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DEPARTMENT OF THE TREASURY

5 CFR Part 3101

RINs 1550-AB43, 3209-AA15

Supplemental Standards of Ethical Conduct for Employees of the Department of the Treasury

AGENCY: Department of the Treasury.

ACTION: Final rule; amendment.

SUMMARY: The Department of the Treasury (Department), with the concurrence of the Office of Government Ethics (OGE), amends the Supplemental Standards of Ethical Conduct for Employees of the Department of the Treasury (Treasury Ethics Regulations) to revise the circumstances under which certain Office of Thrift Supervision (OTS) employees may obtain credit cards from OTS-regulated savings associations or their subsidiaries, notwithstanding the general prohibition against "covered employees" obtaining loans or extensions of credit from these entities. The amendment also eliminates unnecessary provisions concerning retail store credit cards and mortgage assumptions.

EFFECTIVE DATE: February 1, 2001.

FOR FURTHER INFORMATION CONTACT:

Henry H. Booth, Senior Ethics Counsel, Office of the Assistant General Counsel (General Law and Ethics), Department of the Treasury, Room 1410, Washington, DC 20220, (202) 622-0450; or Caroline Morris, Ethics Counsel, OTS General Law Division, 1700 G Street, NW, Washington, DC 20552, (202) 906-6431.

SUPPLEMENTARY INFORMATION:

I. Background

The Treasury Ethics Regulations were issued in 1995 to minimize potential conflicts of interest and supplement OGE's Standards of Ethical Conduct for Employees of the Executive Branch (5

CFR part 2635) (Standards). *See* 60 FR 22251 (May 5, 1995), as codified at 5 CFR part 3101. The OTS-pertinent part of the Treasury Ethics Regulations, *Additional rules for OTS employees*, at 5 CFR 3101.109 prohibits "covered OTS employees" from seeking or obtaining any loan or other extension of credit from a savings association. The requirement prevents employees from taking actions that may violate conflict of interest laws or that may constitute violations of 18 U.S.C. 213 concerning credit extended to examiners. Exceptions to the general prohibition permit covered OTS employees to obtain a credit card from a savings association under certain circumstances. *See* 5 CFR 3101.109(c)(3).

Under the current regulation, most covered OTS employees are permitted to hold and use savings association credit cards if they recuse themselves from any work involving savings associations from which they hold credit cards. This general exception, however, is not available to covered OTS employees assigned to regional offices who wish to obtain a credit card from a savings association headquartered in their region. Under current Treasury Ethics Regulations, no regional covered employees may obtain credit cards from a savings association headquartered in their region. *See* 5 CFR 3101.109(c)(3)(i)(A).

The Department has been prohibiting regional covered OTS employees from holding credit cards issued by a saving association headquartered in their region to strengthen public confidence in the integrity of OTS programs and to facilitate the assignment of work without constraints arising from employees' credit card recusals. When adopted, this restriction did not impose a significant burden on regional covered employees seeking credit cards. Since then, industry consolidation and conversions to the savings association charter have reduced the credit card options available to those employees. Further, the current rules have created problems in terms of staffing certain matters because of widespread holding of particular cards by covered employees. Subsequent to the issuance of the Treasury Ethics Regulation, the OTS examined the extent to which credit cards present conflicts of interest and concluded that in most instances, neither obtaining nor holding a credit

card creates a conflict of interest or presents a likelihood for a loss of impartiality by an OTS employee. For these reasons, the existing credit card exception is being revised so that the general prohibition more closely conforms to the scope of 18 U.S.C. 213, the statutory prohibition barring only examiners from accepting credit from savings associations that they examine. This amended rule changes the Treasury Ethics Regulations' prohibition against OTS covered employees obtaining credit and the exceptions to the prohibition in the following ways.

A. Application to OTS Employees Who Are Not Examiners

To assure that the regional and Washington offices have maximum flexibility to assign projects to covered employees who are not examiners, this amendment eliminates the requirement for employees who are not examiners (attorneys, economists, analysts, *etc.*) to be recused from work concerning savings associations that have issued them credit cards. These employees may obtain a credit card from a savings association as long as the credit card is obtained and held on terms and conditions no more favorable than those offered to the general public.¹ Both the existing regulation and the regulation as amended concern the extension of credit by OTS-regulated savings associations and their subsidiaries. The exceptions in the existing regulation allow examiners and other covered employees to obtain credit cards from regulated savings associations under certain circumstances. These exceptions applied to subsidiaries of regulated savings associations only by implication. The amended regulation specifically extends the exceptions for examiners and other covered employees to subsidiaries of OTS-regulated savings associations from which credit cards may be obtained. *See* new § 3101.109(c)(3)(i) and (ii).

