

### III. Congressional Notification

As required by 5 U.S.C. 801, DOE will submit to Congress a report regarding the issuance of today's final rule. The report will state that it has been determined that the rule is not a "major rule" as defined by 5 U.S.C. 801(2).

### IV. Approval of the Office of the Secretary

The Secretary of Energy has approved the publication of this final rule.

#### List of Subjects in 10 CFR part 300

Administrative practice and procedure, Energy, Gases, Incorporation by reference, Reporting and recordkeeping requirements.

Issued in Washington, DC on March 27, 2007.

**Katharine A. Fredriksen,**

*Acting Assistant Secretary for Policy and International Affairs.*

■ Accordingly, the interim final rule amending part 300 of title 10, chapter II, subchapter B of the Code of Federal Regulations, that was published at 72 FR 4411 on January 31, 2007, is adopted as a final rule without change.

[FR Doc. E7-6038 Filed 3-30-07; 8:45 am]

BILLING CODE 6450-01-P

## FEDERAL HOUSING FINANCE BOARD

### 12 CFR Part 915

[No. 2007-04]

RIN 3069-AB-33

### Federal Home Loan Bank Appointive Directors

**AGENCY:** Federal Housing Finance Board.

**ACTION:** Final rule.

**SUMMARY:** The Federal Housing Finance Board (Finance Board) is issuing a final regulation that is substantially the same as the interim final rule that established a process for the appointment of directors to the Federal Home Loan Banks (Bank or Banks), which was adopted on January 24, 2007. The final rule makes two changes to the interim rule, regarding the number of nominees to be submitted and the date by which nominations must be submitted. Both changes are being made in response to comments received on the interim final rule.

**DATES:** *Effective Date:* The final rule is effective April 2, 2007.

**FOR FURTHER INFORMATION CONTACT:** Neil R. Crowley, Acting General Counsel, 202-408-2990, [crowleyn@fhfb.gov](mailto:crowleyn@fhfb.gov); or Thomas P. Jennings, Senior Attorney

Advisor, Office of General Counsel, 202-408-2553, [jenningsst@fhfb.gov](mailto:jenningsst@fhfb.gov). You can send mail to the Federal Housing Finance Board, 1625 Eye Street, NW., Washington, DC 20006.

#### SUPPLEMENTARY INFORMATION:

##### I. Background and Legal Authority

Section 7(a) of the Federal Home Loan Bank Act (Bank Act) (12 U.S.C. 1427(a)) authorizes the Finance Board to appoint directors to the board of each Bank. Section 7(f)(2) of the Bank Act (12 U.S.C. 1427(f)(2)) authorizes the Finance Board to fill any vacancy in an appointive directorship for the remainder of its unexpired term. The Finance Board has determined that adopting procedures for the selection of appointive directors will enhance its ability to identify and appoint well-qualified individuals to serve as Bank directors.

Accordingly, on January 24, 2007 (72 FR 3028) the Finance Board issued an interim final rule that amended 12 CFR 915.10 to adopt procedures under which the board of directors of each Bank has to submit to the Finance Board a list of individuals to be considered for appointment to the board of the Bank. The list is to include information regarding each individual's eligibility and qualifications to serve as an appointive director, and the Finance Board will use that information in making its appointments to the boards. The interim rule set an initial deadline of March 31, 2007, by which the Banks are to provide a list of nominees to the Finance Board for the directorships that are currently vacant.

At the time that it published the interim final rule, the Finance Board requested comments from the public and established a 30-day comment period, which expired on February 23, 2007.

##### II. Analysis of the Public Comments

The Finance Board received 8 comment letters in response to the interim rule. Three letters were submitted by Banks, 1 by a member of a Bank, 3 from trade associations, and 1 from a community organization. All of the comments were supportive of the rule, but also suggested certain revisions to the rule.

One issue commenters raised relates to section 915.10(b), which gives the Finance Board the discretion to request additional names from any Bank if the Finance Board does not fill all vacant appointive directorships from the names the Bank initially submits. Certain of the comment letters objected to the permissive nature of the provision, contending that the provision should be

mandatory, i.e., that the final rule should require the Finance Board to seek additional names only from the Banks and should preclude it from considering prospective directors from other sources. For the reasons noted below, the Finance Board has determined to retain the language of the interim rule.

