

Rules and Regulations

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CONSUMER FINANCIAL PROTECTION BUREAU

12 CFR Chapter X

Supervisory Appeals Process

AGENCY: Consumer Financial Protection Bureau.

ACTION: Supervisory appeals process; update.

SUMMARY: The Consumer Financial Protection Bureau (CFPB or Bureau) is updating its internal supervisory appeals process for institutions seeking to appeal a compliance rating or an adverse material finding.

DATES: This revised supervisory appeals process is applicable as of February 22, 2024.

FOR FURTHER INFORMATION CONTACT: George Karithanom, Regulatory Implementation & Guidance Program Analyst, Office of Regulations, at (202) 435-7700 or CFPB_supervisoryappeals@cfpb.gov. If you require this document in an alternative electronic format, please contact CFPB_Accessibility@cfpb.gov.

SUPPLEMENTARY INFORMATION:

I. Overview

The CFPB first published its process for supervisory appeals on October 31, 2012, as Bureau Bulletin 2012-07.¹ The process was substantially modeled upon the practices of the prudential regulators. On November 3, 2015, the Bureau revised its process, superseding the 2012 Bulletin.² The Bureau has reviewed its current process and the revisions made by prudential regulators since 2015. As a result, the Bureau is revising its process to broaden the Bureau officials eligible to evaluate appealed matters, the options for

resolving an appeal, and the matters subject to appeal.

The main changes in the revised supervisory appeals process, which is set out in part II below, are as follows. First, the revised process broadens the pool of potential members of the appeals committee to include any CFPB manager who did not participate in the underlying matter being appealed and who has relevant expertise on the issue(s) raised by the appeal, not only managers from Supervision as under the previous process. The Supervision Director will select three CFPB managers who meet the criteria to serve on the appeals committee, which will advise the Supervision Director on how to resolve the appeal. The CFPB's General Counsel will designate legal counsel to advise the committee. Second, under the revised process there is a new option for resolving the appeal, which is remanding the matter to Supervision staff for consideration of a modified finding, in addition to the existing options of upholding or rescinding the finding. Third, under the revised process institutions may file an appeal as to any compliance rating issued to the institution, not only an adverse rating (e.g., 3, 4, or 5 rating) as under the previous process. Finally, the revised process includes additional clarifying changes and specifies that it applies to appeals pending on the date it is published.

II. Appeals of Supervisory Matters³

A. General Purpose

To promote a constructive supervisory relationship with the financial service providers, including depository institutions, under its jurisdiction, the Consumer Financial Protection Bureau (CFPB or Bureau) provides a supervisory appeals process.

Throughout the supervisory process, the CFPB and its supervised entities should engage in an open and candid dialogue on a continuing basis. During an examination or review, CFPB

¹ https://files.consumerfinance.gov/f/201210_cfpb_bulletin_supervisory-appeals-process.pdf.

² https://files.consumerfinance.gov/f/201510_cfpb_appeals-of-supervisory-matters.pdf.

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examiners and regional management should ensure that supervised entities understand examiner concerns and issues that arise. In turn, supervised entities should present all relevant information in a timely manner during the examination or review process to ensure that examiners' analyses are complete.

After an examination or targeted review, if a supervised entity disagrees with a compliance rating⁴ or any underlying adverse findings set forth in the relevant examination report, or adverse findings set forth in a supervisory letter,⁵ the entity may appeal. The key aspects of the appeals process as outlined in this document are:

- CFPB managers who did not participate in the supervisory matter and whose knowledge and background enable them to meaningfully evaluate supervisory matters will be involved in reviewing appeals;
- The CFPB will only entertain appeals in writing, with documentation supporting the appeal, and within specified timeframes; and
- The CFPB will take measures to ensure that an entity's filing of an appeal does not have an adverse effect on the entity's relationship with the CFPB.

B. Entities Who May Initiate Appeals

Under the circumstances noted below, any entity subject to an examination under the CFPB's supervisory authority may use the appeals process.

C. Supervisory Matters Subject to Appeal

An entity may appeal final CFPB compliance ratings or any underlying adverse findings, or adverse findings conveyed to an entity in a supervisory letter. Adverse findings are those that result in a Matter Requiring Attention by the board of directors or principal(s) of the entity.

⁴ See the *CFPB Supervision and Examination Manual*'s chapter on the examination process. <http://www.consumerfinance.gov/guidance/supervision/manual/>.

⁵ Supervision may issue supervisory letters for its reviews of consumer compliance matters that do not result in the issuance of the compliance rating. Supervised entities may appeal adverse findings described in a supervisory letter in the same manner as such findings in an examination report. Adverse findings are those that result in a Matter Requiring Attention.

An entity may not use this supervisory appeals process to appeal:

- Preliminary supervisory matters (including preliminary findings);
- CFPB examiners' decisions to initiate supervisory measures, such as memoranda of understanding;
- Enforcement-related actions and decisions, including cease-and-desist orders and determinations to proceed with an investigation or public enforcement action;
- Adverse findings or an unsatisfactory rating contained in a supervisory letter or examination report related⁶ to a recommended or pending investigation or public enforcement action;⁷ or
- Referrals of information to other law enforcement and regulatory agencies.

