

### Applicability of Section 106

Because section 106 prohibits a bank from offering or discounting a product or service on the condition that the customer obtain some additional product or service from the bank or from any of its affiliates, the question arose as to whether a private-label credit card arrangement violates that restriction when credit is extended only when a customer makes a purchase from a retailer affiliated with the issuing bank. Although the extension of credit through the private-label credit card is not conditioned on any particular product being purchased, or on purchases being made from any particular retailer, the lack of a network with other retailers limits the ability of the customer to access that credit other than by purchasing a product or service from the affiliated retailer. In the private-label credit card arrangement described in the Interpretation, there is no contractual limitation on where the card can be used to make purchases. The reason why the private-label credit card can only be used at the affiliated retailer is that the retailer is the only merchant able to communicate with the issuing bank regarding whether credit should be extended on the card.

### Exception

The Interpretation reflects the Board's belief that private-label credit cards issued by a bank affiliated with the relevant retailer do not generally involve the type of anticompetitive activity that section 106 was intended to address. Section 106 was intended to prevent banks from using their market power in banking products to gain an unfair competitive advantage in markets for non-banking products and services. The type of private-label credit card arrangements described in the Interpretation do not raise such concerns, however, because they do not involve a banking organization's attempt to expand into retailing, but rather a retailer's attempt to provide an additional convenience for its customers. Additionally, because the same products and services can be purchased from the retailer for the same price using payment methods other than the private-label credit card, customers wishing to purchase those products and services are not coerced into using the private-label credit card. The Interpretation also noted that such transactions are driven by the customer's desire to purchase the product or service, not by the availability or nonavailability of credit from the affiliated bank.

For these reasons, the Board is proposing to establish, through a regulatory exception, a safe harbor for private-label credit card arrangements where such cards may only be used to make purchases from a retailer affiliate of the issuing bank. The proposed safe harbor is consistent with the concerns of section 106 about anticompetitive behavior. The proposal requires that the products or services be available for purchase at the same price by means other than the private-label credit card, such as cash or credit cards issued by a third party. Furthermore, the issuing bank may not discount the credit it offers through the private-label credit card to customers who use the card to make purchases at the bank's retailer affiliate. Because a customer could purchase any product or service from the retailer for the same price, regardless of the payment method, the only incentive for the customer to use the private-label credit card is the convenience it offers as an alternative source of credit for use in making purchases from the retailer affiliate. For this reason, the Board does not believe that the proposed rule would allow coercive or anticompetitive practices, or otherwise contravene the purposes of section 106.

Finally, the Board believes that the proposed rule would benefit the public by providing consumers with alternative sources of consumer credit.

### Paperwork Reduction Act

No collections of information pursuant to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) are contained in the proposed rule.

### Regulatory Flexibility Act

This proposal is not expected to have a significant economic impact on a substantial number of small business entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). It is intended to allow affected businesses to expand the services they may offer to customers.

### List of Subjects in 12 CFR Part 225

Administrative practice and procedure, Banks, Banking, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities.

For the reasons set forth in the preamble, the Board amends 12 CFR Part 225 as follows:

### 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, 1828(o), 1831i, 1831p–1, 1843(c)(8), 1844(b), 1972(1), 3106, 3108, 3310, 3331–3351, 3907, and 3909.

2. In § 225.7, a new paragraph (b)(4) is added to read as follows:

#### § 225.7 Exceptions to tying restrictions.

(b) \* \* \*

(4) *Safe harbor for retailer-affiliated credit card banks.* Issue credit cards that may be used to purchase products or services from a retailer affiliated with the bank, if:

(i) The products or services may be purchased from the retailer affiliate using other payment methods, including credit cards issued by other banks;

(ii) The bank does not discount the credit it offers through the credit card to customers of its retailer affiliate; and

(iii) The retailer affiliate of the bank does not discount its products or services when purchased using credit cards issued by the bank.

\* \* \* \* \*

By order of the Board of Governors of the Federal Reserve System, February 7, 2000.

**Jennifer J. Johnson,**  
*Secretary of the Board.*

[FR Doc. 00–3162 Filed 2–10–00; 8:45 am]

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### DEPARTMENT OF TRANSPORTATION

#### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 99–SW–05–AD]

#### Airworthiness Directives; Eurocopter Deutschland GmbH (Eurocopter) Model EC 135 Helicopters

**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 Eurocopter Model EC 135 helicopters. This proposal would require replacing a certain oil cooler fan splined drive shaft (shaft) with a different airworthy shaft and re-identifying the part numbers on the oil cooler fans. This proposal is prompted by two incidents in which the shaft broke. The actions specified by the proposed AD are intended to prevent

failure of the shaft, loss of oil cooling, and a subsequent engine shutdown during flight.

**DATES:** Comments must be received on or before April 11, 2000.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 99-SW-05-AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Shep Blackman, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222-5125, fax (817) 222-5961.

#### **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 should 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 No. 99-SW-05-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, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 99-SW-05-AD, 2601

Meacham Blvd., Room 663, Fort Worth, Texas 76137.

