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Done in Washington, DC, this 31<sup>st</sup> day of March 2010.

**Gregory Parham,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 2010-7736 Filed 4-5-10; 8:45 am]

BILLING CODE 3410-34-S

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2010-0357; Directorate Identifier 2010-CE-017-AD; Amendment 39-16256; AD 2010-08-01]

RIN 2120-AA64

#### Airworthiness Directives; Aircraft Industries a.s. Model L 23 Super Blanik Gliders

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

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

**SUMMARY:** We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) issued by the aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

Cracks on the stabilizer elevator inner hinges of seven L 23 SUPERBLANIK sailplanes have been detected during an inspection.

This condition, if not corrected, could result in no longer retaining the elevator in place and in jamming of the Pilot's elevator control system, and subsequent loss of elevator control.

This AD requires actions that are intended to address the unsafe condition described in the MCAI.

**DATES:** This AD becomes effective April 26, 2010.

On April 26, 2010, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

We must receive comments on this AD by May 21, 2010.

**ADDRESSES:** You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.

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

- *Mail:* U.S. Department of Transportation, Docket Operations, M-

30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

#### Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov>; 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 street address for the Docket Office (telephone (800) 647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Greg Davison, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4130; fax: (816) 329-4090.

#### SUPPLEMENTARY INFORMATION:

##### Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Emergency AD No.: 2010-0037-E, dated March 8, 2010 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

Cracks on the stabilizer elevator inner hinges of seven L 23 SUPERBLANIK sailplanes have been detected during an inspection.

This condition, if not corrected, could result in no longer retaining the elevator in place and in jamming of the Pilot's elevator control system, and subsequent loss of elevator control.

For the reasons stated above, this Emergency AD requires the inspection of the elevator inner hinges, and the accomplishment of the relevant corrective actions as necessary.

You may obtain further information by examining the MCAI in the AD docket.

#### Relevant Service Information

Aircraft Industries a.s. has issued Mandatory Bulletin MB No.: L23/052a, dated March 2, 2010. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

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

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all information provided by the State of Design Authority and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

This AD is considered an interim action because we are not including the action that you repetitively inspect the elevator inner hinges on the stabilizer at intervals not to exceed every 1,000 hours time-in-service (TIS). The Administrative Procedure Act does not permit the FAA to "bootstrap" a long-term requirement into an urgent safety of flight action where the rule becomes effective at the same time the public has the opportunity to comment. The short-term action and the long-term action are analyzed separately for justification to bypass prior public notice.

After issuing this AD, we may initiate further AD action (notice of proposed rulemaking followed by a final rule) to require that you repetitively inspect the elevator inner hinges on the stabilizer at intervals not to exceed every 1,000 hours TIS. Credit will be given in any subsequent action for the initial inspection done under this AD.

#### Differences Between This AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might have also required different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are described in a separate paragraph of the AD. These requirements take precedence over those copied from the MCAI.

#### FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to

the flying public justifies waiving notice and comment prior to adoption of this rule because during inspection, cracks have been found on the stabilizer elevator inner hinges of seven Model L 23 Super Blanik gliders. This condition, if not corrected, could result in no longer retaining the elevator in its place and in jamming of the elevator control system and subsequent loss of elevator control. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

#### Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA-2010-0357; Directorate Identifier 2010-CE-017-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this AD.

#### 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

We determined that 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); and
- (3) 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.

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

#### 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 AD:

**2010-08-01 Aircraft Industries a.s.:**  
Amendment 39-16256; Docket No. FAA-2010-0357; Directorate Identifier 2010-CE-017-AD.

#### Effective Date

- (a) This airworthiness directive (AD) becomes effective April 26, 2010.

#### Affected ADs

- (b) None.

#### Applicability

- (c) This AD applies to Models L 23 Super Blanik gliders, all serial numbers, certificated in any category.

#### Subject

- (d) Air Transport Association of America (ATA) Code 55: Stabilizers.

