

responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

- (1) Is not a "significant regulatory action" under Executive Order 12866;
- (2) Is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
- (3) 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.

We prepared a regulatory evaluation of the estimated costs to comply with this AD. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

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

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

#### Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 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. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

**2005-10-07 Fokker Services B.V.:**  
Amendment 39-14084. Docket No. FAA-2005-20594; Directorate Identifier 2004-NM-213-AD.

#### Effective Date

- (a) This AD becomes effective June 21, 2005.

#### Affected ADs

- (b) None.

#### Applicability

- (c) This AD applies to all Fokker Model F.28 series airplanes, certificated in any category.

#### Unsafe Condition

(d) This AD was prompted by a report of a fire under the auxiliary power unit (APU) enclosure. We are issuing this AD to prevent fuel from accumulating under the APU enclosure, which, in the presence of an ignition source, could result in a fire.

#### Compliance

- (e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

#### Inspections

(f) Within 6 months after the effective date of this AD, perform a one-time general visual inspection of the area underneath the APU enclosure to determine if the left- and right-hand engine drain tubes and the APU enclosure drain tube are correctly installed, and to detect any damage, including, but not limited to, chafing of the wiring in the area. Do the inspection in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF100-49-036 (for Fokker Model F.28 Mark 0070 and 0100 series airplanes); or F28/49-038 (for all other Fokker Model F.28 series airplanes); both dated April 26, 2004; as applicable.

(1) If any drain tube is not correctly installed: Before further flight, correctly install the drain tube and remove any fuel that has accumulated under the APU enclosure, in accordance with the Accomplishment Instructions of the applicable service bulletin.

(2) If any damaged wiring is found: Before further flight, repair the wiring in accordance with the Accomplishment Instructions of the applicable service bulletin.

**Note 1:** For the purposes of this AD, a general visual inspection is: "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to ensure visual access to all surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

#### Alternative Methods of Compliance (AMOCs)

(g) The Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

#### Related Information

(h) Dutch airworthiness directive 2004-059, dated April 29, 2004, also addresses the subject of this AD.

#### Material Incorporated by Reference

(i) You must use Fokker Service Bulletin F28/49-038, dated April 26, 2004; or Fokker Service Bulletin SBF100-49-036 dated April 26, 2004; as applicable; to perform the actions that are required by this AD; unless the AD specifies otherwise. The Director of the Federal Register approves the incorporation by reference of these documents in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To get copies of the service information, contact Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands. To view the AD docket, go to the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL-401, Nassif Building, Washington, DC. To review copies of the service information, contact the

National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741-6030, or go to [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

Issued in Renton, Washington, on May 4, 2005.

**Kalene C. Yanamura,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 05-9466 Filed 5-16-05; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2005-20293; Directorate Identifier 2004-SW-34-AD; Amendment 39-14091; AD 2005-10-14]

RIN 2120-AA64

#### Airworthiness Directives; Eurocopter France Model AS355E, F, F1, F2, and N Helicopters

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

**ACTION:** Final rule.

**SUMMARY:** This amendment supersedes an existing airworthiness directive (AD) for the specified Eurocopter France (ECF) model helicopters. That AD currently requires replacing certain main or combiner gearboxes with airworthy gearboxes. Further investigation has shown that the main gearbox is not affected, and this amendment requires replacing a certain combiner gearbox with a modified airworthy gearbox. This amendment is prompted by a report of a freewheel unit slipping resulting in an engine overspeed and shutdown. Also, this amendment is prompted by the conclusion of the investigation, which finds the freewheel slippage is due to the surface treatment applied to certain freewheel rollers in the combiner gearbox. The actions specified by this AD are intended to prevent an engine overspeed, an engine shutdown, and subsequent loss of control of the helicopter.

**DATES:** Effective June 21, 2005.

**ADDRESSES:** *Examining the Docket:* You may examine the docket that contains this AD, any comments, and other information on the Internet at <http://dms.dot.gov>, or at the Docket Management System (DMS), U.S. Department of Transportation, 400 Seventh Street SW., Room PL-401, on

the plaza level of the Nassif Building, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:**

Uday Garadi, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Regulations and Guidance Group, Fort Worth, Texas 76193-0110, telephone (817) 222-5123, fax (817) 222-5961.

