a failed institution.

(c) For purposes of paragraph (a) of this section, a person or its associated person has demonstrated a ''pattern or practice of defalcation'' regarding obligations to a failed institution if the person or associated person has:

(1) Engaged in more than one transaction that created an obligation on the part of such person or its associated person with intent to cause a loss to any financial institution insured by the FDIC or with reckless disregard for whether such transactions would cause a loss to any such insured financial institution; and

(2) The transactions, in the aggregate, caused a substantial loss to one or more failed institution(s).

§ 340.5 Can the FDIC deny a loan to a buyer who is not disqualified from purchasing assets using seller-financing under this regulation?

The FDIC still has the right to make an independent determination, based upon all relevant facts of a person's financial condition and history, of that person's eligibility to receive any loan or extension of credit from the FDIC, even if the person is not in any way disqualified from purchasing assets from the FDIC under the restrictions set forth in this part.

§ 340.6 What is the effect of this part on transactions that were entered into before its effective date?

This part does not affect the enforceability of a contract of sale and/or agreement for seller financing in effect prior to July 1, 2000.

§ 340.7 When is a certification required, and who does not have to provide a certification?

(a) Before any person may purchase any asset from the FDIC that person must certify, under penalty of perjury, that none of the restrictions contained in this part applies to the purchase. The FDIC may establish the form of the certification and may change the form from time to time.

(b) Notwithstanding paragraph (a) of this section, a state or political subdivision of a state, a federal agency or instrumentality such as the Government National Mortgage Association, or a federally-regulated, government-sponsored enterprise such as Fannie Mae or Freddie Mac does not have to give a certification before it can purchase assets from the FDIC, unless the Director of the FDIC's Division of Resolutions and Receiverships, or his designee, in his discretion, requires a certification of any such entity.

§ 340.8 Does this part apply in the case of a workout, resolution, or settlement of obligations?

The restrictions of §§ 340.3 and 340.4 do not apply if the sale or transfer of an asset resolves or settles, or is part of the resolution or settlement of, one or more obligations, regardless of the amount of such obligations.

Dated at Washington, D.C. this 9th day of March, 2000.

By Order of the Board of Directors, Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 00–6823 Filed 3–17–00; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF THE TREASURY

Office of the Under Secretary for Domestic Finance

12 CFR Part 1501

RIN 1505–AA80

Financial Subsidiaries

AGENCY: The Department of the Treasury.

ACTION: Interim final rule with request for comments.

SUMMARY: The Department of the Treasury (Treasury) is issuing an interim final rule to implement the provisions of section 121 of the Gramm-Leach-Bliley Act (GLBA) that authorize the Secretary of the Treasury (Secretary), in consultation with the Board of Governors of the Federal

Reserve System (Board), to determine whether activities are financial in nature or incidental to a financial activity, and therefore permissible for a financial subsidiary of a national bank. The interim final rule sets forth the procedure whereby a national bank or other interested party may request the Secretary to make such a determination.

DATES: This interim final rule is effective March 14, 2000. Written comments must be submitted on or before May 15, 2000.

ADDRESSES: Please direct written comments to: New Financial Activities Request, Office of Financial Institutions Policy, 1500 Pennsylvania Avenue, NW, Room SC 37, Washington, DC 20220. Comments also may be mailed electronically to *financial.institutions@do.treas.gov* or delivered to the Treasury Department mail room between the hours of 8:45 a.m. and 5:15 p.m. at the 15th Street entrance to the Treasury Building. Members of the public may inspect comments in Room SC 37 of the Treasury Department.

FOR FURTHER INFORMATION CONTACT: Joan Affleck-Smith, Director, Office of Financial Institutions Policy (202/622–2740); Matthew Green, Senior Financial Analyst (202/622–2740), Gerry Hughes, Senior Financial Analyst (202/622–2740); Roberta K. McInerney, Assistant General Counsel (Banking and Finance) (202/622–0480); or Gary W. Sutton, Senior Banking Counsel (202/622–0480).

SUPPLEMENTARY INFORMATION:

Background

On November 12, 1999, the President signed the GLBA, Public Law 106–102, 113 Stat. 1338, which comprehensively restructures the statutory framework that governs the financial services industry to allow affiliations among banks, securities firms, insurance firms and other financial companies. Section 121 of the GLBA authorizes national banks to acquire control of, or hold an interest in, a new type of subsidiary called a ''financial subsidiary.'' The GLBA defines a financial subsidiary as a company that is controlled by one or more insured depository institutions, other than a subsidiary that engages solely in activities that national banks may engage in directly (under the same terms and conditions that govern the conduct of these activities by national banks) or a subsidiary that a national bank is specifically authorized to control by the express terms of a Federal statute. A financial subsidiary may engage in specified activities that are financial in nature and activities that are incidental to financial activities if the national bank and the subsidiary meet certain requirements and comply with stated safeguards.