#### **Discussion**

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for the Federal Republic of Germany, notified the FAA that an unsafe condition may exist on Eurocopter Model EC 135 helicopters. The LBA advises that breakage of fan drive shafts, which occurred on two helicopters, resulted in failure of the fan and reduced oil cooling.

Eurocopter has issued Eurocopter Alert Service Bulletin No. EC 135-79A-001, dated January 23, 1998 (ASB), which specifies replacing the "shafts with spline" with new reinforced shafts. The LBA classified this ASB as mandatory and issued AD No. 1998-109, dated February 26, 1998, in order to assure the continued airworthiness of these helicopters in the Federal Republic of Germany.

This helicopter model is manufactured in the Federal Republic of Germany and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LBA has kept the FAA informed of the situation described above. The FAA has examined the findings of the LBA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other Eurocopter Model EC 135 helicopters of the same type design registered in the United States, the proposed AD would require replacing each shaft, part number (P/N) L 792M3004 225, with an airworthy shaft, P/N L 792M3004 235; re-identifying the left oil cooler fan, P/N L792M3004 102 with P/N L 792M3004 103, and right oil cooler fan, P/N L792M3005 102 with P/N L 792M3005 103, and reflecting these changes in the gearbox component history card or equivalent record. Replacing, re-identifying, and recording these changes would be considered terminating actions for the requirements of this AD.

The FAA estimates that 9 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 4 work hours per helicopter to replace and re-identify the affected parts and record these actions in the gearbox history card or equivalent record, and that the average labor rate is

\$60 per work hour. The manufacturer has stated in Alert Service Bulletin EC 135-79A-001, dated January 23, 1998, that required parts would be provided at no cost. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be \$2,160 to accomplish the proposed actions on all the U.S. fleet.

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

#### **List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Safety.

#### **The Proposed Amendment**

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

#### **PART 39—AIRWORTHINESS DIRECTIVES**

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

##### **§ 39.13 [Amended]**

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

**Eurocopter Deutschland GmbH:** Docket No. 99-SW-05-AD.

**Applicability:** Model EC 135 helicopters, serial numbers 0005 through 0071, certificated in any category.

**Note 1:** This AD applies to each helicopter identified in the preceding applicability

provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopter that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (e) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

**Compliance:** Required within 50 hours time-in-service, unless accomplished previously.

To prevent failure of an oil cooler fan splined drive shaft (shaft), loss of oil cooling, and a subsequent engine shutdown during flight, accomplish the following:

(a) Replace each shaft, part number (P/N) L 792M3004 225, with an airworthy shaft, P/N L 792M3004 235.

(b) Re-identify the P/N on each oil cooler fan (fan) using a rubber stamp or smudge-proof paint or equivalent as follows:

(1) On the left fan, change the P/N from L 792M3004 102 to L 792M3004 103.

(2) On the right fan, change the P/N from L 792M3005 102 to L 792M3005 103.

(c) Change the P/N on the gearbox component history card or equivalent record to reflect the revised part numbers.

**Note 2:** Eurocopter Alert Service Bulletin No. EC 135-79A-001, dated January 23, 1998, pertains to the subject of this AD.

(d) Replacing the shaft, re-identifying the fans, and recording this on the gearbox component history card or equivalent record constitute terminating actions for the requirements of this AD.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Regulations Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Regulations Group.

**Note 3:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Regulations Group.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be accomplished.

**Note 4:** The subject of this AD is addressed in Luftfahrt-Bundesamt (Federal Republic of Germany) AD No. 1998-109, dated February 26, 1998.

Issued in Fort Worth, Texas, on February 7, 2000.

**Henry A. Armstrong,**

*Manager, Rotorcraft Directorate, Aircraft Certification Service.*

[FR Doc. 00-3224 Filed 2-10-00; 8:45 am]

**BILLING CODE 4910-13-U**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 99-SW-39-AD]

#### **Airworthiness Directives; Eurocopter France Model AS-350B, BA, B1, B2, and D, and Model AS-355E, F, F1, F2, and N Helicopters**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the superseding of an existing airworthiness directive (AD), applicable to Eurocopter France Model AS-350B, BA, B1, B2, and D, and Model AS-355E, F, F1, F2, and N helicopters, that currently requires inspecting the main gearbox suspension bi-directional cross-beam (cross-beam) for cracks, and replacing the cross-beam if a crack is found. This action would require the same inspections as the existing AD but would add the time intervals for performing repetitive dye-penetrant inspections on cross-beams with 5,000 or more hours time-in-service (TIS). This proposal is prompted by the discovery that time intervals for performing the required dye-penetrant inspections are not included in the existing AD. The actions specified by the proposed AD are intended to prevent failure of the cross-beam that could cause the main gearbox to pivot resulting in severe vibrations and a subsequent forced landing.

**DATES:** Comments must be received on or before April 11, 2000.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 99-SW-39-AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. 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 American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053-4005, telephone (972) 641-3460, fax (972) 641-3527. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas.

**FOR FURTHER INFORMATION CONTACT:** Jim Grigg, Aerospace Engineer, FAA, Rotorcraft Directorate, ASW-111, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222-5490, fax (817) 222-5961.

#### **SUPPLEMENTARY INFORMATION:**

##### **Comments Invited**

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