**SUPPLEMENTARY INFORMATION:**

A proposal to amend 14 CFR part 39 by superseding AD 2004-01-51, Amendment 39-13495, Docket No. 2003-SW-56-AD (69 FR 9201, February 27, 2004), for the specified ECF model helicopters was published in the **Federal Register** on February 10, 2005 (70 FR 7059). The action proposed to require, before further flight, replacing each combiner gearbox pre-MOD 077212 that has logged 10 hours or less time-in-service with a combiner gearbox modified by replacing the free-wheel rollers.

The Direction Generale De L'Aviation Civile (DGAC), the airworthiness authority for France, notified the FAA that an unsafe condition may exist on the specified model helicopters. The DGAC advises of a combiner gearbox freewheel slippage with resulting engine shutdown due to overspeed, which occurred during the single-engine phase of an acceptance flight at the Eurocopter works.

ECF has issued Alert Telex No. 63.00.21 R2, dated February 4, 2004 (AT 63.00.21 R2). The Alert Telex describes the conclusion of the investigation that the freewheel slippage is due to the surface treatment applied to freewheel rollers, pre-MOD 077212. The freewheel rollers are located in the combiner gearbox; therefore, the main gearbox has been eliminated as the cause of this unsafe condition. The results of the investigation led ECF to cancel the cleaning procedure described in Alert Telex No. 63.00.21 R1, dated December 19, 2003, but to extend the effectivity of their instructions to all combiner gearboxes. Also, Alert Telex 63.00.21 R2 specifies modifying the combiner gearboxes at an approved repair station by replacing the freewheel rollers and after that recording the modification on the Equipment Log Card. The DGAC classified AT 63.00.21 R2 as mandatory and issued AD F-2004-021, dated March 3, 2004, to ensure the continued airworthiness of these helicopters in France.

These helicopter models are manufactured in France and are type certificated for operation in the United States under the provisions of 14 CFR 21.29 and the applicable bilateral agreement. Pursuant to the applicable bilateral agreement, the DGAC has kept

the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of these type designs that are certificated for operation in the United States.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that this AD will affect 104 helicopters of U.S. registry. The required actions will take about 1/2 work hour to determine applicability and 12 work hours to replace a gearbox at an average labor rate of \$65 per work hour per helicopter. Required parts will cost approximately \$97,000 per helicopter. Based on these figures, we estimate the total cost impact of the AD on U.S. operators to be \$981,180, assuming 10 gearboxes are replaced.

**Regulatory Findings**

We have determined that this AD will not have federalism implications under Executive Order 13132. This AD will 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.

For the reasons discussed above, I certify that the 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. 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.

We prepared an economic evaluation of the estimated costs to comply with this AD. See the DMS to examine the economic evaluation.

**Authority for This Rulemaking**

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701,

"General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

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

Air transportation, Aircraft, Aviation safety, Safety.

**Adoption of the Amendment**

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 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 removing Amendment 39-13495 (69 FR 9201, February 27, 2004), and by adding a new airworthiness directive (AD), to read as follows:

**2005-10-14 Eurocopter France:**

Amendment 39-14091. Docket No. FAA-2005-20293; Directorate Identifier 2004-SW-34-AD. Supersedes AD 2004-01-51, Amendment 39-13495, Docket No. 2003-SW-56-AD.

*Applicability:* Model AS355E, F, F1, F2, and N helicopters with a pre-MOD 077212 combiner gearbox that has 10 or less hours time-in-service installed, certificated in any category.

*Compliance:* Before further flight, unless accomplished previously.

To prevent an engine overspeed, an engine shutdown, and subsequent loss of control of the helicopter, accomplish the following:

- (a) Before further flight, replace each pre-MOD 077212 combiner gearbox with a combiner gearbox modified by replacing the freewheel rollers in accordance with MOD 077212.

**Note 1:** Eurocopter France Alert Telex No. 63.00.21 R2, dated February 4, 2004, pertains to the subject AD.

- (b) Performing paragraph (a) of this AD is terminating action for the requirements of this AD.

(c) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the Safety Management Group, FAA, for information about previously approved alternative methods of compliance.

- (d) Special flight permits will not be issued.

(e) This amendment becomes effective on June 21, 2005.

**Note 2:** The subject of this AD is addressed in Direction Generale de L'Aviation Civile, France, AD No. F-2004-021, dated March 3, 2004.

Issued in Fort Worth, Texas, on May 9, 2005.