Under section 121 of the GLBA, an activity is financial in nature or incidental to a financial activity if the activity has been defined to be financial in nature or incidental to a financial activity for bank holding companies pursuant to section 4(k)(4) of the Bank Holding Company Act of 1956. The activities already defined to be financial in nature that are authorized for a financial subsidiary are listed in 12 CFR 5.39(e) (65 FR 12905, March 10, 2000). (Certain of these activities are further delineated in 12 CFR 225.86 (See the Board's interim rule published in the **Federal Register** of March 17, 2000.).)

Under section 121 of the GLBA, the Secretary of the Treasury, in consultation with the Board, is also authorized to determine that additional activities are financial in nature or incidental to a financial activity in accordance with subparagraph (B) of section 121(b)(1). Subparagraph (B) sets forth the procedure that a national bank or other party must follow to request the Secretary to determine that an activity is financial in nature or incidental to a financial activity. This interim regulation further explains those procedures.

Interim Effectiveness of the Rule

This interim rule is effective on March 14, 2000. Section 553 of the Administrative Procedure Act permits agencies to issue a rule without public notice and comment when the agency, for good cause, finds (and incorporates the finding and a brief statement of reasons therefor in the rule issued) that notice and public comment are impracticable, unnecessary, or contrary to the public interest. 5 U.S.C. 553(b)(B). Section 553 also permits agencies to issue a rule without delaying its effectiveness for thirty days from publication if the agency finds good cause and publishes this finding with the rule. 5 U.S.C. 553(d)(3).

Treasury finds that there is good cause for issuing this interim rule without notice and public comment and without a delayed effective date for the following reason: section 121 of the GLBA, which permits national banks through financial subsidiaries to engage in activities that are financial in nature, becomes effective on March 11, 2000. Such activities include both the activities defined in section 4(k)(4) of the Bank Holding Company Act to be financial in nature (subject to certain exceptions), and those determined by the Secretary, in consultation with the Board, to be financial in nature or incidental to a financial activity. It is in the public interest to make this interim rule effective immediately, so that national banks and other interested parties will know how to request that the Secretary make such a determination. Treasury requests comments on all aspects of this interim rule and will consider those comments before the rule is finalized. However, publishing the rule in interim final form enables national banks and other interested parties to seek a determination as to whether an activity is financial in nature during this comment process.

Section-by-Section Analysis

The GBLA authorizes the Secretary to determine that activities are financial in nature or incidental to financial activities after consulting with the Board. Subsection (a) states that a national bank or any other interested party may request a determination that a new activity is financial in nature.

A request for a determination that an activity is financial in nature must identify and define the activity for which the determination is sought. The request must also include specific information about what the activity would involve and how it would be conducted, and explain in detail why the activity should be considered financial in nature or incidental to a financial activity. Importantly, the request must provide information that is sufficient to support a finding by the Secretary that the activity is financial. The requester also must provide any additional information required by the Secretary.

On receiving a request, the Secretary will provide the Board with a copy of the proposal and consult with the Board in accordance with section 5136A(b)(1)(B)(i) of the Revised Statutes. The Secretary also may request public comment on the proposal. The Secretary will endeavor to act on all requests within 60 days of completion of the consultative process and the close of the public comment period, if applicable.

Regulatory Flexibility Act Analysis

Because no notice of proposed rulemaking is required for this interim final rule, the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) does not apply.

Paperwork Reduction Act

This regulation is being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collection of

information contained in this regulation has been reviewed under the requirements of the Paperwork Reduction Act (44 U.S.C. 3507(j)) and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget (OMB) under control number 1505–0174. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

Comments concerning the collection of information should be directed to OMB, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC, 20503, with copies to Joan Affleck-Smith, Director, Office of Financial Institutions Policy, 1500 Pennsylvania Avenue NW, Room SC 37, Washington, DC 20220. Any such comments should be submitted not later than May 19, 2000. Comments are specifically requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Secretary, including whether the information will have practical utility; the accuracy of the estimated burden associated with the proposed collection of information (see below); how to enhance the quality, utility, and clarity of the information to be collected; how to minimize the burden of complying with the proposed collection of information, including the application of automated collection techniques or other forms of information technology; and estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

The collection of information in this regulation is in 12 CFR 1501.1. This information is required to request that the Secretary determine whether an activity is financial in nature or incidental to a financial activity. This information will be used to enable the Secretary to evaluate a request for such a determination. The collection of information is required to obtain a benefit. The likely respondents are national banks.