In adopting section 7 of the Bank Act (12 U.S.C. 1427), Congress vested the power to appoint Bank directors solely in the Finance Board. To revise the rule in the manner suggested would preclude the Finance Board from ever considering other sources for prospective appointive directors. Such a limitation likely would impair the Finance Board's ability to carry out its statutory responsibility. As a practical matter, the Finance Board fully expects that the Banks will make every effort to submit well-qualified nominees for the appointive directorships, both in their initial submissions and in response to any subsequent request from the Finance Board. In the event that a Bank does not do so, however, the Finance Board believes that it must reserve the right to consider nominees from other sources in order to carry out its own responsibilities.

A second issue raised by the comment letters relates to the number of nominees a Bank must submit for the number of directorships to be filled. Section 915.10(a)(3) of the interim rule requires each Bank to submit twice as many nominees as there are appointive directorships to be filled at the Bank. Three commenters suggested that the rule be changed to require the submission of only 1 nominee per directorship to be filled. These commenters believed that the Banks are more likely to find well qualified persons who are willing to serve if those persons have some reasonable expectation of being chosen if they agree to be nominated. These commenters noted that the interim rule created a process in which half of all nominees would be rejected, and contended that such a process would have a chilling effect on prospective nominees' willingness to go through the nominations process.

Another commenter urged the Finance Board to require at least twice as many nominees as there are directorships to be filled, particularly with respect to the community interest directorships. That commenter reasoned that doing so would help to maintain the independence of the community interest appointive directors by lessening the degree of control that the Banks would have over their selection. Another commenter proposed that the

Banks be allowed to designate the specific directorship for which each nominee is being submitted, and that the designation be binding on the Finance Board. This commenter reasoned that doing so would allow a Bank to nominate 2 persons with specific skills for each directorship, which would allow the Bank to obtain the optimum skills it believes it needs on its board of directors as a whole.

The Finance Board has considered each of the suggestions made with respect to the number of nominees to be submitted by the Banks. As noted below, the Finance Board believes that there is merit to the contention that the interim rule might have a chilling effect on the willingness of some qualified persons to agree to serve on the board of a Bank. To address that concern, the Finance Board has decided to modify the rule to require the Banks to submit up to 2 nominees for each directorship to be filled. As a result, a Bank with 4 directorships to be filled would have to submit at least 4 nominees, but could submit up to 8 nominees if it so chose.

Another area for which certain commenters sought changes to the interim rule relates to the March 31, 2007 deadline for the submission of nominees for the currently vacant directorships. One commenter suggested that the deadline be extended to allow the Banks a range of time beyond March 31, 2007 in which to submit nominees to the Finance Board. The commenter reasoned that some Banks may need more time to identify the appropriate number of nominees, particularly if they have to submit twice as many names as there are directorships to be filled. As discussed below, the Finance Board believes that the process of vetting prospective directors may be improved by allowing a Bank the opportunity to request additional time to complete the process and the final rule would allow a Bank to do so.

An additional concern raised by the comment letters related to the confidentiality of the information prospective directors must provide on the Federal Home Loan Bank Appointive Director Application Form (Form), which was published in the **Federal Register** along with the interim final rule. These commenters expressed concern that the Finance Board would have to produce the Form, or the personal information it contains, in response to a request under the Freedom of Information Act (FOIA) (5 U.S.C. 552). For the reasons described below, the Finance Board will not release such information in response to a FOIA request.

The Privacy Act of 1974 (Privacy Act) (5 U.S.C. 552a) governs the collection, maintenance, use, and dissemination of personal information by federal agencies. The Finance Board has issued a rule implementing the Privacy Act that governs how individuals can gain access to information about themselves that the Finance Board may possess. 12 CFR part 913. The Finance Board also has published "systems of records" explaining the types of information the agency may possess and the uses of that information that are permitted under the Privacy Act.

One of the Finance Board's Privacy Act systems of records covers the Form prospective appointive directors must submit to the Finance Board. Under that system of records, the Form is used only by appropriate Finance Board staff to determine whether the nominees and current appointive directors meet the applicable eligibility requirements and possess the requisite skills and background to perform the job effectively. Within this system of records, the Finance Board retains only the Forms of individuals who are appointed as a Bank director and only for the duration of their respective term of service as an appointive director.

The Forms themselves not subject to production to the public under FOIA because they are covered by the Privacy Act. However, the Finance Board has made limited biographical information about the newly appointed directors publicly available, typically through a press release issued after the appointments have been made. See, e.g., Press Release FHFB 04-05 (Jan. 23, 2004) (available on the Finance Board's Web site: <http://www.fhfb.gov/GetFile.aspx?FileID=3127>).

