

procedures specified in paragraph (l)(1) of this AD.

#### (k) Terminating Action for Other ADs

Accomplishing the revision required by paragraph (g)(1) of this AD terminates the requirements of the ADs specified in paragraphs (k)(1) through (k)(6) of this AD, for Airbus Model A340 airplanes only.

(1) AD 2006–21–08, Amendment 39–14793 (71 FR 61639, October 19, 2006).

(2) AD 2007–14–01, Amendment 39–15123 (72 FR 38006, July 12, 2007).

(3) AD 2008–25–02, Amendment 39–15760 (73 FR 75307, December 11, 2008).

(4) AD 2010–04–09, Amendment 39–16202 (75 FR 7940, February 23, 2010; as corrected in the **Federal Register** on March 3, 2010 (75 FR 9515)).

(5) AD 2011–01–02, Amendment 39–16555 (76 FR 432, January 5, 2011).

(6) AD 2012–16–05, Amendment 39–17152 (77 FR 48425, August 14, 2012).

#### (l) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: (425) 227–1138; fax: (425) 227–1149. Information may be emailed to: 9-ANM-116-AMOC-REQUESTS@faa.gov. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Airworthy Product*: For any requirement in this AD to obtain corrective actions from a manufacturer, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they were approved by the State of Design Authority (or its delegated agent, or the DAH with a State of Design Authority's design organization approval). For a repair method to be approved, the repair approval must specifically refer to this AD. You are required to ensure the product is airworthy before it is returned to service.

#### (m) Related Information

Refer to Mandatory Continuing Airworthiness Information European Aviation Safety Agency (EASA) Airworthiness Directive 2012–0168, dated August 31, 2012, for related information, which can be found in the AD docket on the Internet at <http://www.regulations.gov>.

#### (n) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Airbus A340 Airworthiness Limitations Section (ALS) Part 5—Fuel Airworthiness Limitations, Revision 00, dated November 16, 2011. The revision date is not identified on the title page of this document.

(ii) Airbus A340 Variation to revision 00 of ALS Part 5—Fuel Airworthiness Limitations (FAL), dated January 23, 2012 (variation reference 0FVLG110039/C0S).

(3) For service information identified in this AD, contact Airbus SAS—Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email [airworthiness.A330-A340@airbus.com](mailto:airworthiness.A330-A340@airbus.com); Internet <http://www.airbus.com>.

(4) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

Issued in Renton, Washington, on December 11, 2013.

#### John P. Piccola,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–31042 Filed 12–27–13; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA–2013–0407; Directorate Identifier 2012–NE–22–AD; Amendment 39–17710; AD 2013–26–01]

RIN 2120–AA64

#### Airworthiness Directives; CFM International S.A. Turboprop Engines

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

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for all CFM International (CFM) S.A. CFM56–3 and CFM56–7B series turboprop engines with certain accessory gearboxes (AGBs) not equipped with a handcranking pad “oil dynamic seal” assembly. This AD was

prompted by 42 events of total loss of engine oil from CFM56 series turboprop engines while in flight. This AD requires an independent inspection to verify re-installation of the handcranking pad cover after removal of the pad cover for maintenance until installation of a handcranking pad oil dynamic seal assembly. We are issuing this AD to prevent loss of engine oil while in flight, which could result in engine failure, loss of thrust control, and damage to the airplane.

**DATES:** This AD is effective February 3, 2014.

**ADDRESSES:** For service information identified in this AD, contact CFM International Inc., Aviation Operations Center, 1 Neumann Way, M/D Room 285, Cincinnati, OH 45125; phone: 877–432–3272; fax: 877–432–3329; email: [geae.aoc@ge.com](mailto:geae.aoc@ge.com). You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

#### Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA–2013–0407; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

#### FOR FURTHER INFORMATION CONTACT:

Antonio Cancelliere, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, Massachusetts, 01803; phone: 781–238–7751; fax: 781–238–7199; email: [antonio.cancelliere@faa.gov](mailto:antonio.cancelliere@faa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. The NPRM published in the **Federal Register** on June 10, 2013 (78 FR 34605). The NPRM proposed to require an independent inspection to verify re-installation of the handcranking pad

cover after removal of the pad cover for maintenance until installation of a handcranking pad oil dynamic seal assembly.

#### Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal and the FAA's response to each comment.

#### Request To Make Optional Terminating Action Mandatory

The National Transportation Safety Board comments that the FAA should make the installation of an oil dynamic seal assembly a mandatory, rather than an optional, terminating action, as has the European Aviation Safety Agency (EASA) and the Civil Aviation Administration of China.

The FAA agrees that the loss of engine oil from unsecured handcranking pad covers can be addressed with the introduction of a dynamic seal. The FAA has structured its approach to achieving that goal, however, through a combination of inspections and part replacement, which allows each affected operator to manage its own maintenance schedule. The FAA believes that this approach will not have as great an economic effect on the affected operators as mandating a part replacement. The FAA also finds that the level of safety achieved with its approach to this unsafe condition is acceptable, and believes that operators will eventually incorporate the dynamic seal to terminate the required inspections.

#### Request To Revise Optional Terminating Action

American Airlines (AAL) requested that we revise paragraph (g) of the AD (the Terminating Action paragraph) to minimize the effects of differences in the AGB disassembly and assembly procedures between those specified in the engine shop manual and current or subsequent service bulletins. AAL noted that this method of specifying the terminating action would preclude the need for Alternative Method of Compliance (AMOC) requests.

We agree in part. We revised the Terminating Action paragraph by removing the requirement to follow specific service bulletins (SBs). Guidance on CFM CFM56 SBs and engine manual can now be found in the Related Information section of this AD.

#### Request To Include FAA-Approved Maintenance Program in Compliance

Airlines for America asked that we include in paragraph (f) of this AD, a

time period in which an approved maintenance program must be revised to include an Independent Inspection. Airlines for America also asked that we clarify that documentation for each inspection on every airplane need not be made if relying on the insertion of an Independent Inspection in the aircraft Continuous Airworthiness Maintenance Program (CAMP).

We agree in part, and have made paragraphs (f)(1) and (f)(2) of this AD disjunctive in order to clarify that either an Independent Inspection is required after each maintenance involving the handcranking pad cover or that operators insert an Independent Inspection requirement in their aircraft CAMP. We do point out that if an operator relies on paragraph (f)(1) of this AD, a maintenance record entry is required to record compliance with this AD after each time the handcranking pad cover is removed and re-installed. If an operator relies on paragraph (f)(2) of this AD however, only one record entry is required to document that the CAMP has been modified as required. After the CAMP has been modified, the operator need only document actions as required by the CAMP.

We have not, however, added a time period within which operators must make a change to their CAMP. This AD itself states that it will become effective 35 days after publication in the **Federal Register**. After that date, operators must comply with either paragraph (f)(1), (f)(2), or (g) of this AD.

#### Request To Clarify Inspection Options

Delta Airlines (Delta) requested that we clarify that both apparent options—an independent inspection or addition of the inspection as a Required Inspection Item into the operator's approved CAMP—in compliance with paragraph (f) of this AD are indeed options for meeting the requirements of this AD.

We agree that further clarification was needed. As explained with the response to the Airlines for America comment, we have made paragraphs (f)(1) and (f)(2) of this AD disjunctive to clarify that an operator either perform an Independent Inspection each time the handcranking pad cover is removed and re-installed, or insert in its aircraft CAMP a requirement for an Independent Inspection.

#### Request To Delay Issuance of This AD

Delta requested that we delay issuance of this AD until CFM issues revisions to CFM SB CFM56-7B S/B 72-0564, Revision 3, dated May 25, 2011, and CFM SB CFM56-7B S/B 27-0879, Revision 1, dated April 12, 2012. Delay

in publication of this AD would minimize the burden of AMOC requests on operators, CFM, and the FAA. It would also allow CFM to modify these SBs to correct tooling references and to modify impingement test requirements.

We partially agree. We agree that we need not mandate use of specific SB versions to accomplish the terminating action. We have therefore, removed those SB references from paragraph (g) of this AD and moved those references to paragraph (j), Related Information, of this AD. This will eliminate the need for requests for AMOCs should the manufacturer modify its SBs. Accordingly, we need not delay issuance of this AD until any particular SB version is published.