B. Application to Examiners

OTS is the primary federal regulator of savings associations. OTS examiners

¹ OTS will continue to require all covered employees to disclose their savings association credit cards on annual financial disclosure reports, and to require employees to continue to attest that their credit cards were obtained and are being held on non-preferential terms, i.e., on terms and conditions (including collection policies) no more favorable than those offered to the general public.

assigned to the agency's five regions conduct examinations, make recommendations and prepare reports for savings associations headquartered in these respective geographical jurisdictions. The current rule prohibits examiners from holding credit cards issued by savings associations headquartered in their region. This rule continues that provision. In addition, OTS assigns examiners with certain skills to examine institutions outside their region. Consistent with the statutory language, the rule has been revised to reflect current practice of prohibiting examiners from obtaining or holding credit from savings associations headquartered outside their region if they are actually assigned to examine the savings associations. The final rule prohibits an examiner from obtaining a credit card from any savings associations or their subsidiaries that are headquartered in his or her region; or if not headquartered in the examiner's region, that he or she is assigned to examine. The rule retains the requirement that an examiner must obtain and hold credit cards on terms and conditions no more favorable than those offered to the general public.

The rule also requires an examiner to submit a written disqualification from examining a savings association issuing a credit card to the examiner, but not from participating in other regulatory and supervisory matters affecting the savings association, such as applications, investigations, or records review. 18 U.S.C. 212 and 213 do not bar such participation, and permitting this participation by examiners broadens OTS staffing options for various activities.

Because this rule more clearly connects the credit card restriction to the examiners' actual or likely work assignments, it will provide OTS examiners greater access to credit cards without restricting the flexibility of supervisors in making work assignments and without increasing the potential for conflicts of interest. Therefore, the rule is consistent with the fundamental purpose of Treasury Ethics Regulations restrictions on savings association credit card use by covered OTS employees.

C. Related Changes

The existing regulations permit covered employees to use exceptions to the prohibition only under limited circumstances, including when the employee (1) obtains a credit card sponsored by a retail firm (§ 3101.109(c)(3)(ii)); or (2) obtains the credit through the assumption of a savings association mortgage on the employee's residence in accordance

with the mortgage's original terms (§ 3101.109(c)(3)(iii)). The amended rule eliminates the reference to retail store sponsored credit cards, because a retail store credit card issued by a saving association will be treated no differently than any other savings association issued card. The amended rule's reference to mortgage assumptions also is being deleted as unnecessary.

The current rule's prohibition on obtaining credit from a savings association in § 3101.109(c)(1) applies to "any loan or extension of credit, including credit obtained through the use of a credit card." The amended rule shortens and simplifies that provision by removing the reference to a credit card. It is clear from the content of the rest of paragraph (c) that credit includes the use of a credit card.

II. Matters of Regulatory Procedure

Administrative Procedure Act

Pursuant to 5 U.S.C. 553(a)(2), (b), and (d), the Department has found that good cause exists for waiving the regular notice of proposed rulemaking, opportunity for public comment, and 30-day delayed effective date for this final rule amendment. This action is being taken because it is in the public interest that this rule, which concerns matters of agency management, personnel, organization, practice and procedure, and which relieves certain restrictions placed on OTS employees, become effective on the date of publication.

Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act, the Department certifies that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Accordingly, no regulatory flexibility analysis is required. The rule would not increase the regulatory burden on savings associations. The economic impact of this rule on savings associations, regardless of size, is expected to be minuscule at most.

Executive Order 12866 Determination

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

Unfunded Mandates Reform Act of 1995 Determinations

Section 202 of the Unfunded Mandates Reform Act of 1995

(Unfunded Mandates Act)² requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. As discussed in the preamble, this rule limits the restrictions on OTS employees borrowing from savings associations. The Department therefore has determined that the rule will not result in expenditures by State, local, or tribal governments or by the private sector of \$100 million or more. Accordingly, the Department has not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

List of Subjects in 5 CFR Part 3101

Conflict of interests, Ethics, Extensions of credit, Government employees, OTS employees.

Dated: January 16, 2001.

Neal S. Wolin,

General Counsel, Department of the Treasury.

Approved: January 19, 2001.

Amy L. Comstock,

Director, Office of Government Ethics.

For the reasons set forth in the preamble, the Department, with the concurrence of OGE, amends 5 CFR part 3101 as follows:

PART 3101—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE DEPARTMENT OF THE TREASURY

1. The authority citation for part 3101 is revised to read as follows:

Authority: 5 U.S.C. 301, 7301, 7353; 5 U.S.C. App. (Ethics in Government Act of 1978); 18 U.S.C. 212, 213; 26 U.S.C. 7214(b); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306; 5 CFR 2635.105, 2635.203(a), 2635.403(a), 2635.803, 2635.807(a)(2)(ii).

2. In § 3101.109, paragraphs (c)(1) and (c)(3) are revised to read as follows:

§ 3101.109 Additional rules for Office of Thrift Supervision employees.

* * * * *

(c) *Prohibited borrowing*—(1) *Prohibition on employee borrowing.* Except as provided in this section, no

² Pub. L. 104-4, 109 Stat. 48 (1995) (codified at 2 U.S.C. Chs. 17A, 25).

covered OTS employee shall seek or obtain any loan or extension of credit from any OTS-regulated savings association or from an officer, director, employee, or subsidiary of any such association.

