

## 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 adding the following new airworthiness directive:

**Bombardier, Inc.** (Formerly de Havilland, Inc.): Docket 2002–NM–79–AD.

**Applicability:** Model DHC–8–102, –103, –106, –201, –202, –301, –311, and –315 airplanes; serial numbers 003 through 580 inclusive; certificated in any category.

**Compliance:** Required as indicated, unless accomplished previously.

To prevent separation of the screws in the autopilot clutch assembly of the SM–300 servo, which could result in uncommanded engagement of the autopilot servo and consequent reduced controllability of the airplane, accomplish the following:

#### One-Time Inspection/Follow-on Corrective Action, if Necessary

(a) Within 12 months after the effective date of this AD: Do a general visual inspection to determine the serial numbers of the elevator and aileron servo drive assemblies of the automatic flight control system per paragraphs III.1. and III.2. of the Accomplishment Instructions of Bombardier Alert Service Bulletin A8–22–18, Revision “B”, dated November 19, 2001.

**Note 1:** For the purposes of this AD, a general visual inspection is defined as: “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 enhance visual access to all exposed 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.”

(1) If any elevator or aileron servo, P/N 7002260–922, or any aileron servo, P/N 7002260–923, with serial numbers 4826 through 5935 inclusive, is found: Before further flight, do all the follow-on actions per paragraphs III.3. and III.4. of the Accomplishment Instructions of Bombardier Alert Service Bulletin A8–22–18, Revision “B”, dated November 19, 2001; and per paragraphs 3.A. through 3.F. of the Honeywell Accomplishment Instructions specified on pages 14 through 17 of the Bombardier service bulletin.

(2) If no serial number specified in paragraph (a)(1) of this AD is found, no further action is required by this paragraph.

#### Part Installation

(b) As of the effective date of this AD, no person may install an elevator or aileron servo, P/N 7002260–922, or an aileron servo,

P/N 7002260–923, with serial numbers 4826 through 5935 inclusive, on any airplane.

**Note 2:** Although Bombardier Alert Service Bulletin A8–22–18, Revision “B”, dated November 19, 2001, specifies accomplishment of concurrent requirements, this AD does not include those requirements.

#### Alternative Methods of Compliance

(c) In accordance with 14 CFR 39.19, the Manager, New York Aircraft Certification Office, FAA, is authorized to approve alternative methods of compliance for this AD.

**Note 3:** The subject of this AD is addressed in Canadian airworthiness directive CF–2001–40, dated November 9, 2001.

Issued in Renton, Washington, on December 4, 2003.

**Ali Bahrami,**

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

[FR Doc. 03–30677 Filed 12–10–03; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF THE TREASURY

### 17 CFR Part 403

**RIN 1505–AA94**

#### Government Securities Act Regulations: Protection of Customer Securities and Balances

**AGENCY:** Office of the Assistant Secretary for Financial Markets, Treasury.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of the Treasury (“Treasury,” or “We,” or “Us”) is publishing for comment a proposed amendment to the customer protection rules in § 403.4 of the regulations issued under the Government Securities Act of 1986 (“GSA”), as amended.<sup>1</sup> This provision requires entities registered with the Securities and Exchange Commission (“SEC”) as specialized government securities brokers and dealers (“registered government securities brokers and dealers”) under section 15C(a)(2) of the Securities Exchange Act of 1934 (“the Exchange Act”)<sup>2</sup> to comply with the requirements of the SEC customer protection rule (“SEC Rule 15c3–3”) with certain modifications. The SEC recently amended Rule 15c3–3 to allow for the expansion of collateral that general purpose brokers and dealers may pledge when borrowing securities from customers. This proposed amendment makes certain conforming technical changes to the GSA regulations that

would similarly allow for the expansion of collateral that registered government securities brokers and dealers may pledge when borrowing fully paid or excess-margin securities from customers. The proposed amendment would allow Treasury to designate additional categories of collateral or make subsequent changes to collateral by issuing an order.

**DATES:** Submit comments on or before January 12, 2004.

**ADDRESSES:** You may send hard copy comments to: Government Securities Regulations Staff, Bureau of the Public Debt, 999 E Street, NW., Room 315, Washington, DC 20239–0001. You may also send us comments by e-mail at [govsecreg@bpd.treas.gov](mailto:govsecreg@bpd.treas.gov). When sending comments by e-mail, please provide your full name and mailing address. You may download this proposed rule, and review the comments we receive, from the Bureau of the Public Debt’s Web site at <https://treasurydirect.gov/laws-and-regulations/auction-regulations-uoc/>. The proposed rule and comments will also be available for public inspection and copying at the Treasury Department Library, Room 1428, Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220. To visit the library, call (202) 622–0990 for an appointment.