**David A. Downey,**

*Manager, Rotorcraft Directorate, Aircraft Certification Service.*

[FR Doc. 05-9766 Filed 5-16-05; 8:45 am]

**BILLING CODE 4910-13-P**

## COMMODITY FUTURES TRADING COMMISSION

### 17 CFR Part 1

RIN 3038-AC15

### Investment of Customer Funds and Record of Investments

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commodity Futures Trading Commission ("Commission") is amending its regulations regarding investment of customer funds and related recordkeeping requirements. The amendments address standards for investing in instruments with certain features, requirements for adjustable rate securities, concentration limits on reverse repurchase agreements ("reverse repos"), transactions by futures commission merchants ("FCMs") that are also registered as securities broker-dealers ("FCM/BDs"), rating standards and registration requirement for money market mutual funds ("MMMFs"), the auditability standard for investment records, and certain technical changes. Among those technical changes is an amendment to the Commission's recordkeeping rules in connection with repurchase agreements ("repos") and proposed transactions by FCM/BDs.

**DATES:** *Effective Date:* June 16, 2005.

**FOR FURTHER INFORMATION CONTACT:** Phyllis P. Dietz, Special Counsel, Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Telephone (202) 418-5430.

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#### SUPPLEMENTARY INFORMATION:

##### I. Background

Commission Rule 1.25 (17 CFR 1.25) sets forth the types of instruments in which FCMs and derivatives clearing organizations ("DCOs") are permitted to invest customer assets that are required to be segregated under the Commodity Exchange Act ("Act").<sup>1</sup> Rule 1.25 was substantially amended in December 2000 to expand the list of permitted investments beyond the Treasury and municipal securities that are expressly permitted by the Act.<sup>2</sup> In connection with that expansion, the Commission added several provisions intended to control exposure to credit, liquidity, and market risks associated with the additional investments.

On June 30, 2003, the Commission published for public comment proposed amendments to two provisions of Rule 1.25, and it further requested comment

<sup>1</sup> Section 4d(a)(2) of the Act, 7 U.S.C. 6d(a)(2), requires segregation of customer funds. It provides, in relevant part, that customer-deposited "money, securities, and property shall be separately accounted for and shall not be commingled with the funds of [the FCM] or be used to margin or guarantee the trades or contracts, or to secure or extend the credit, of any customer or person other than the one for whom the same are held."

<sup>2</sup> See 65 FR 77993 (Dec. 13, 2000) (publishing final rules); and 65 FR 82270 (Dec. 28, 2000) (making technical corrections and accelerating effective date of final rules from February 12, 2001 to December 28, 2000).

(without proposing specific amendments) on several other provisions of the rule.<sup>3</sup> In February 2004, the Commission adopted final rule amendments regarding repos with customer-deposited securities and modified time-to-maturity requirements for securities deposited in connection with certain collateral management programs of DCOs.<sup>4</sup> The Commission did not, however, take any action on the other matters raised in its June 30, 2003 release.

On February 3, 2005, the Commission published for public comment proposed rule amendments related to the remaining issues raised in its June 30, 2003 request for comment. The Commission also solicited comment on additional proposed amendments to Rule 1.25 and Rule 1.27, including certain technical amendments.<sup>5</sup>

The Commission received comment letters from the Chicago Mercantile Exchange ("CME"), Joint Audit Committee ("JAC"), Futures Industry Association ("FIA"), National Futures Association ("NFA"), and Goodwin Proctor LLC, on behalf of Federated Investors, Inc. ("Federated").<sup>6</sup> In general, the comments supported the Commission's efforts to expand the list of permitted investments for customer funds. In addition, each comment letter specifically addressed one or more of the following four topics: instruments with certain features, permitted benchmarks for adjustable rate securities, the auditability standard for investment records, and elimination of rating requirements for money market mutual funds. These comments will be discussed below in connection with each topic.

Taking into consideration the comments received, the Commission has determined to adopt amendments to Rule 1.25 and Rule 1.27, as proposed, with two exceptions. First, the Commission is modifying its revisions to Rule 1.25(b)(3)(iv) regarding permitted benchmarks for adjustable rate securities.<sup>7</sup> Second, the Commission is modifying the language of the new auditability standard established under Rule 1.27(a)(8).<sup>8</sup>

The final rules, discussed in section II.A. through G. of this release, relate to standards for investing in instruments with certain features, permitted

<sup>3</sup> 68 FR 38654 (June 30, 2003).

<sup>4</sup> 69 FR 6140 (Feb. 10, 2004).

<sup>5</sup> The proposed amendments to Rule 1.27 dealt with issues related to changes in Rule 1.25.

<sup>6</sup> These letters are available in the comment file accompanying the February 3, 2005 release, at <http://www.cftc.gov>.

<sup>7</sup> See section II.B.2. of this release.

<sup>8</sup> See section II.G. of this release.