

## Comptroller of the Currency, Treasury

## § 7.4005

non-interest charges and fees, including deposit account service charges. For example, a national bank may impose deposit account service charges that its board of directors determines to be reasonable on dormant accounts. A national bank may also charge a borrower reasonable fees for credit reports or investigations with respect to a borrower's credit. All charges and fees should be arrived at by each bank on a competitive basis and not on the basis of any agreement, arrangement, undertaking, understanding, or discussion with other banks or their officers.

(b) *Considerations.* The establishment of non-interest charges and fees, and the amounts thereof, is a business decision to be made by each bank, in its discretion, according to sound banking judgment and safe and sound banking principles. A bank reasonably establishes non-interest charges and fees if the bank considers the following factors, among others:

(1) The cost incurred by the bank, plus a profit margin, in providing the service;

(2) The deterrence of misuse by customers of banking services;

(3) The enhancement of the competitive position of the bank in accordance with the bank's marketing strategy; and

(4) The maintenance of the safety and soundness of the institution.

(c) *Interest.* Charges and fees that are "interest" within the meaning of 12 U.S.C. 85 are governed by § 7.4001 and not by this section.

(d) *State law.* The OCC evaluates on a case-by-case basis whether a national bank may establish non-interest charges or fees pursuant to paragraphs (a) and (b) of this section notwithstanding a contrary state law that purports to limit or prohibit such charges or fees. In issuing an opinion on whether such state laws are preempted, the OCC applies preemption principles derived from the Supremacy Clause of the United States Constitution and applicable judicial precedent.

(e) *National bank as fiduciary.* This section does not apply to charges imposed by a national bank in its capacity as a fiduciary, which are governed by 12 CFR part 9.

### § 7.4003 Establishment and operation of a remote service unit by a national bank.

A remote service unit (RSU) is an automated facility, operated by a customer of a bank, that conducts banking functions, such as receiving deposits, paying withdrawals, or lending money. A national bank may establish and operate an RSU pursuant to 12 U.S.C. 24(Seventh). An RSU includes an automated teller machine, automated loan machine, and automated device for receiving deposits. An RSU may be equipped with a telephone or televideo device that allows contact with bank personnel. An RSU is not a "branch" within the meaning of 12 U.S.C. 36(j), and is not subject to state geographic or operational restrictions or licensing laws.

[64 FR 60100, Nov. 4, 1999]

### § 7.4004 Establishment and operation of a deposit production office by a national bank.

(a) *General rule.* A national bank or its operating subsidiary may engage in deposit production activities at a site other than the main office or a branch of the bank. A deposit production office (DPO) may solicit deposits, provide information about deposit products, and assist persons in completing application forms and related documents to open a deposit account. A DPO is not a branch within the meaning of 12 U.S.C. 36(j) and 12 CFR 5.30(d)(1) so long as it does not receive deposits, pay withdrawals, or make loans. All deposit and withdrawal transactions of a bank customer using a DPO must be performed by the customer, either in person at the main office or a branch office of the bank, or by mail, electronic transfer, or a similar method of transfer.

(b) *Services of other persons.* A national bank may use the services of, and compensate, persons not employed by the bank in its deposit production activities.

[64 FR 60100, Nov. 4, 1999]

### § 7.4005 Combination of loan production office, deposit production office, and remote service unit.

A location at which a national bank operates a loan production office

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(LPO), a deposit production office (DPO), and a remote service unit (RSU) is not a “branch” within the meaning of 12 U.S.C. 36(j) by virtue of that combination. Since an LPO, DPO, or RSU is not, individually, a branch under 12 U.S.C. 36(j), any combination of these facilities at one location does not create a branch.

[64 FR 60100, Nov. 4, 1999]

**PART 8—ASSESSMENT OF FEES; NATIONAL BANKS; DISTRICT OF COLUMBIA BANKS**

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AUTHORITY: 12 U.S.C. 93a, 481, 482, and 3102 and 3108; 15 U.S.C. 78c and 78l; and 26 D.C. Code 102.

**§ 8.1 Scope and application.**

The assessments contained in this part are made pursuant to the authority contained in 12 U.S.C. 93A, 481, 482 and 3102; 15 U.S.C. 78 c and l; and 26 D.C. Code 102.

[55 FR 49842, Nov. 30, 1990]

**§ 8.2 Semiannual assessment.**

(a) Each national bank and each District of Columbia bank shall pay to the Comptroller of the Currency a semiannual assessment fee, due by January 31 and July 31 of each year, for the six-month period beginning 30 days before each payment date. The amount of the semiannual assessment paid by each bank is computed as follows:

If the banks' total assets (consolidated domestic and foreign subsidiaries) are:		The semiannual assessment is:			
Over—	But not over—	This amount—	Plus	Of excess over—	
Column A	Column B	Base amount	Marginal rates	Column E	
Million	Million	Column C	Column D	Million	
\$0	\$2	\$0	Y1	\$0	\$0
2	20	X1	Y2		2
20	100	X2	Y3		20
100	200	X3	Y4		100
200	1,000	X4	Y5		200
1,000	2,000	X5	Y6		1,000
2,000	6,000	X6	Y7		2,000
6,000	20,000	X7	Y8		6,000
20,000	40,000	X8	Y9		20,000
40,000		X9	Y10		40,000

(1) Every national bank falls into one of the ten asset-size brackets denoted by Columns A and B. A bank's semiannual assessment is composed of two parts. The first part is the calculation of a base amount of the assessment, which is computed on the assets of the bank up to the lower endpoint (Column A) of the bracket in which it falls. This base amount of the assessment is calculated by the OCC in Column C.

(2) The second part is the calculation by the bank of assessments due on the remaining assets of the bank in excess of Column E. The excess is assessed at the marginal rate shown in Column D.

(3) The total semiannual assessment is the amount in Column C, plus the amount of the bank's assets in excess Column E times the marginal rate in Column D: Assessments = C+[(Assets—E) x D].

(4) Each year, the OCC may index the marginal rates in Column D to adjust for the percent change in the level of prices, as measured by changes in the Gross Domestic Product Implicit Price Deflator (GDPIP) for each June-to-June period. The OCC may at its discretion adjust marginal rates by amounts less than the percentage change in GDPIP. The OCC will also