#### Request To Allow Acceptable Maintenance Procedures To Install Seal

Delta requested that we allow operators or maintenance facilities to install oil dynamic seal assemblies using the SBs referenced in the NPRM (78 FR 34605, June 10, 2013) along with other acceptable maintenance procedures rather than mandating that all work be performed in accordance with the referenced SBs.

We agree. We moved the references to the SBs from the compliance section of this AD to the Related Information section of this AD.

#### Request To Define Compliance Time

Delta asked that we specifically define the compliance time in which operators have after the effective date of this AD to put the inspection program in place.

We disagree. As stated earlier, this AD will become effective as indicated in the **DATES** section. As of that date, operators must comply with this AD by either following paragraph (f)(1) of this AD for each time maintenance is performed to remove and re-install the handcranking pad cover, or (f)(2) of this AD to insert an Independent Inspection requirement in their aircraft CAMP, or (g) of this AD by replacing the AGB that incorporates an oil dynamic seal assembly. No further compliance time need be allowed. We did not change this AD.

#### Request To Harmonize With EASA AD 2012-0209

RyanAir requested that we harmonize differences between the NPRM (78 FR 34605, June 10, 2013) and EASA AD 2012-0209, dated October 8, 2012. RyanAir identified differences between the EASA AD and the NPRM in the areas of applicability, terminating action, service information, and compliance language.

We disagree. We believe that references in the Applicability section

of this AD to specific AGB part numbers not equipped with the oil dynamic seal assembly will avoid the need to revise this AD in the future should additional approved AGBs be available for installation. We did not change this AD.

#### Support for This AD

The Boeing Company and United Airlines support this AD as proposed (78 FR 34605, June 10, 2013).

#### Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this AD with the changes described previously.

We also determined that these changes will not increase the economic burden on any operator or increase the scope of this AD.

#### Costs of Compliance

We estimate that this AD will affect 2,702 CFM56-3 and CFM56-7B engines installed on airplanes of U.S. registry. We also estimate that it will take about 1 hour to perform the independent inspection required by this AD. The average labor rate is \$85 per hour. We estimate that normal maintenance will require the AGB handcranking pad cover to be removed every 1,300 flights cycles. Based on an average use of these model engines of approximately 6,000,000 flight cycles per year, we estimate that an independent inspection would be required about 4,615 times per year. Therefore, assuming that an operator does not already have an Independent Inspection of the AGB handcranking pad cover in its approved aircraft maintenance program, we estimate the cost of this AD for U.S. operators to be \$392,275.

#### 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.

#### Regulatory Findings

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 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),
- (3) Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction, and
- (4) 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.

#### 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):

**2013-26-01 CFM International S.A.:**  
Amendment 39-17710; Docket No. FAA-2013-0407; Directorate Identifier 2012-NE-22-AD.

#### (a) Effective Date

This AD is effective February 3, 2014.

#### (b) Affected ADs

None.

#### (c) Applicability

This AD applies to CFM International S.A. CFM56-3 series and CFM56-7B series turbofan engines equipped with the following accessory gearbox (AGB) part numbers (P/Ns):

- (1) For CFM56-3 engines: 335-300-103-0, 335-300-105-0, 335-300-106-0, 335-300-107-0, 335-300-108-0, 335-300-109-0, or 335-300-110-0.

- (2) For CFM56-7B engines (except CFM56-7B27A, CFM56-7B27A/3, and CFM56-7B27AE engines): 340-046-503-0, 340-046-504-0, or 340-046-505-0.

- (3) For CFM56-7B27A, CFM56-7B27A/3, and CFM56-7B27AE engines: 340-188-601-0 or 340-188-603-0.

#### (d) Unsafe Condition

This AD was prompted by 42 events of total loss of engine oil while in flight. We are issuing this AD to prevent loss of engine oil while in flight, which could result in engine failure, loss of thrust control, and damage to the airplane.

#### (e) Compliance

Unless already done, do the actions in paragraphs (f) or (g) of this AD.

#### (f) Inspection of the AGB Handcranking Pad Cover

(1) Perform an Independent Inspection to verify re-installation of the AGB handcranking pad cover after any maintenance that involves the removal and re-installation of the AGB handcranking cover, or

(2) Insert an Independent Inspection as a required inspection item in the approved continuous airworthiness maintenance program for the aircraft.