* * * * *

(3) *Exceptions*—(i) *Covered employees other than examiners*. Except for examiners, a covered OTS employee, or the spouse or minor child of a covered OTS employee, may obtain a credit card from an OTS-regulated savings association or its subsidiary if the credit card is issued and held on terms and conditions no more favorable than those offered the general public.

(ii) *E examiners*. An examiner, or the spouse or minor child of an examiner, may obtain or hold a credit card issued by an OTS-regulated savings association or its subsidiary, if:

(A) The savings association is not headquartered in the examiner's region;

(B) The examiner is not assigned to examine the savings association;

(C) The terms and conditions are no more favorable than those offered to the general public; and

(D) The examiner submits a written disqualification from examining that savings association. The examiner nonetheless may participate in other supervisory or regulatory matters involving the savings association.

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[FR Doc. 01-2735 Filed 1-31-01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000-SW-61-AD; Amendment 39-12095; AD 2000-23-52]

RIN 2120-AA64

Airworthiness Directives; Sikorsky Aircraft Corporation Model S-76A, S-76B, and S-76C Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting superseding Airworthiness Directive (AD) 2000-23-52, which was sent previously to all known U.S. owners and operators of Sikorsky Aircraft Corporation (Sikorsky) Model S-76A, S-76B, and S-76C helicopters by individual letters. This AD requires,

before further flight, performing a fluorescent penetrant inspection of the main rotor shaft assembly (shaft). Also required are recurring fluorescent penetrant inspections and visual inspections for any crack. If any crack is found, the shaft must be replaced with an airworthy shaft before further flight. This amendment is prompted by the discovery of two in-service cracked shafts, one with 477 hours time-in-service (TIS) and one with 313 hours TIS. A third shaft, that had been rejected from the manufacturing process for other reasons, was also discovered to have a crack. The actions specified by this AD are intended to prevent failure of the shaft and subsequent loss of control of the helicopter.

DATES: Effective February 16, 2001, to all persons except those persons to whom it was made immediately effective by Emergency AD 2000-23-52, issued on November 9, 2000, which contained the requirements of this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 16, 2001.

Comments for inclusion in the Rules Docket must be received on or before April 2, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2000-SW-61-AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: 9-asw-adcomments@faa.gov.

The applicable service information may be obtained from Sikorsky Aircraft Corporation, Attn: Manager, Commercial Tech Support, 6900 Main Street, Stratford, Connecticut 06614, phone (203) 386-7860, fax (203) 386-4703. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Wayne Gaulzetti, Aviation Safety Engineer, Boston Aircraft Certification Office, 12 New England Executive Park, Burlington, MA 01803, telephone (781) 238-7156, fax (781) 238-7199.

SUPPLEMENTARY INFORMATION: On November 3, 2000, the FAA issued AD 2000-23-51, which required a one-time fluorescent penetrant inspection of the shaft. That AD was prompted by the

discovery of a cracked shaft having 477 hours TIS. Since the issuance of that AD, additional incidents of cracked shafts occurred, and we determined that additional inspections are required. On November 9, 2000, we issued superseding Emergency AD 2000-23-52, for Sikorsky Model S-76A, S-76B, and S-76C helicopters, which requires an initial and recurring fluorescent penetrant inspections of the shaft. Also required, before the first flight of each day, are visual inspections for any crack. If any crack is found, the shaft must be replaced before further flight with an airworthy shaft.

The FAA has reviewed Sikorsky Aircraft Corporation Alert Service Bulletin No. 76-66-31, Revision B, dated November 7, 2000, which describes procedures for inspecting the shaft, part number 76351-09030 series and 76351-09630 series. In addition to requiring the inspections prescribed in this alert service bulletin, the FAA has determined that certain shafts, part number 76351-09030 series, serial numbers with a prefix of "B" and numbers 015-00700 through 00706, must be removed from service because the three cracked shafts discovered thus far came from that manufacturing lot.

Since the unsafe condition described is likely to exist or develop on other Sikorsky Model S-76A, S-76B, and S-76C helicopters of the same type designs, the FAA issued superseding Emergency AD 2000-23-52 to prevent failure of the shaft and subsequent loss of control of the helicopter. The AD requires, before further flight, performing a fluorescent penetrant inspection of the shaft in the area above the upper shaft output seal and below the lower hub attachment flange. Thereafter, recurring fluorescent penetrant inspections are required at specified time intervals and visual inspections using a 10x or higher magnifying glass are required before the first flight of each day. If any crack is found, the shaft must be replaced before further flight with an airworthy shaft that has been inspected in accordance with the requirements of this AD. The actions must be accomplished in accordance with the alert service bulletin described previously. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the structural integrity and controllability of the helicopter. Therefore, the actions stated previously are required before further flight and at the specified time intervals, and this AD must be issued immediately.

Since it was found that immediate corrective action was required, notice