**FOR FURTHER INFORMATION CONTACT:** Lee Grandy (Associate Director), Deidere Brewer (Government Securities Specialist), or Kevin Hawkins (Government Securities Specialist), Bureau of the Public Debt, Government Securities Regulations Staff, (202) 691–3632 or e-mail us at [govsecreg@bpd.treas.gov](mailto:govsecreg@bpd.treas.gov).

**SUPPLEMENTARY INFORMATION:** The implementing regulations Treasury issued in 1987 under the Government Securities Act of 1986<sup>3</sup> adopted the SEC’s customer protection rule at 17 CFR 240.15c3–3 with certain modifications.<sup>4</sup> In adopting regulations to protect customer securities and balances, Treasury attempted to avoid duplicating existing regulations and to minimize the regulations’ impact by using existing SEC standards with which many firms were already familiar. Currently, the GSA regulations maintain for registered government securities brokers and dealers the customer protection standards set out in the SEC rules for brokers and dealers when borrowing fully paid or excess-margin securities from customers. Section 403.4 of the GSA regulations requires registered government

<sup>1</sup> 15 U.S.C. 78o–5.

<sup>2</sup> 15 U.S.C. 78o–5(a)(2).

<sup>3</sup> Pub. L. 99–571, 100 Stat. 3208 (1986).

<sup>4</sup> 52 FR 27910 (July 24, 1987).

securities brokers and dealers to comply with the requirements of SEC Rule 15c3-3 regarding reserves and custody of customer securities.

On March 17, 2003, the SEC published a final amendment to Rule 15c3-3 to allow, through the issuance of an SEC order, the expansion of collateral that brokers and dealers may pledge when borrowing fully paid or excess-margin securities from customers.<sup>5</sup> Since an SEC order cannot be incorporated by reference to apply to registered government securities brokers and dealers, we are proposing a conforming technical change to § 403.1<sup>6</sup> and § 403.4<sup>7</sup> of the GSA regulations. The change would allow Treasury to expand the categories of permissible collateral by issuing an exemptive order. We believe the proposed amendment would continue to protect customer securities and balances while adding liquidity to the securities lending markets and lowering borrowing costs for registered government securities brokers and dealers. In this notice we first provide background on the rule and then describe the proposed changes.

## I. Background

### A. SEC Rule 15c3-3

In 1972, the SEC adopted the customer protection rule, Rule 15c3-3, to protect customer funds held by brokers and dealers.<sup>8</sup> At that time, securities brokers and dealers were required to pledge cash, U.S. Treasury bills and notes, or letters of credit as collateral when borrowing customer securities. In 1989, the SEC issued a no-action letter that expanded the categories of permissible collateral.<sup>9</sup>

On June 10, 2002, the SEC issued a proposed amendment to Rule 15c3-3 to allow for expanding the categories of collateral brokers and dealers may pledge when borrowing fully paid or excess-margin securities from customers.<sup>10</sup> Under the proposed amendment, the SEC could expand the

collateral categories by issuing an SEC order. Prior to amending the customer protection rule, brokers and dealers that pledged fully paid or excess-margin customer securities were required to provide the lenders with collateral covering at a minimum the full amount of the securities loaned, and consisting exclusively of cash, U.S. Treasury bills and notes, or an irrevocable letter of credit issued by a bank. In the proposed amendment the SEC identified categories of collateral being considered for the SEC order. It also discussed certain conditions for the use of the identified types of collateral. The SEC received three favorable comment letters in response to its proposal.<sup>11</sup>

On March 17, 2003, the SEC issued a final amendment to Rule 15c3-3 that was substantially the same as the proposed amendment.<sup>12</sup> The amendment permits brokers and dealers to pledge additional categories of collateral pursuant to orders issued by the SEC. The preamble to the SEC's final amendment stated that the amended rule provides flexibility to ensure receipt of full collateral by customers while allowing for a wider range of permissible collateral, thereby adding liquidity to the securities lending markets and lowering borrowing costs for brokers and dealers.

On April 22, 2003, the SEC issued by order the list of permissible categories of collateral under Rule 15c3-3.<sup>13</sup> The order expands permissible collateral when borrowing a customer's securities to: "government securities" as defined in sections 3(a)(42)(A) and (B) of the Exchange Act; certain "government securities" meeting the definition in section 3(a)(42)(C) of the Exchange Act; securities issued or guaranteed by certain Multilateral Development banks; "mortgage related securities" as defined in section 3(a)(41) of the Exchange Act; certain negotiable certificates of deposit and bankers acceptances; foreign sovereign debt securities; foreign currency; and certain corporate debt securities.

