

FEDERAL HOUSING FINANCE BOARD**12 CFR Part 934**

(No. 90-129.5)

Procedures for Federal Home Loan Bank Access to Nonpublic Information of Federal Financial Regulatory Agencies**AGENCY:** Federal Housing Finance Board.**ACTION:** Interim final rule.

SUMMARY: The Federal Housing Finance Board ("FHFB") is adopting a procedure for the Federal Home Loan Banks ("Bank" or "Banks") to request and receive financial reports, records and other information from various federal regulatory agencies regarding financial institutions which are current or potential members of the Banks, or with which the Banks have had or may engage in transactions under the Federal Home Loan Bank Act (12 U.S.C. 1421, *et seq.*) ("Bank Act") as amended by the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Public Law No. 101-73, 103 Stat. 422 ("FIRREA"). This regulation establishes procedures by which the Banks will maintain the security and confidentiality of records, reports or other information containing sensitive financial regulatory information. This regulation will require the Federal Home Loan Bank System ("Bank System") to maintain such information in confidence.

DATES: *Effective date:* December 7, 1990. *Comment date:* Comments must be received on or before February 5, 1991.

ADDRESSES: Comments may be submitted in writing to: Executive Secretary to the Board, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Amy Maxwell, Acting Director, Office of Bank Operations, (202) 408-2882; Charles Szlenker, Attorney, Office of General Counsel, (202) 408-2554; Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:**A. General**

Section 719 of FIRREA amended section 22 of the Bank Act (12 U.S.C. 1422) to provide that upon request by any Bank the Department of the Treasury, including the Office of the Comptroller of the Currency and the Office of Thrift Supervision; the Board of Governors of the Federal Reserve System; the Federal Deposit Insurance Corporation; and the National Credit Union Administration must make

available in confidence various financial records, reports and other information concerning any member of a Bank or any institution with which a Bank has had or contemplates having transactions under the Bank Act, as amended. FIRREA section 719 mandates that the Banks keep confidential any such information received. The requirement to keep such information confidential includes maintaining its physical security as well as preventing unauthorized use. This regulation includes maintaining the confidentiality of the records, reports and other information supplied to a Bank by any of the above named financial regulatory agencies.

Section 22, as amended, applies to information concerning member institutions of the Bank System or institutions with which the Banks have had or contemplate having transactions under the Bank Act. However, the referenced regulatory agencies have executed an interagency agreement with each of the Banks by which the agencies will release financial information, in confidence, to the Banks on financial institutions that are applicants for Bank System membership. Accordingly, these regulations will apply to any transfer of financial information between a financial regulatory agency and a Bank pursuant to any interagency agreement or Bank Act section 22, as amended.

Generally, this regulation provides that a Bank will disclose confidential information when required pursuant to a subpoena from a federal or state court or agency after giving timely notice to the regulatory agency which gave the information to the Bank, and after either receiving permission from such agency to release the information or after a final and binding court or administrative order to release the information.

The regulation excuses a Bank from notifying a regulatory agency about a subpoena if notice is prohibited by law, as in the case of some grand jury subpoenas. In such cases, a Bank should refer the subpoena issuing party to the appropriate regulatory agency that gave the information to the Bank.

B. Administrative Procedure Act

The FHFB is adopting these regulations set forth as an interim final rule effective on December 7, 1990. The FHFB finds the procedure for notice and comment mandated by the Administrative Procedure Act (5 U.S.C. 553 (1986)) may be suspended pursuant to 5 U.S.C. 553(b)(3)(B) and 553(d)(3). The FHFB finds that good cause exists to suspend the notice and comment period before issuing this rule and that

the public interest requires that this rule become effective December 7, 1990.

Such good cause consists of the fact that the information described in Bank Act section 22, as amended, is highly sensitive financial information concerning thrifts, credit unions or depository institutions that is not available to the general public, and the Bank Act mandates that the Banks hold this information in confidence. As the primary regulator of the Bank System, the FHFB has the duty to ensure that this information remains confidential after it comes into the possession of the Bank System. This regulation serves to implement that statutory duty.

However, the FHFB is also soliciting comments on this regulation from the general public with a view towards possible revision when the FHFB adopts a final rule.

C. Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this regulation, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) do not apply.

List of Subjects in 12 CFR Part 934

Federal home loan banks, Privacy, Securities, Surety bonds.

Accordingly, the Federal Housing Finance Board hereby amends part 934, subchapter B, chapter IX, title 12, Code of Federal Regulations, as set forth below.

PART 934—[AMENDED]

1. The authority citation for part 934 is revised to read as follows:

Authority: Sec. 2B, 103 Stat. 414, as amended (12 U.S.C. 1422b); sec. 22, 103 Stat. 422, as amended (12 U.S.C. 1442).

2. Part 934 is amended by adding § 934.15 to read as follows:

§ 934.15 Bank requests for information.

This section governs the procedure by which a Federal Home Loan Bank will request and receive Confidential Information, as defined in paragraph (a)(4) of this section, pursuant to section 22 of the Federal Home Loan Bank Act.