#### Reason

- (e) The mandatory continuing airworthiness information (MCAI) states:

Cracks on the stabilizer elevator inner hinges of seven L 23 SUPERBLANIK sailplanes have been detected during an inspection.

This condition, if not corrected, could result in no longer retaining the elevator in place and in jamming of the Pilot's elevator control system, and subsequent loss of elevator control.

For the reasons stated above, this Emergency AD requires the inspection of the elevator inner hinges, and the accomplishment of the relevant corrective actions as necessary.

#### Actions and Compliance

- (f) Unless already done, do the following actions:

- (1) Before further flight as of April 26, 2010 (the effective date of this AD), inspect the elevator inner hinges on the stabilizer in accordance with paragraphs A.1., A.2. and A.4. of Aircraft Industries, a.s. Mandatory Bulletin MB No.: L23/052a, dated March 2, 2010.

- (2) If, as a result of the inspection required by paragraph (f)(1) of this AD, you find any elevator inner hinge on the elevator is cracked or damaged, before further flight, replace it in accordance with paragraphs A.3. and A.4. of Aircraft Industries, a.s. Mandatory Bulletin MB No.: L23/052a, dated March 2, 2010.

#### FAA AD Differences

**Note:** This AD differs from the MCAI and/or service information as follows:

- (1) The MCAI and the service information specify that you inspect the elevator inner hinges on the stabilizer, and if you find any elevator inner hinge on the elevator is cracked or damaged, before further flight, replace it. The MCAI also requires you to repetitively inspect the elevator inner hinges on the stabilizer at intervals not to exceed every 1,000 hours time-in-service (TIS).

- (2) This AD is considered an interim action because we are not including the mandatory repetitive inspection of the elevator inner hinges on the stabilizer at intervals not to exceed every 1,000 hours TIS. The Administrative Procedure Act does not permit the FAA to "bootstrap" a long-term requirement into an urgent safety of flight action where the rule becomes effective at the same time the public has the opportunity to comment. The short-term action and the long-term action are analyzed separately for justification to bypass prior public notice.

- (3) After issuing this AD, we may initiate further AD action (notice of proposed rulemaking followed by a final rule) to require that you repetitively inspect the elevator inner hinges on the stabilizer at intervals not to exceed every 1,000 hours TIS. Credit will be given in any subsequent action for the initial inspection done under this AD.

#### Other FAA AD Provisions

- (g) The following provisions also apply to this AD:

- (1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to

ATTN: Greg Davison, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4130; fax: (816) 329-4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product*: For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements*: For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et. seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120-0056.

#### Related Information

(h) Refer to MCAI EASA Emergency AD No.: 2010-0037-E, dated March 8, 2010, and Aircraft Industries, a.s. Mandatory Bulletin MB No.: L23/052a, dated March 2, 2010, for related information.

#### Material Incorporated by Reference

(i) You must use Aircraft Industries, a.s. Mandatory Bulletin MB No.: L23/052a, dated March 2, 2010, to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Aircraft Industries, a.s.—Na záhonech 1177, 686 04 Kunovice, Czech Republic; telephone: +420 572 817 660; fax: +420 572 816 112; E-mail: [ots@let.cz](mailto:ots@let.cz); Internet: [www.let.cz](http://www.let.cz).

(3) You may review copies of the service information incorporated by reference for this AD at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the Central Region, call (816) 329-3768.

(4) You may also review copies of the service information incorporated by reference for this AD 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/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

Issued in Kansas City, Missouri, on March 29, 2010.

#### Steven R. Thompson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010-7591 Filed 4-5-10; 8:45 am]

BILLING CODE 4910-13-P

## COMMODITY FUTURES TRADING COMMISSION

### 17 CFR Part 190

RIN 3038-AC94

#### Account Class

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Final rules.

**SUMMARY:** The Commodity Futures Trading Commission (the “Commission”) is amending its regulations (the “Regulations”)<sup>1</sup> to create a sixth and separate “account class,”<sup>2</sup> applicable only to the bankruptcy of a commodity broker that is a futures commission merchant (“FCM”), for positions in cleared over-the-counter (“OTC”) derivatives (and money, securities, and/or other property margining, guaranteeing, or securing such positions).