### III. Summary of the Final Rule

As noted above, the final rule differs in 2 respects from the interim rule. First, section 915.10(e) is being modified to allow any Bank to request an extension of time beyond March 31, 2007 in which to submit its initial list of nominees for the directorships that currently are vacant. Second, section 915.10(a)(3) is being modified to allow any Bank to submit up to twice as many nominees as there are appointive directorships to be filled.

*Extension of time.* In considering the date by which the Banks must submit the lists of nominees for the existing vacancies, the Finance Board is mindful that the interim rule created an entirely new process for the Banks and provided only 2 months and 1 week for the Banks to submit the initial list of nominees. The Finance Board also is mindful that a larger number of vacancies currently

exist at each Bank than will exist for any future annual submissions, which have an October 1st deadline. The Finance Board has concluded that if any Bank believes that it will be better able to identify and submit well-qualified nominees if it is given additional time beyond the March 31st deadline, then it should be able to do so. Accordingly, the final rule allows a Bank to ask the Finance Board to extend the deadline, and authorizes the Director of the Office of Supervision to approve such requests. The Finance Board expects that any Bank making such a request will indicate how much additional time it needs to identify prospective directors, will act expeditiously, and will complete the process by the extended deadline.

*Number of nominees.* In considering the comments about the number of nominees a Bank must submit, the Finance Board is mindful that the final rule should not have the effect of discouraging well-qualified persons from seeking to be appointive directors of a Bank. As discussed in section II, some commenters have asserted that the interim rule could have a chilling effect on the willingness of potential well qualified nominees to go through the process, and could place the Banks at a disadvantage when competing with other financial institutions for directors. Generally speaking, candidates for public company directorships have a significant likelihood of being elected after they have been nominated by the company, whereas persons nominated by the Banks would have no more than a 50 percent chance of being appointed by the Finance Board under the interim rule. This disparity could discourage some well-qualified candidates from seeking appointment to the board of a Bank, especially if they have opportunities for other corporate directorships. In light of these comments, the Finance Board has decided that it could reduce any potential chilling effect by revising the final rule to allow a Bank to submit up to 2 nominees for each directorship to be filled.

In reaching this conclusion, the Finance Board also considered whether the revision could create any unintended consequences, such as lessening the independence of the appointive directors. One commenter suggested that persons who are nominated by the Bank are less likely to act independently of the persons who nominated them. Although there may be some such risk in a process where the board of the Bank plays a role in selecting new directors, the Finance Board believes that any such risk is

mitigated by the fact that the Finance Board retains the ultimate power to appoint the directors to the boards of the Banks. The Finance Board intends to evaluate carefully all nominees and will appoint an individual only if it believes that the person will serve the best interests of the Bank. Moreover, the practice at other corporations, which typically use the board or a nominating committee to vet prospective directors, suggests that the risks are not as great as suggested by the comments. As is the case for corporate directors generally, the directors of a Bank owe fiduciary duties to the Bank and the Finance Board expects directors will act consistently with those duties when submitting nominees.

The Finance Board also recognizes that allowing a Bank to submit only 1 nomination for each directorship has the potential to delay the appointment process if the Finance Board declines to appoint 1 or more of the persons nominated by the Bank. The Finance Board believes that any such delay is unlikely to cause a directorship to become vacant, principally because the Finance Board intends to act expeditiously in considering the nominations. Moreover, the October 1st deadline for the annual submission of nominations is far enough in advance of the start of a new term of office that a Bank should have sufficient time to submit additional nominees if they are needed. With respect to the submissions required for the currently vacant directorships, the Finance Board believes that allowing additional time to submit the nominations should allow a Bank to conduct a search that results in well-qualified persons being nominated and notes that the final rule allows a Bank to submit more than 1 nominee per directorship if it wishes to do so.

Apart from the revisions noted above, the final rule is identical to the interim final rule. Thus, the final rule: establishes a process for the Banks to submit a list of well-qualified nominees for the Finance Board to consider in filling appointive directorships; allows the Banks discretion in deciding whether to submit 1 or 2 names for each directorship; requires each Bank to submit a signed Finance Board Form for each nominee; and authorizes the Finance Board to require a Bank to submit additional nominees if the initial nominees are not appointed.