#### (g) Optional Terminating Action

As an optional terminating action to the inspection requirement of paragraph (f) of this AD, install an AGB that is not listed in paragraph (c) of this AD that incorporates the oil dynamic seal assembly.

#### (h) Definition

For the purpose of this AD, an Independent Inspection means a second inspection by a qualified individual who was not involved in the original re-installation of the AGB handcranking pad cover following maintenance to confirm that the cover is installed correctly.

#### (i) Alternative Methods of Compliance (AMOCs)

The Manager, Engine Certification Office, FAA, may approve AMOCs for this AD. Use the procedures found in 14 CFR 39.19 to make your request.

#### (j) Related Information

(1) For more information about this AD, contact Antonio Cancelliere, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, Massachusetts, 01803; phone: 781-238-7751; fax: 781-238-7199; email: [antonio.cancelliere@faa.gov](mailto:antonio.cancelliere@faa.gov).

(2) CFM International S.A. Service Bulletin (SB) No. CFM56-7B S/B 72-0564, Revision 3, dated May 25, 2011, and SB No. CFM56-7B S/B 27-0879, Revision 1, dated April 12, 2012, which are not incorporated by reference in this AD, provide guidance on obtaining an AGB that incorporates an oil dynamic seal assembly. The CFM56 engine manuals, which are also not incorporated by reference in this AD, include instructions on assembling and disassembling the AGB.

(3) For service information identified in this AD, contact CFM International Inc.,

Aviation Operations Center, 1 Neumann Way, M/D Room 285, Cincinnati, OH 45125; phone: 877-432-3272; fax: 877-432-3329; email: [geae.aoc@ge.com](mailto:geae.aoc@ge.com).

(4) You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781-238-7125.

**(k) Material Incorporated by Reference**

None.

Issued in Burlington, Massachusetts, on December 16, 2013.

**Frank P. Paskiewicz,**

*Acting Director, Aircraft Certification Service.*

[FR Doc. 2013-30862 Filed 12-27-13; 8:45 am]

BILLING CODE 4910-13-P

**SECURITIES AND EXCHANGE COMMISSION**

**17 CFR Parts 230 and 270**

[Release No. 33-9503; IC-30845]

**Securities Exempted; Distribution of Shares by Registered Open-End Management Investment Company; Applications Regarding Joint Enterprises or Arrangements and Certain Profit-Sharing Plans**

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Final rule; technical amendments.

**SUMMARY:** The Securities and Exchange Commission (“Commission”) is correcting outdated cross-references in rule 602 under the Securities Act of 1933 (“Securities Act”) and rule 12b-1 under the Investment Company Act of 1940 (“Investment Company Act”) and correcting an inadvertent error in rule 17d-1 under the Investment Company Act as published in the **Federal Register** on January 22, 2003.

**DATES:** Effective December 30, 2013.

**FOR FURTHER INFORMATION CONTACT:** Daniel K. Chang, Senior Counsel, or Thoreau Bartmann, Branch Chief, at (202) 551-6792, Investment Company Rulemaking Office, Division of Investment Management, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-8549.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

*A. Rule 602*

In December 1958, the Commission adopted Regulation E under the Securities Act, which exempts from registration small offerings by small business investment companies registered under the Investment

Company Act.<sup>1</sup> Regulation E was amended in 1984 to increase the size of offerings that may be made under the regulation, and include as exempted issuers certain investment companies who elect to be treated as business development companies under the Investment Company Act.<sup>2</sup> The purpose of the 1984 amendments was to increase the ability of small business investment companies and business development companies to raise capital.

As part of Regulation E, rule 602 establishes conditions under which securities issued by small business investment companies or business development companies may be exempt from registration under the Securities Act. Rule 602(c)(3) provides that the exemption is not available for the securities of any issuer if any of its affiliated directors, officers, principal security holders, investment advisers, or underwriters has been “subject to an order of the Commission entered pursuant to section 203(d) or (e) of the Investment Advisers Act of 1940.”<sup>3</sup>

In 1970, the Investment Company Amendments Act was enacted and, among other things, redesignated sections 203(d) and (e) of the Advisers Act as sections 203(e) and (f), respectively.<sup>4</sup> To correct this cross-reference, this technical amendment to rule 602(c)(3) will replace the cross-reference to paragraphs (d) and (e) of section 203 of the Advisers Act with a cross-reference to paragraphs (e) and (f).