Further, the Commission is amending the Regulations to codify the appropriate allocation, in a bankruptcy of any commodity broker, of positions in commodity contracts of one account class (and the money, securities, and/or other property margining, guaranteeing, or securing such positions), which, pursuant to an order issued by the Commission under Section 4d of the Commodity Exchange Act (the “Act”),<sup>3</sup> are commingled with positions in commodity contracts of the futures account class (and the money, securities, and/or other property margining, guaranteeing, or securing such positions).

**DATES:** *Effective Date:* The final rules are effective as of May 6, 2010.

#### FOR FURTHER INFORMATION CONTACT:

Robert B. Wasserman, Associate Director, Division of Clearing and Intermediary Oversight, 202-418-5092, [rwasserman@cftc.gov](mailto:rwasserman@cftc.gov); or Nancy Schnabel, Special Counsel, Division of Clearing and Intermediary Oversight, 202-418-5344, [nschnabel@cftc.gov](mailto:nschnabel@cftc.gov); Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581.

#### SUPPLEMENTARY INFORMATION:

<sup>1</sup> The regulations of the Commission can be found at 17 CFR Chapter 1.

<sup>2</sup> In general, the concept of “account class” governs the manner in which the trustee calculates the net equity (*i.e.*, claims against the estate) and the allowed net equity (*i.e.*, *pro rata* share of the estate) for each customer of a commodity broker in bankruptcy.

<sup>3</sup> The Act can be found at 7 U.S.C. 1-23.

## I. Background

On August 13, 2009, the Commission published a Notice of Proposed Rulemaking, which contained the following three proposals (the “Notice”).<sup>4</sup> First, the Notice proposed amending Regulation 190.01(a), as well as adding new Regulation 190.01(oo), to create a sixth and separate account class, applicable only to the bankruptcy of a commodity broker that is an FCM, for positions in “cleared OTC derivatives” (and money, securities, and/or other property margining, guaranteeing, or securing such positions).<sup>5</sup> Second, the Notice proposed further amending Regulation 190.01(a) to codify the appropriate allocation, in a bankruptcy of any commodity broker, of positions in commodity contracts of one account class (and relevant collateral), which, pursuant to an order issued by the Commission under Section 4d of the Act<sup>6</sup> (a “Section 4d Order”), are commingled with positions in commodity contracts of the futures account class (and relevant collateral). Third, the Notice proposed making certain conforming amendments to Regulation 190.07(b)(2)(viii) and Form 4 (Proof of Claim) in Appendix A to Regulation Part 190 (Bankruptcy Forms).

Although, as mentioned above, the Notice proposed creating a new account class for positions in cleared OTC derivatives (and relevant collateral), the Notice declined to propose substantive requirements, applicable prior to the bankruptcy of a commodity broker that is an FCM, for the treatment of such positions (and relevant collateral). Rather, the Notice stated that “the Commission proposes to define ‘cleared OTC derivatives’ in such a manner as to specify the sources from which such substantive requirements may

<sup>4</sup> 74 FR 40794 (August 13, 2009).

<sup>5</sup> The Notice proposed defining “cleared OTC derivatives” as:

Positions in commodity contracts that have not been entered into or traded on a contract market (as such term is defined in § 1.3(h) of this chapter) or on a derivatives transaction execution facility (within the meaning of Section 5a of the Act), but which nevertheless are submitted by a commodity broker that is a futures commission merchant (as such term is defined in § 1.3(p) of this chapter) for clearing by a clearing organization (as such term is defined in this section), along with the money, securities, and/or other property margining, guaranteeing, or securing such positions, which are required to be segregated, in accordance with a rule, regulation, or order issued by the Commission, or which are required to be held in a separate account for cleared OTC derivatives only, in accordance with the rules or bylaws of a clearing organization (as such term is defined in this section).

*Id.* at 40799.

<sup>6</sup> 7 U.S.C. 6d.