Proposed Rules

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

FARM CREDIT ADMINISTRATION

12 CFR Part 615

RIN 3052–AC71

Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Capital Adequacy Risk-Weighting Revisions: Alternatives to Credit Ratings

AGENCY: Farm Credit Administration.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: Farm Credit Administration (FCA or Agency) regulations on the capital adequacy of Farm Credit System (FCS or System) institutions include various references to and requirements of reliance on credit ratings of a security or money-market instrument. Section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank or DFA), enacted on July 21, 2010, requires Federal agencies to remove any reference to or requirement of reliance upon such credit ratings, and substitute in their place standards of creditworthiness that they deem appropriate for such regulations. The FCA seeks public comment on alternatives to the use of credit ratings in these regulations.

DATES: You may send comments on or before November 25, 2011.

ADDRESSES: There are several methods for you to submit your comments. For accuracy and efficiency reasons, commenters are encouraged to submit comments by e-mail or through the FCA's Web site. As facsimiles (faxes) are difficult for us to process and achieve compliance with section 508 of the Rehabilitation Act, we are no longer accepting comments submitted by fax. Regardless of the method you use, please do not submit your comment multiple times via different methods. You may submit comments by any of the following methods:

- *E-mail:* Send us an e-mail at *reg-comm@fca.gov.*
- *FCA Web site: http://www.fca.gov.* Select ''Public Commenters,'' then ''Public Comments,'' and follow the directions for ''Submitting a Comment.''
- *Federal E-Rulemaking Web site: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Send mail to Gary K. Van Meter, Director, Office of Regulatory Policy, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090.

You may review copies of comments we receive at our office in McLean, Virginia, or on our Web site at *http://www.fca.gov.* Once you are in the Web site, select ''Public Commenters,'' then ''Public Comments,'' and follow the directions for ''Reading Submitted Public Comments.'' We will show your comments as submitted, but for technical reasons we may omit items such as logos and special characters. Identifying information that you provide, such as phone numbers and addresses, will be publicly available. However, we will attempt to remove e-mail addresses to help reduce Internet spam.

FOR FURTHER INFORMATION CONTACT:

Chris Wilson, Financial Analyst, Office of Regulatory Policy, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4204, TTY (703) 883–4434,

or

Rebecca S. Orlich, Senior Counsel, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TTY (703) 883–4020.

I. Background

The FCA has promulgated its capital standards in 12 CFR Part 615 of its regulations. These regulations contain references to and regulatory requirements premised on the use of credit ratings issued by Nationally Recognized Statistical Rating Organizations (NRSROs).[1] Section 939A of the DFA requires each Federal agency to review ''(1) Any regulation issued by such agency that requires the use of an assessment of the creditworthiness of a security or money market instrument; and (2) any references to or requirements in such regulations regarding credit ratings.'' After such review, each agency must then ''modify any such regulation identified by the review * * * to remove any reference to or requirement of reliance on credit ratings and to substitute in such regulations such standard of creditworthiness as each respective agency shall determine as appropriate for such regulations.[2]

The FCA is seeking comments on how to revise our capital standards to comply with this requirement of Dodd-Frank.

II. FCA's Risk-Based Capital Standards

The FCA's rules for risk-weighting capital are set forth in §§ 615.5210–615.5212. Section 615.5210 describes the capital treatment of certain securitizations. Sections 615.5211 and 615.5212 describe the capital treatment of on- and off-balance-sheet assets.

FCA first adopted risk-weighting[3] categories for System assets as part of the 1988 capital adequacy regulations required by the Agricultural Credit Act of 1987. FCA adopted many elements of the 1988 Basel Accord in its risk-based capital rules. For instance, the placement of assets in risk-weight categories depends, in part, on NRSRO ratings.

In 1997,[4] 1998,[5] and 2005,[6] the FCA adopted further revisions to its risk-based capital regulations. The 1997 revisions to our capital regulations added new standards for System banks and associations, a collateral ratio for System banks, and procedures for setting higher capital standards for individual institutions and for issuing capital directives. Revisions in 1998 addressed risk-weighting and other issues. Revisions to the capital standards in 2005 implemented a ratings-based approach (RBA) for risk-weighting investments in recourse obligations, residual interests (other than credit-enhancing interest-only strips), direct credit substitutes, and

[1] An NRSRO is an entity registered with the U.S. Securities and Exchange Commission (SEC) under section 15E of the Securities and Exchange Act of 1934.

[2] *See* section 939A, Public Law 111–203, 124 Stat. 1376 (July 21, 2010).

[3] We use risk weightings to compute the risk-adjusted asset base for System banks and associations. This base is then used to calculate certain regulatory capital ratios. These regulations are in 12 CFR part 615, subparts H and K.