Estimated total annual reporting burden: 400 hours.

Estimated average annual burden hours per respondent: 20 hours.

Estimated number of respondents: 20.

Estimated annual frequency of responses: Once.

Executive Order 12866 Determination

The Department of the Treasury has determined that this rule does not constitute a ''significant regulatory action'' for the purposes of Executive Order 12866.

List of Subjects in 12 CFR Part 1501

Administrative practice and procedure, National banks, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set forth in the preamble, the Department of the Treasury adds a new part 1501 to chapter XV of title 12, to read as follows:

PART 1501—FINANCIAL SUBSIDIARIES

Sec.

Authority: Section 5136A of the Revised Statutes of the United States (12 U.S.C. 24a).

§ 1501.1 How do you request the Secretary to determine that an activity is financial in nature or incidental to a financial activity?

(a) *Requests regarding activities that may be financial in nature or incidental to a financial activity.* A national bank or other interested party may request the Secretary to determine that an activity not defined to be financial in nature or incidental to a financial activity in Section 4(k)(4) of the Bank Holding Company Act (12 U.S.C. 1843(k)(4)), is financial in nature or incidental to a financial activity.

(b) *What information must the request contain?* A request submitted under this section must be in writing and must:

(1) Identify and define the activity for which the determination is sought, specifically describing what the activity would involve and how the activity would be conducted;

(2) Explain in detail why the activity should be considered financial in nature or incidental to a financial activity; and

(3) Provide information supporting the requested determination and any other information required by the Secretary concerning the proposed activity.

(c) *What factors will the Secretary take into account in making his determination?* (1) Section 121 of the Gramm-Leach-Bliley Act (GLBA) (Public Law 106–102, 113 Stat. 1373) requires the Secretary to take into account the following factors in making his determination:

(i) The purposes of section 5136A of the Revised Statutes (12 U.S.C. 24a) and the GLBA;

(ii) Changes or reasonably expected changes in the marketplace in which banks compete;

(iii) Changes or reasonably expected changes in the technology for delivering financial services; and

(iv) Whether the activity is necessary or appropriate to allow a bank and the subsidiaries of a bank to—

(A) Compete effectively with any company seeking to provide financial services in the United States;

(B) Efficiently deliver information and services that are financial in nature through the use of technological means, including any application necessary to protect the security or efficacy of systems for the transmission of data or financial transactions; and

(C) Offer customers any available or emerging technological means for using financial services or for the document imaging of data.

(2) Because the Secretary is required to consider the factors in paragraph (c)(1) of this section in making his determination, any request should address the factors in paragraph (c)(1) of this section. The Secretary may also consider other relevant factors.

(d) *What action will the Secretary take after receiving a request?* (1) *Consultation with the Board of Governors of the Federal Reserve System (Board).* Upon receiving the request, the Secretary will send a copy to the Board and consult with the Board in accordance with section 5136A(b)(1)(B)(i) of the Revised Statutes (12 U.S.C. 5136A(b)(1)(B)(i)).

(2) *Public notice.* The Secretary may, as appropriate and after consultation with the Board, publish a description of the proposal in the **Federal Register** with a request for public comment.

(e) *How and when will the Secretary act on a request?* In the case of each request, the Secretary:

(1) Will inform the requester of the Secretary's final determination regarding the requested activity; and

(2) Will endeavor to inform the requester of the Secretary's final determination within 60 days of completion of both the consultative process described in paragraph (d)(1) of this section and the public comment period, if any.

(f) *What must a national bank do in order for a financial subsidiary to engage in activities that the Secretary has determined are financial in nature or incidental to financial activities?* Once the Secretary determines that an activity is financial in nature or incidental to a financial activity (either in accordance with this section or after evaluation of a proposal raised by the Board under section 5136A(b)(1)(B)(ii) of the Revised Statutes), a financial subsidiary may engage in the activity subject to the requirements of 12 CFR

part 5 and in accordance with any terms or conditions established by the Secretary in connection with authorizing the activity.

Dated: March 13, 2000.

Gregory A. Baer,

Assistant Secretary for Financial Institutions, Department of the Treasury.