### B. Government Securities Act Regulations

When Treasury first issued the implementing regulations<sup>14</sup> for the GSA<sup>15</sup> in 1987, we considered the existing regulation of brokers and dealers registered with the SEC under section 15(b) of the Exchange Act in order to avoid overly burdensome or

duplicative regulations. In that regard, the GSA regulations at 17 CFR Chapter IV incorporate, by reference, many of the SEC's rules regulating brokers and dealers including, with modifications, SEC Rule 15c3-3.

Since the SEC does not have the authority to grant exemptions from section 15C or the rules and regulations thereunder,<sup>16</sup> Treasury is issuing a proposed rule that is similar to the SEC's final rule.

The amended rule would allow for expanding the categories of collateral designated as permissible through the issuance of a Treasury exemptive order. We believe the proposed amendment and order would increase liquidity in the securities lending markets and lower borrowing costs for registered government securities brokers and dealers.

## II. Analysis

Treasury is considering a more limited list of acceptable collateral for registered government securities brokers and dealers than the list the SEC provided in its order. Registered government securities brokers and dealers,<sup>17</sup> as defined in the GSA regulations, may hold certain non-exempted securities for proprietary purposes. For example, registered government securities brokers and dealers can hold limited positions in foreign sovereign debt as investments; however, they cannot "deal" in such securities. We understand, from discussions with SEC staff, that if a registered government securities broker or dealer were to pledge such securities in a transaction with a customer, it could be viewed as "dealing" in such securities, which consequently could cause it to have to change its registration.

Therefore, after Treasury issues a final rule amendment, the categories of collateral we are considering designating as permissible by order include only exempted securities such as:

1. "Government securities" as defined in Section 3(a)(42)(A) and (B) of the Exchange Act.

2. "Government securities" as defined in Section 3(a)(42)(C) of the Exchange Act issued or guaranteed as to principal or interest by the following corporations: (i) The Federal Home Loan Mortgage Corporation, (ii) the Federal National Mortgage Association, (iii) the Student Loan Marketing Association, or (iv) the Financing Corporation.

<sup>5</sup> 68 FR 12780 (March 17, 2003).

<sup>6</sup> 17 CFR 403.1.

<sup>7</sup> 17 CFR 403.4.

<sup>8</sup> 17 CFR 240.15c3-3.

<sup>9</sup> See Letter from Michael A. Macchiaroli, Assistant Director, Division of Market Regulation, SEC, to Frances R. Bermanzohn, Esq., Senior Vice President of the Public Securities Association (March 2, 1989). The SEC no-action letter provided that under certain facts and circumstances, a broker or dealer could provide to a customer lender as the collateral in a government securities borrowing transaction any of the following: "government securities" as defined in section 3(a)(42)(A) and section 3(a)(42)(B) of the Exchange Act, and securities issued or guaranteed by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Student Loan Marketing Association, or the Financing Corporation.

<sup>10</sup> 67 FR 39642 (June 10, 2002).

<sup>11</sup> See *supra* note 10.

<sup>12</sup> See *supra* note 5.

<sup>13</sup> 68 FR 19864 (April 22, 2003).

<sup>14</sup> See *supra* note 4.

<sup>15</sup> See *supra* note 3.

<sup>16</sup> 15 U.S.C. 78mm(b).

<sup>17</sup> See 52 FR 5660 (February 25, 1987) and 17 CFR 400.3(o).

3. Securities issued by, or guaranteed as to principal and interest by, the following Multilateral Development Banks—whose obligations are backed by the participating countries, including the U.S.: (i) The International Bank for Reconstruction and Development, (ii) the Inter-American Development Bank, (iii) the Asian Development Bank, (iv) the African Development Bank, (v) the European Bank for Reconstruction and Development, and (vi) the International Finance Corporation.

The categories of permissible collateral would not include securities that have no principal component (*e.g.*, STRIPS).

We believe this proposed rule amendment would protect customers by ensuring their receipt of full collateral, while providing us with the flexibility to expand the categories of collateral that may be pledged by registered government securities brokers and dealers. In developing the proposed rules, we have consulted with the staff of the SEC.

We welcome comments on this proposed rule, in particular whether this proposal meets the customer protection principles of Rule 15c3-3, as modified by § 403.4 of the GSA regulations for these types of collateral.

The rules on collateral discussed in this notice apply only in the context of the customer protection requirement in the GSA regulations as applied to registered government securities brokers and dealers. We note that it does not apply to U.S. Treasury Fiscal Service collateral programs governed by 31 CFR Part 380, Collateral Acceptability and Valuation.