#### IV. Effective Date

The Finance Board for good cause finds that the final rule should become effective on April 2, 2007. *See* 5 U.S.C. 553(d)(3). It is in the public interest to fill appointive directorships at the

Banks with well qualified individuals as soon as it is practicable to do so. The final rule achieves this goal while providing additional flexibility to the Banks in fulfilling their obligation to nominate well-qualified individuals for Finance Board consideration.

#### V. Paperwork Reduction Act

The final rule will have no substantive effect on any collection of information covered by the Paperwork Reduction Act of 1995. *See* 44 U.S.C. 3501 et seq. Therefore, the Finance Board did not submit the proposed regulation to the Office of Management and Budget for review.

#### VI. Regulatory Flexibility Act

The Finance Board adopted this procedural amendment in the form of an interim final rule and not as a proposed rule. Therefore, the provisions of the Regulatory Flexibility Act do not apply to this final rule. *See* 5 U.S.C. 601(2) and 603(a).

#### List of Subjects in 12 CFR Part 915

Banks, Banking, Conflict of interests, Elections, Ethical conduct, Federal home loan banks, Financial disclosure, Reporting and recordkeeping requirements.

■ For the reasons stated in the preamble, the Finance Board amends 12 CFR part 915 as follows:

#### PART 915—BANK DIRECTOR ELIGIBILITY, APPOINTMENT, AND ELECTIONS

■ 1. The authority citation for part 915 continues to read as follows:

**Authority:** 12 U.S.C. 1422a(a)(3), 1422b(a), 1426, 1427, and 1432.

■ 2. Revise § 915.10 to read as follows:

##### § 915.10 Selection of appointive directors.

(a) *Bank responsibilities.* (1) On or before October 1st of each year, the board of directors of each Bank shall submit to the Finance Board a list of eligible nominees who are well-qualified to fill the appointive directorships that will expire on December 31st of that year, along with the original Finance Board-prescribed appointive director application form executed by each individual on the list.

(2) If an appointive directorship becomes vacant prior to the expiration of its term, the board of directors of the Bank shall submit to the Finance Board a list of eligible nominees who are well-qualified to fill that directorship, along with each individual's executed appointive director application form, promptly after the vacancy arises.

(3) The number of nominees on any list submitted by a Bank's board of directors pursuant to paragraphs (a)(1) or (2) of this section shall be at least equal to the number of appointive directorships to be filled but shall not exceed 2 times the number of such directorships.

(b) *Finance Board selection.* As provided by the Act, the Finance Board has the sole responsibility for appointing individuals to the boards of directors of the Banks. In exercising that responsibility, the Finance Board shall select from among the nominees on the list submitted by the Bank pursuant to paragraph (a) of this section, provided, however, that if the Finance Board does not fill all of the appointive directorships from the list initially submitted by the Bank, it may require the Bank to submit a supplemental list of nominees for its consideration.

(c) *Prospective applicants.* Any individual who seeks to be appointed to the board of directors of a Bank may submit to the Bank an executed appointive director application form that demonstrates that the individual both is eligible and has business, financial, housing, community and economic development, and/or leadership experience. Any other interested party may recommend to the Bank that it consider a particular individual as a nominee for an appointive directorship, but the Bank may not do so until the individual has provided the Bank with an executed appointive director application form. The board of directors of the Bank may consider any individual for inclusion on the list it submits to the Finance Board provided it has determined that the individual is eligible and well-qualified for an appointive directorship at the Bank.

(d) *Term of office.* The term of office of each appointive directorship is 3 years, except as adjusted pursuant to section 7(d) of the Act (12 U.S.C. 1427(d)) to achieve a staggered board, and shall commence on January 1st. In the case of a discretionary appointive directorship that is terminated pursuant to § 915.3(b)(5), the term of office of the directorship shall end after the close of business on December 31st of that year.

(e) *Appointive directorship vacancies existing on January 1, 2007.* For appointive directorships that are vacant on January 1, 2007, the board of directors of each Bank shall submit the information required by paragraph (a) of this section on or before March 31, 2007, or such other date approved by the Director of the Office of Supervision upon the request of that Bank.

Dated: March 27, 2007.

By the Board of Directors of the Federal Housing Finance Board.

**Ronald A. Rosenfeld,**

*Chairman.*

[FR Doc. E7-5970 Filed 3-30-07; 8:45 am]

BILLING CODE 6725-01-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2006-25948; Directorate Identifier 2006-NE-32-AD; Amendment 39-15005; AD 2007-04-19R1]

RIN 2120-AA64

**Airworthiness Directives; Superior Air Parts, Inc. (SAP), Cylinder Assemblies Part Numbers Series: SA47000L, SA47000S, SA52000, SA55000, SL32000W, SL32000WH, SL32006W, SL36000TW, SL36000W, and SL36006W**

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Final rule; request for comments.