(a) *Definitions.* As used in this section:

- (1) *Board* means the Federal Housing Finance Board.
- (2) *Bank* means a Federal Home Loan Bank, including its directors, officers, employees or agents.
- (3) *Financial Regulatory Agency* means any of the following:

- (i) The Department of the Treasury, including either the Office of the

Comptroller of the Currency or the Office of Thrift Supervision;

(ii) The Board of Governors of the Federal Reserve System;

(iii) The National Credit Union Administration; or

(iv) The Federal Deposit Insurance Corporation.

(4) *Confidential Information* means any record, data, or report, including but not limited to examination reports, or any part thereof, that is non-public, privileged or otherwise not intended for public disclosure which is in the possession or control of a Financial Regulatory Agency and which contains information regarding members of a Bank or financial institutions with which a Bank has had or contemplates having transactions under the Bank Act.

(5) *Third party* means any person or entity except a director, officer, employee or agent of either:

(i) A Bank in possession of any particular confidential information; or

(ii) The Financial Regulatory Agency that supplied the particular confidential information to such Bank.

(b) *Request for confidential information.* A Bank shall make all requests for confidential information to the Financial Regulatory Agency, or to a regional office of such Agency if mutually agreeable, in accordance with the procedures contained in this section as well as any procedures of general applicability for requesting information promulgated by such Financial Regulatory Agency. This section and its procedures may be supplemented by a confidentiality agreement between a Bank and a Financial Regulatory Agency.

(c) *Form of Request.* A request by a Bank to a Financial Regulatory Agency for confidential information shall be made in writing or by such other means as may be agreed upon between the Bank and the Financial Regulatory Agency. The request shall reference section 22 of the Bank Act, as amended, and this regulation, and shall describe the confidential information requested and identify its intended use pursuant to the Bank Act. The request shall be signed or otherwise made by any duly authorized Bank officer or employee.

(d) *Storage of Confidential Information.* Each Bank will store all identified confidential information in secure storage areas or filing cabinets or other secured facilities generally used by such Bank and limit access thereto in the same manner as it maintains the confidentiality of its own members' privileged or non-public information. Each Bank shall have in place a written set of procedures and policies designed to insure the confidentiality of

confidential information in its possession, and shall establish an internal review of its procedures for storing confidential information and maintaining its confidentiality, as a part of its internal audit process.

(e) *Access to Confidential Information.* A Bank will insure that access to the Confidential Information stored at its facility is limited to those with a need to know such information and that employees with access maintain the confidentiality of the confidential information in accordance with the Bank's own procedures for maintaining the confidentiality of its members' privileged or non-public information.

(f) *Third party requests for Confidential Information—(1) In general.* In the event a Bank receives a request for confidential information in its possession from any third party, the Bank shall forward such requests to the Financial Regulatory Agency from which the confidential information was obtained.

(2) *By subpoena.* In the event a Bank receives a subpoena for confidential information issued by a Federal, state or local government department, agency, court or bureau, the Bank shall give timely written notice of such subpoena to the Financial Regulatory Agency from which the confidential information was obtained, unless such notice is prohibited by applicable law.

Except as limited herein, the Bank may disclose confidential information pursuant to the subpoena, after giving timely written notice, when:

(i) The Financial Regulatory Agency gives written approval to the disclosure; or

(ii) A binding order to produce the confidential information has become final with all rights of appeal either exhausted or lapsed.

(3) *Nondisclosure to third parties.* Except as provided in paragraph (f)(2) of this section, a Bank shall not disclose confidential information to any third party. A Bank shall refer all third party requests for such confidential information to the Financial Regulatory Agency that released the confidential information to the Bank.

(4) *Disclosure to Board.* (i) Neither this section nor any confidentiality agreement executed between a Bank and a Financial Regulatory Agency shall prevent a Bank from disclosing confidential information in its possession to the Board whenever disclosure is necessary to accomplish the Board's supervision of Bank membership applications or Bank director eligibility issues, or disclosing any confidential information in its

possession if such disclosure is made pursuant to an audit conducted pursuant to paragraph (d) of this section or section 20 of the Bank Act.

(ii) The Board shall keep all confidential information received under paragraph (f)(4) of this section in strict confidence.

(g) *Computer data.* This section shall not preclude a bank from arranging with any Financial Regulatory Agency to transmit or allow access to confidential information with the consent of such agency by means of an electronic computer system. Any such arrangement shall insure the security of the computerized data stored in a bank's computer and restrict access to such data in order to preserve confidentiality in a manner agreed upon by the bank and the Financial Regulatory Agency.

By the Federal Housing Finance Board.

Dated: November 26, 1990.

Jack Kemp,

Chairman.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90-CE-45-AD; Amendment 39-6907]

Airworthiness Directives; SOCATA Groupe AEROSPATIALE Models TB9, TB10, TB20, and TB21 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to SOCATA Groupe AEROSPATIALE Models TB9, TB10, TB20, and TB21 airplanes. This action requires a one-time visual inspection of the oil cooler inlet and outlet elbow mounting bases for cracks or distortion and replacement if found damaged. There have been two reports of oil loss because of oil cooler damage to these airplanes. This action will prevent the uncontrolled release of flammable fluids into the engine compartment, engine damage and malfunction, and the forced landings that could result from engine oil loss from a crack in the oil cooler.

EFFECTIVE DATE: January 3, 1991.

ADDRESSES: SOCATA Groupe AEROSPATIALE TB Aircraft Mandatory Service Bulletin (SB) Number 50/1, updated, that is applicable to this