[4] *See* 62 FR 4429 (Jan. 30, 1997).

[5] *See* 63 FR 39219 (Jul. 22, 1998).

[6] *See* 70 FR 35336 (Jun. 17, 2005).

asset- and mortgage-backed securities.[7] Under the RBA, the risk weighting of such assets increases as the credit rating declines.

The FCA seeks to ensure that the regulatory capital framework applied to System institutions is broadly consistent with those of other Federal financial regulators (OFFRs). In addition to the rulemakings noted above, the FCA issued several Advance Notices of Proposed Rulemaking (ANPRMs) beginning in 2007 seeking comment on issues associated with adopting the standardized version of Basel II.[8] As OFFRs revise their regulatory capital rules in order to implement Basel III, the FCA intends to revise its rules accordingly.

III. Request for Comment

A. Creditworthiness Standards

In response to the mandate in Section 939A of Dodd-Frank, we are considering alternative standards of creditworthiness. Alternative standards could be developed by the regulator, the regulated entity, or some third party that is not an NRSRO. In practice, all three groups may play a role. We seek comments on the roles best played by each party. To be effective, creditworthiness standards should be based on readily available objective data and calculated using transparent methodologies and assumptions. In addition, effective creditworthiness standards should lead diverse raters to assign similar assets to similar risk categories.

In evaluating any standard of creditworthiness, we will seek, to the extent practical, and consistent with other objectives, to follow these principles:

- Foster prudent risk management by System institutions;
- Ensure that creditworthiness standards for securities and money-market instruments are consistent across all types of financial institutions and over time;
- Be transparent;
- Appropriately distinguish the credit risk associated with a particular exposure within an asset class;
- Provide for the timely and accurate measurement of changes in creditworthiness or investment quality over time;
- Allow for adequate supervisory review; and
- Be cost-efficient and strike an appropriate balance between the benefits resulting from increased accuracy of credit risk assessments and the costs of implementation.

Question 1: The FCA seeks comment on the principles that should guide the Agency's formulation of creditworthiness standards. What core principles would be most important and appropriate in FCA's development of new standards of creditworthiness? Do the principles delineated above capture the appropriate elements of sound creditworthiness standards? How could such principles be strengthened?

Question 2: How can we assure ratings consistency over time, across System institutions, and maintain consistency with the ratings of similar assets by commercial banks and other capital market participants? Should the creditworthiness standards developed for regulatory capital purposes be the same as those developed for regulation of the investment management or liquidity activities of FCS institutions?

B. Alignment of Creditworthiness Standards With the Other Federal Financial Regulators

In response to the mandate of section 939A of Dodd-Frank, OFFRs have issued ANPRMs or proposed rulemakings seeking comment on credit-rating alternatives. The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision issued a joint ANPRM in August 2010.[9] The National Credit Union Administration (NCUA) issued a Notice of Proposed Rulemaking in March 2011.[10] The Federal Housing Finance Agency (FHFA) issued an ANPRM in January 2011.[11]

Question 3: Should the FCA seek to be consistent with the standards of creditworthiness developed by OFFRs?

C. Assignment of Risk Weights

One way to eliminate references to credit ratings in our capital regulations would be to assign risk weights using broad measures of creditworthiness. For example, our current regulations assign risk weights to certain sovereign and bank exposures according to whether or not the sovereign is a member of the Organization for Economic Cooperation and Development. This approach is simple to apply but provides little distinction among risks in this asset class.

Alternatively, we could assign risk weights using more specific measures. For example, we could assign risk weights using defined benchmark securities, such as comparable maturity U.S. Treasury securities, or using obligor-specific financial data such as debt-to-equity ratios. This approach could be more risk-sensitive but also require more effort.

Question 4: We seek comments on the benefits and drawbacks of assigning assets to risk-weighting categories based broadly on the type of obligor (such as sovereign, agency, municipal, or corporate), or based more specifically on characteristics of the instrument itself (such as collateral, tenor, spread to a benchmark, or some other evidence of marketability).

We must also eliminate use of credit ratings in our capital regulations for securitization exposures. One approach might be to require dollar-for-dollar capital on any exposure that does not meet stringent criteria for collateralization and marketability. For example, we could assign a risk weight to a senior-most tranche but require dollar-for-dollar capital for all other tranches in that security. Other approaches suggested by OFFRs would use some type of ''gross up'' treatment or other specific criteria to determine the risk weight of the exposure.[12]

Question 5: How should the FCA risk-weight structured securities, derivatives, and other exposures such as recourse obligations, direct credit substitutes and residual interests?