*B. Rule 12b-1*

In 1980, the Commission adopted rule 12b-1 under the Investment Company Act to permit a fund that meets certain conditions to use fund assets to pay for distribution of securities of which it is the issuer. Among other requirements, the fund must have a written plan

describing all material aspects of the proposed distribution financing.

Rule 12b-1(g) provides certain conditions for plans that cover more than one series or class of shares, but further provides that paragraph (g) does not affect the rights of any purchase class under rule 18f-3(e)(2)(iii).<sup>5</sup>

On January 2, 2001, the Commission adopted amendments to certain exemptive rules under the Investment Company Act and, among other things, redesignated paragraph (e) of rule 18f-3 as paragraph (f). To correct this cross-reference, this technical amendment to rule 12b-1(g) will replace the cross-reference to rule 18f-3(e)(2)(iii) with a cross-reference to rule 18f-3(f)(2)(iii).

*C. Rule 17d-1*

In January 2003, the Commission adopted amendments to certain rules under the Investment Company Act to, among other things, expand the exemptions for investment companies (“funds”) to engage in transactions with “portfolio affiliates”—companies that are affiliated with the fund solely as the result of the fund (or an affiliated fund) controlling them or owning more than five percent of their voting securities.<sup>6</sup> The amendments were designed to permit transactions between funds and certain affiliated persons under circumstances where it was unlikely that the affiliate would be in a position to take advantage of the fund.

In implementing these amendments, the Adopting Release renumbered the paragraphs of rule 17d-1 and also added a cross-reference in paragraph (d)(6) of the rule to rule 17a-6, a related rule dealing with exemptions for transactions with portfolio affiliates that was also amended by the Adopting Release.<sup>7</sup> However, the text of rule 17d-1(d)(6) as published in the “Text of Rule and Form Amendments” section of the Adopting Release, and subsequently in

<sup>1</sup> Regulation E—Exemption for Securities of Small Business Investment Companies, 23 FR 10484 (Dec. 30, 1958).

<sup>2</sup> Amendments to the Offering Exemption Under Regulation E of the Securities Act of 1933, 49 FR 35342 (Sept. 7, 1984).

<sup>3</sup> Section 203 of the Investment Advisers Act of 1940 (“Advisers Act”) requires certain investment advisers to register with the Commission, and gives the Commission broad enforcement authority over them. In particular, current section 203(e) authorizes the Commission, by order, to censure, place limitations on the activities, functions, or operations of, suspend, or revoke the registration of any investment adviser if the Commission makes certain findings with regards to that adviser. Current section 203(f) allows the Commission, by order, to censure, suspend, bar, or place limitations on the activities of any person associated or seeking to become associated with an investment adviser or certain other entities if the Commission makes certain findings with regards to that person.

<sup>4</sup> Investment Company Amendments Act of 1970, Public Law 91547, 84 Stat. 1413 (Dec. 14, 1970).

<sup>5</sup> Current rule 18f-3(f)(2)(iii) provides certain rights for shareholders of purchase classes in funds that are acquired as part of a merger.

<sup>6</sup> Transactions of Investment Companies With Portfolio and Subadvisory Affiliates, Investment Company Act Release No. 25888 (Jan. 14, 2003) [68 FR 3142 (Jan. 22, 2003)] (“Adopting Release”).

<sup>7</sup> The cross-reference to rule 17a-6 was intended to conform provisions in paragraph (d)(6) of rule 17d-1 to similar provisions in rule 17a-6 in order to make them consistent with regards to which entities are considered prohibited participants for purposes of affiliate transactions. See Transactions of Investment Companies With Portfolio and Subadvisory Affiliates, Investment Company Act Release No. 25557 (April 30, 2002) [67 FR 31081 (May 8, 2002)] at n.30 and accompanying text.

The renumbering of the paragraphs of rule 17d-1 reflected the deletion of a condition in the rule that limited a fund to committing no more than five percent of its assets to a joint enterprise with a portfolio affiliate. See Adopting Release, *supra* note 1, at n.12.