[FR Doc. 00–6610 Filed 3–17–00; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–CE–44–AD; Amendment 39–11643; AD 2000–06–03]

RIN 2120–AA64

Airworthiness Directives; Bombardier Inc. Models DHC–6-1, DHC–6–100, DHC–6–200, and DHC–6–300 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This document adopts a new airworthiness directive (AD) that applies to all Bombardier Inc. (Bombardier) Models DHC–6–1, DHC–6–100, DHC–6–200, and DHC–6–300 airplanes that are equipped with pneumatic deicing boots. This AD requires revising the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots. This AD is the result of reports of in-flight incidents and an accident that occurred in icing conditions where the airframe pneumatic deicing boots were not activated. The actions specified by this AD are intended to assure that flightcrews activate the pneumatic wing and tail deicing boots at the first signs of ice accumulation. This action will prevent reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

EFFECTIVE DATE: May 5, 2000.

ADDRESSES: You may examine information related to this AD at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99-CE–44-AD, 901 Locust, Room 506, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. John P. Dow, Sr., Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 506, Kansas City, Missouri 64106; telephone: (816) 329–4121; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

What caused this AD?: This AD is the result of reports of in-flight incidents and an accident that occurred in icing conditions where the airframe pneumatic deicing boots were not activated.

What is the potential impact if the FAA took no action?: The information necessary to activate the pneumatic wing and tail deicing boots at the first signs of ice accumulation is critical for flight in icing conditions. If we did not take action to include this information, flight crews could experience reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

Has the FAA taken any action to this point?: Yes. We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all Bombardier Models DHC–6–1, DHC-6–100, DHC–6–200, and DHC–6–300 airplanes that are equipped with pneumatic deicing boots. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on October 12, 1999 (64 FR 55201). The NPRM proposed to require revising the Limitations Section of the AFM to include requirements for activating the pneumatic deicing boots at the first indication of ice accumulation on the airplane.

Was the public invited to comment?: Yes. Interested persons were afforded an opportunity to participate in the making of this amendment. The following paragraphs present the comments received on the NPRM. Also included is the FAA's response to each comment, including any changes incorporated into the final rule based on the comments.

Comment Issue No. 1: Coordinate With Original Equipment Manufacturer

What is the Commenter's Concern?: One commenter states that the FAA should coordinate with the original equipment manufacturer before issuing the AD.

What is the FAA's Response to the Concern?: We concur.

The FAA coordinates and will continue to coordinate with the manufacturer of any affected airplanes before issuing an AD.

Is it Necessary to Change the AD?: No.

Comment Issue No. 2: Provide the Criteria for Determining Acceptable Stall Warning Margins

What is the Commenter's Concern?: One commenter requests that the FAA provide the criteria for determining whether an airplane has an acceptable stall warning margin. The commenter references recent NPRM AD withdrawals in the FAA's Transport Airplane Directorate.

What is the FAA's Response to the Concern?: We cannot provide such information because no regulatory basis exists for determining or applying a mandatory stall margin with contamination. We can review manufacturer-provided data to determine what testing was conducted, and then determine the effects of ice accretion on the stall angle and the handling characteristics in the roll axis. This would include reviewing the service history of each airplane. With all of this information, we could determine whether the stall warning margin was acceptable and if the AD action could be withdrawn.

Such was the case with the NPRM withdrawals in the FAA's Transport Airplane Directorate. The airplanes affected were Cessna Models 500, 501, 550, 551, and 560 series airplanes, and British Aerospace Jetstream Model 4101 airplanes. You may find the specific justification for each of these withdrawals in the **Federal Register** through the following citations:

—For the Cessna airplanes: 64 FR 62995, November 18, 1999; and -For the Jetstream airplanes: 64 FR 62990, November 18, 1999.

No specific information was submitted for the Bombardier DHC–6 series airplanes.

Is it Necessary to Change the AD?: No.

Comment Issue No. 3: Review the Effects of Ice Bridging

What is the Commenter's Concerns?: A commenter states that the FAA did not reference in the NPRM any testing to assure that ice bridging does not exist on any of the affected airplanes. This commenter requests that the FAA carefully review the effects of ice bridging. Ice bridging, as referred to in the aviation community, occurs when the mechanical deicing boots do not clear airframe icing from the wing surface. This occurs because the ''ice bridge'' that forms over the inflated boots increases in ice thickness while the deicing boots ineffectively inflate and deflate under the ice bridge.

The commenter also requests explanation on the use of the term ''modern'' in a similar AD action that