An entity may only appeal a finding once. For example, an entity that receives a rating in an examination report that is based on an earlier finding memorialized in a supervisory letter may appeal the letter or the report, but not both.

D. Pre-Appeal Resolution Efforts

The CFPB expects its supervisory staff, including examiners and regional management, to discuss with supervised entities their preliminary findings and any proposed ratings before an examination or supervisory review is completed. In addition, the CFPB encourages supervised entities to fully engage in this dialogue and, when disagreements occur, to present all available information to support this position. Through such communication, the CFPB anticipates that most disputes can be resolved before an examination is final.

E. Appeal Process

Within 30 business days of the date of the email transmitting an appealable examination report containing a compliance rating, or an appealable supervisory letter, the supervised entity may submit a written appeal via email to: *CFPB_supervisoryappeals@cfpb.gov*.⁸

⁶ A supervisory letter or an examination report is related to an investigation or enforcement action when it contains any part of the underlying facts and circumstances that form the basis of the investigation or enforcement action.

⁷ After an investigation or enforcement action has been resolved, the supervisory findings in a related supervisory letter or examination report may be appealed. In that case, the date of resolution of the investigation or public enforcement action will be treated as the date of the email transmitting an appealable supervisory letter or examination report for the purpose of determining the deadline for a written record.

⁸ The date that the entity or CFPB receives by email any material referenced in this supervisory appeals process will be considered the receipt date.

The subject line of the email should state the name of the supervised entity and include the words: "APPEAL OF SUPERVISORY MATTER." The appeal request should include:

- a. A description of the issues in dispute and appropriate supporting information;⁹
- b. A summary of informal efforts made to resolve the dispute with examiners or other CFPB Supervision staff;
- c. A copy of a board resolution or other appropriate formal document issued by the entity's board of directors or principal(s), which authorizes the filing of an appeal; and
- d. A statement of whether or not the entity's board of directors or principal(s) requests an oral presentation to the CFPB. If an oral presentation is requested, a member of the board or principal must participate in and lead the oral presentation.

This revised supervisory appeals process applies to any appeal pending with Supervision on the date it is published in the **Federal Register**.

Within five business days of receipt of an appeal, the Supervision Director¹⁰ will designate a committee composed of three CFPB managers who were not involved in the supervisory matter being appealed and who have relevant experience on the issue raised by the appeal. The General Counsel¹¹ will designate legal counsel to advise the committee. The committee will:

- a. Review the supervised entity's written appeal, the examination report or supervisory letter at issue, and supporting documentation for both;
- b. If applicable, send a copy of the appeal to the prudential regulator of the appealing entity and solicit its views;
- c. Solicit input from other CFPB personnel, such as examination staff and CFPB Headquarters staff (including those involved in the specific matter under appeal); and

⁹ If the staff reviewing the appeal notifies the supervised entity that the entity has not submitted sufficient supporting information, the entity will have 10 business days within which to resubmit the appeal with supporting information.

¹⁰ The position of "Supervision Director" encompasses the combined positions of the Assistant Director for Supervision Policy and the Assistant Director for Supervision Examinations. Previously, these positions were occupied by the same individual, and the Bureau is in the process of consolidating these two positions into one Supervision Director position. In this supervisory appeals process, the Supervision Director means the Supervision Director or another CFPB employee designated by the CFPB Director or by the Supervision Director.

¹¹ In this supervisory appeals process, the "General Counsel" means the General Counsel of the CFPB or that person's designee.

d. Hear a presentation from the appealing entity,¹² if requested.

The committee will review the supervisory letter or examination report for consistency with the policies, practices, and mission of the CFPB and the overall reasonableness of the examiners' determinations, and support offered for, the supervisory findings. Only the facts and circumstances upon which a supervisory finding was made will be considered by the committee. It is the appellant's burden to show that the contested supervisory findings should be modified or set aside.

Upon conclusion of the review, the committee will advise the Supervision Director in formulating a written decision on the appeal. The decision may uphold or rescind the finding; alternatively, the decision may remand the finding to Supervision staff who will consider a modified finding. The decision will be transmitted to the appealing entity by email, copying appropriate internal parties and the prudential regulator or state regulator where appropriate. The CFPB expects that a decision will be issued within 60 business days from the assignment of the appeal to the committee, but the committee will notify the supervised entity by email if a longer period will be needed.

The decision under the previous paragraph cannot be the subject of another appeal under this supervisory appeals process.

F. Confidentiality

The appeals process will be confidential and submissions by supervised entities will be treated in accordance with the CFPB regulations and guidance on confidential supervisory information.¹³ The CFPB may in the future publish summaries of issues raised in appeals, and the outcomes of such appeals, in a manner that will protect from disclosure the identity of the appealing entity and any other confidential information.