**SUMMARY:** The FAA is revising an existing airworthiness directive (AD) for certain SAP cylinder assemblies installed in Teledyne Continental Motors (TCM) 470, 520, and 550 series reciprocating engines, Lycoming Engines (LE) 320, 360, and 540 series reciprocating engines, Avco Lycoming (AL) 540 series reciprocating engines, and Superior Air Parts, Inc. (SAP) 360 series reciprocating engines. That AD currently requires removing from service certain SAP part numbered (P/N) cylinder assemblies installed in TCM, LE, and AL reciprocating engines. That AD also requires removing from service certain cylinder assemblies installed as original equipment in SAP reciprocating engines, or in certain overhauled or repaired SAP reciprocating engines.

This AD continues to require those same actions. This AD results from comments from the Public on the existing AD. We are issuing this AD to prevent cylinder separation that can lead to engine failure, a possible engine compartment fire, and damage to the airplane.

**DATES:** Effective May 7, 2007.

We must receive any comments on this AD by June 1, 2007.

**ADDRESSES:** Use one of the following addresses to comment on this proposed AD.

- **DOT Docket Web site:** Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.

- **Government-wide rulemaking Web site:** Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

- **Mail:** Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-0001.

- **Fax:** (202) 493-2251.

- **Hand Delivery:** Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

You may examine the comments on this AD in the AD docket on the Internet at <http://dms.dot.gov>.

#### FOR FURTHER INFORMATION CONTACT:

Jurgen Priester, Aerospace Engineer, Special Certification Office, FAA, Rotorcraft Directorate, Southwest Regional Headquarters, 2601 Meacham Blvd., Fort Worth, Texas 76137; *e-mail:* [Jurgen.E.Priester@faa.gov](mailto:Jurgen.E.Priester@faa.gov); telephone (817) 222-5159; fax (817) 222-5785.

**SUPPLEMENTARY INFORMATION:** On February 13, 2007, the FAA issued AD 2007-04-19, Amendment 39-14951 (72 FR 8089, February 23, 2007). That AD requires removing from service certain installed SAP cylinder assemblies, listed in that AD by P/N and serial number (SN), no later than 150 hours total time-in-service (TIS) to preclude cylinder head fatigue failure and separation at the head-to-barrel threaded interface. That AD was the result of nine separated SAP cylinder assemblies in TCM reciprocating engines and one in a LE reciprocating engine. That condition, if not corrected, could result in cylinder separation that can lead to engine failure, a possible engine compartment fire, and damage to the airplane.

#### Actions Since We Issued AD 2007-04-19

Since we issued AD 2007-04-19, we received comments that cause us to better define and reduce the applicability of this AD.

#### Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comments received.

#### Request To Provide a Range of Dates That SAP Manufactured the Suspect Cylinders

A number of commenters ask us to include the date range when SAP manufactured the cylinders. The

commenters state that including the range of dates will help users to determine if they need to investigate further and will eliminate unnecessary time and money spent to determine if a suspect cylinder assembly is installed on their engine.

We agree. We changed the applicability to provide a date range to help narrow the applicability. Also, we clarified the SN range to narrow the applicability even further.

#### Minor Editorial Changes

We included some minor editorial changes in this AD to clarify some nomenclature.

#### Conclusion

We have carefully reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We have determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

#### FAA's Determination and Requirements of This AD

The unsafe condition described previously is likely to exist or develop on other TCM 470, 520, and 550; LE 320, 360, and 540; AL 540, and SAP 360 series reciprocating engines of the same type design with certain SAP cylinder assemblies that have a part number listed in this AD. For that reason, we are issuing this AD to prevent cylinder separation which can lead to engine failure, a possible engine compartment fire, and damage to the airplane. This AD requires removing from service installed SAP cylinder assemblies listed in this AD, no later than 150 hours total TIS to preclude cylinder head fatigue failure and separation at the head-to-barrel threaded interface.

#### FAA's Determination for No Prior Public Notice

Since we do not anticipate adverse public interest in this action, a situation exists that allows for immediate adoption of this AD, and we have found that notice and opportunity for further public comment before issuing this AD are unnecessary.

#### Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to send us any written relevant data, views, or arguments regarding this AD. Send your comments to an address listed under