### III. Special Analysis

This proposed amendment does not meet the criteria for a “significant regulatory action” under Executive Order 12866.

In addition, under the Regulatory Flexibility Act,<sup>18</sup> we certify that the proposed amendments, if adopted, would not have a significant economic impact on a substantial number of small entities. Currently, there are no registered government securities brokers or dealers which would be considered “small” under the SEC’s definition of “small entity.”<sup>19</sup> Accordingly, the number of small entities pledging customer securities when borrowing fully paid or excess-margin securities from customers is not significant. As a result, a regulatory flexibility analysis is not required.

The proposed amendment to § 403.4 of the GSA regulations would expand the range of collateral that registered government securities brokers and dealers may pledge when borrowing customer securities. Although the proposed rule amendment is technical in nature, it does not impose any additional burdens on such firms, but provides a broader list of collateral. The amendment should increase liquidity in the government securities market and lower borrowing costs for registered government securities brokers and dealers. The collections of information under the Government Securities Act regulations have previously been reviewed and approved by the Office of Management and Budget under control number 1535-0089.

#### List of Subjects in 17 CFR Part 403

Banks, Banking, Brokers, Government Securities.

For the reasons set out in the preamble, we propose that 17 CFR Part 403 be amended as follows:

#### PART 403—PROTECTION OF CUSTOMER SECURITIES AND BALANCES

1. The authority citation for Part 403 continues to read as follows:

**Authority:** Pub. L. 99-571, § 101, 100 Stat. 3209; Pub. L. 101-432, section 4(b) 104 Stat. 963; Pub. L. 103-202, sections 102, 106, 107 Stat. 2344 (15 U.S.C. 78o-5(a)(5), (b)(1)(A), (b)(4)).

2. Section 403.1 is revised to read as follows:

##### § 403.1 Application of part to registered brokers and dealers.

With respect to their activities in government securities, compliance by registered brokers or dealers with § 240.8c-1 of this title (SEC Rule 8c-1), as modified by § 403.2 (a), (b) and (c), with § 240.15c2-1 of this title (SEC Rule 15c2-1), with § 240.15c3-2 of this title (SEC Rule 15c3-2), as modified by § 403.3, and with § 240.15c3-3 of this title (SEC Rule 15c3-3), as modified by §§ 403.4 (a)-(d), (f)(2)-(3), (g)-(j), and (m), constitutes compliance with this part.

3. Section 403.4 is amended by redesignating paragraphs (e) through (l) as paragraphs (f) through (m), respectively, and by adding new paragraph (e) to read as follows:

##### § 403.4 Customer Protection—reserves and custody of securities.

\* \* \* \* \*

(e) For purposes of this section, § 240.15c3-3(b)(3)(iii)(A) of this title is modified to read as follows:

“(A) Must provide to the lender upon the execution of the agreement, or by the close of the business day of the loan if the loan occurs subsequent to the execution of the agreement, collateral that fully secures the loan of securities, consisting exclusively of cash or United States Treasury bills or Treasury notes or an irrevocable letter of credit issued by a bank as defined in section 3(a)(6)(A)-(C) of the Act (15 U.S.C. 78c(a)(6)(A)-(C)) or such other collateral as the Secretary designates as permissible by order as consistent with the public interest, the protection of investors, and the purposes of the Act, after giving consideration to the collateral’s liquidity, volatility, market depth and location, and the issuer’s creditworthiness; and”

\* \* \* \* \*

Dated: December 3, 2003.

**Brian C. Roseboro,**

*Assistant Secretary for Financial Markets.*

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**BILLING CODE 4810-39-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[REG-157164-02]

RIN 1545-BB57

#### Special Depreciation Allowance; Hearing Cancellation

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Cancellation of notice of public hearing on proposed rulemaking by cross-reference to temporary regulations.

**SUMMARY:** This document cancels a public hearing on proposed regulations under Sections 168 and 1400L of the Internal Revenue Code relating to the depreciation of property subject to section 168 of the Internal Revenue Code (MACRS property) and the depreciation of computer software subject to section 167.

**DATES:** The public hearing originally scheduled for December 18, 2003, at 10 a.m., is cancelled.

**FOR FURTHER INFORMATION CONTACT:** Sonya M. Cruse of the Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedures and Administration), at (202) 622-4693 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:** A notice of proposed rulemaking by cross-

<sup>18</sup> 5 U.S.C. 601.

<sup>19</sup> 63 FR 37688, 37672 (July 13, 1998).