D. Internal Ratings-Based Models and the Use of Third Parties

One way to eliminate reliance on NRSRO ratings would be to require FCS institutions to develop internal risk exposure methodologies for making creditworthiness determinations for certain exposures. In some cases, FCS institutions may need to contract with third parties to obtain quantitative data, such as probabilities of default, as part of their internal process for making such determinations. Also, FCS institutions could continue to use the opinions of external experts as an element in assessing creditworthiness. Regardless of the approach we adopt, we would establish criteria to ensure that the methodology employed is consistent with safe and sound banking practices.

Question 6: Should each System bank be required to develop its own risk exposure methodology? Should each association be required to develop its own risk exposure methodology? If so, how should the FCA assure consistency

[7] For the RBA in the final rule, we took the approach that highly rated positions would receive a favorable risk weighting—which we characterized as being less than 100 percent.

[8] *See* 72 FR 34191 (Jun. 21, 2007), 72 FR 61568 (Oct. 31, 2007), 75 FR 39392 (Jul. 8, 2010).

[9] *See* 75 FR 52283 (Aug. 25, 2010).

[10] *See* 76 FR 11164 (Mar. 1, 2011).

[11] *See* 76 FR 5292 (Jan. 31, 2011).

[12] *See* 75 FR 52283 (Aug. 25, 2010).

across the individual methodologies? How would the FCS prepare its quarterly and annual reports to investors? Should System banks be required to develop a common risk exposure methodology?

Question 7: Are there certain types of assets that would require the use of a third party to provide data to FCS institutions as part of their internal process for making creditworthiness determinations? How could the use of third-party service providers be implemented to ensure quality, transparency, and consistency? What role should third-party assessors be allowed to play in determining creditworthiness? We seek comments on the roles best played by each party.

E. Burden

Developing alternative measures of creditworthiness will likely require significant initial and ongoing costs. Accordingly, we are seeking comment on the burden—both financial and operational—that various alternative approaches to developing such standards might entail.

Dated: August 18, 2011.

Mary Alice Donner,

Acting Secretary, Farm Credit Administration Board.

[FR Doc. 2011–21659 Filed 8–25–11; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–0909; Directorate Identifier 2011–NM–027–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), DC–9–87 (MD–87), and MD–88 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD would require repetitive high frequency eddy current (HFEC) inspections for cracking of the left and right rib hinge bearing lugs of the aft face of the center section of the horizontal stabilizer; measuring crack length and blending out cracks; and replacing the horizontal stabilizer center section rib, if necessary. This proposed AD was prompted by reports of cracks of the hinge bearing lugs of the center section ribs of the horizontal stabilizer. We are proposing this AD to detect and correct cracking in the hinge bearing lugs of the horizontal stabilizer center section ribs, which would result in failure of the lugs, and consequent inability of the horizontal stabilizer to sustain the required limit loads and loss of control of the airplane.

DATES: We must receive comments on this proposed AD by October 11, 2011.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to http://www.regulations.gov. Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, 3855 Lakewood Boulevard, MC D800–0019, Long Beach, California 90846–0001; telephone 206–544–5000, extension 2; fax 206–766–5683; e-mail *dse.boecom@boeing.com;* Internet *https://www.myboeingfleet.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Roger Durbin, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; phone: 562–627–5233; fax: 562–627–5210; e-mail: roger.durbin@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2011–0909; Directorate Identifier 2011–NM–027–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

We received reports of cracks on Model MD–80 series airplanes and on Model MD–90–30 airplanes. The cracks were found on the aft face of the center section left and right hinge bearing lugs on either the left or right, or in two cases, on both sides of the center section ribs of the horizontal stabilizer. Cracks were reported on Model MD–80 airplanes that had accumulated 23,700 to 41,963 total flight hours, and 23,300 to 35,294 total flight cycles. The cause of the cracking has not been determined. Undetected cracking in the hinge bearing lugs of the center section of the left and right ribs, if not corrected, could result in failure of the hinge bearing lugs and consequent inability of the horizontal stabilizer to sustain required limit loads and loss of control of the airplane.

Related Rulemaking

The proposed AD affects Model MD–80 series airplanes. We issued AD 2011–01–11, Amendment 39–16565 (76 FR 430, January 5, 2011) to address the identified unsafe condition on Model MD–90–30 airplanes, on December 22, 2010. AD 2011–01–11 requires similar actions as proposed in this NPRM.

Relevant Service Information

We reviewed Boeing Alert Service Bulletin MD80–55A069, dated January 19, 2011. That service bulletin describes procedures for repetitive high frequency eddy current (HFEC) inspections for cracking of the left and right rib hinge bearing lugs of the aft face of the center