G. Role of the CFPB Ombudsman Office

The CFPB Ombudsman Office serves as an independent, impartial, and confidential resource. It will act as a liaison between supervised entities and the CFPB, providing information about the appeals process. The Ombudsman will facilitate resolution of any process-related issues *before* an appeal is filed with the CFPB and will address process-related issues during the appeal. A supervised entity's reaching out to the

¹² Any such presentation must be brief and must be limited to issues raised in the written appeal.

¹³ 12 CFR 1070.40–48.

Ombudsman will not delay or stay any statutory, regulatory, or agency timeframes.

H. Effect on the Supervisory Relationship

As noted previously, the CFPB encourages an open dialogue with its supervised entities and views appeals as one aspect of such dialogue. As such, the CFPB will take measures to ensure that an entity's filing of an appeal does not have a negative effect on its supervisory relationship with the CFPB. Any entity with concerns about its relationship with the CFPB should contact the CFPB's Ombudsman who will handle such concerns in a confidential manner, if requested. Information on how to contact the Ombudsman can be found at <http://www.consumerfinance.gov/ombudsman/>.

III. Regulatory Matters

This supervisory appeals process is a rule of agency organization, procedure, or practice under the Administrative Procedure Act.¹⁴

The CFPB has determined that this supervisory appeals process does not impose any new or revise any existing recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would be collections of information requiring approval by the Office of Management and Budget under the Paperwork Reduction Act.¹⁵

Rohit Chopra,

Director, Consumer Financial Protection Bureau.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2023-2002; Project Identifier MCAI-2023-00176-E; Amendment 39-22668; AD 2024-02-04]

RIN 2120-AA64

Airworthiness Directives; GE Aviation Czech s.r.o. (Type Certificate Previously Held by WALTER Engines a.s., Walter a.s., and MOTORLET a.s.) Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2021-13-07 for all GE Aviation Czech s.r.o. (GEAC) (type certificate previously held by WALTER Engine a.s., Walter a.s., and MOTORLET a.s.) Model M601D-11, M601E-11, M601E-11A, M601E-11AS, M601E-11S, and M601F engines. AD 2021-13-07 required recalculating the life of critical parts and, depending on the results of the recalculation, replacing those critical parts. AD 2021-13-07 also required replacing a certain compressor case. Since the FAA issued AD 2021-13-07, the manufacturer published the airworthiness limitations section (ALS) of the existing engine maintenance manual (EMM), which includes the calculations for the life of critical parts addressed by AD 2021-13-07 and prompted this AD. This AD continues to require the replacement of a certain centrifugal compressor case. This AD also includes an additional part number as an option for the replacement, and limits the applicability of this AD, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 28, 2024.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 28, 2024.

ADDRESSES:

AD Docket: You may examine the AD docket at regulations.gov under Docket No. FAA-2023-2002; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For service information identified in this final rule, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: ADs@easa.europa.eu; website: easa.europa.eu. You may find this material on the EASA website at ad.easa.europa.eu.

- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information

on the availability of this material at the FAA, call (817) 222-5110. It is also available at regulations.gov under Docket No. FAA-2023-2002.

FOR FURTHER INFORMATION CONTACT:

Barbara Caufield, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (781) 238-7146; email: barbara.caufield@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2021-13-07, Amendment 39-21612 (86 FR 31601, June 15, 2021), (AD 2021-13-07). AD 2021-13-07 applied to all GEAC Model M601D-11, M601E-11, M601E-11A, M601E-11AS, M601E-11S, and M601F engines. AD 2021-13-07 required recalculating the life of critical parts and, depending on the results of the recalculation, replacing critical parts. AD 2021-13-07 also requires replacing a certain compressor case. The FAA issued AD 2021-13-07 to prevent the failure of the engine.

The NPRM published in the **Federal Register** on October 27, 2023 (88 FR 73778). The NPRM was prompted by EASA AD 2021-0125R1, dated January 30, 2023 (EASA AD 2021-0125R1) (also referred to as the MCAI), issued by EASA, which is the Technical Agent for the Member States of the European Union. The MCAI states that the manufacturer published the ALS, which incorporates certain requirements addressed by EASA Emergency AD 2021-0125-E, and that EASA published EASA AD 2023-0020, dated January 23, 2023 (EASA AD 2023-0020), which requires accomplishment of the actions specified in the ALS. The MCAI limits the applicability to M601E engines with a centrifugal compressor case having part number M601-154.61 installed and removes the requirements that have been incorporated in the ALS.

You may examine the MCAI in the AD docket at regulations.gov under Docket No. FAA-2023-2002.

In the NPRM, the FAA proposed to continue to require the replacement of a certain centrifugal compressor case. In the NPRM, the FAA also proposed to require accomplishing the actions specified in the MCAI.

Discussion of Final Airworthiness Directive

Comments

The FAA received no comments on the NPRM or on the determination of the costs.

¹⁴ 5 U.S.C. 553(b).

¹⁵ 44 U.S.C. 3501-3521.