

the high risk or unusual nature of the activities performed; the significance to the bank's operations and income of the activities performed; or the extent to which the bank has sufficient systems, controls, and personnel to adequately monitor, measure, and control risks arising from such activities;

(4) Conducting special examinations and investigations of affiliates of national banks and Federal branches or Federal agencies of foreign banks; and

(5) Conducting examinations and investigations made pursuant to 12 CFR part 5, Rules, Policies, and Procedures for Corporate Activities.

(b) *Notice of Comptroller of the Currency Fees.* The OCC publishes the fee schedule for fiduciary activities, special examinations and investigations, examinations of affiliates and examinations related to corporate activities in the Notice of Comptroller of the Currency Fees described in § 8.8.

(c) *Additional assessments on trust banks—(1) Independent trust banks.* The assessment of independent trust banks will include a fiduciary and related asset component, in addition to the assessment calculated according to § 8.2 of this part, as follows:

(i) *Minimum fee.* All independent trust banks will pay a minimum fee, to be provided in the Notice of Comptroller of the Currency Fees.

(ii) *Additional amount for independent trust banks with fiduciary and related assets in excess of \$1 billion.* Independent trust banks with fiduciary and related assets in excess of \$1 billion will pay an amount that exceeds the minimum fee. The amount to be paid will be calculated by multiplying the amount of fiduciary and related assets by a rate or rates provided by the OCC in the Notice of Comptroller of the Currency Fees.

(iii) *Surcharge based on the condition of the bank.* Subject to any limit that the OCC prescribes in the Notice of the Comptroller of the Currency Fees, the OCC shall adjust the semiannual assessment computed in accordance with paragraphs (c)(1)(i) and (ii) of this section by multiplying that figure by 1.5 for each independent trust bank that receives a composite rating of 3 under the Uniform Financial Institutions Rating System (UFIRS) at its most re-

cent examination and by 2.0 for each bank that receives a composite UFIRS rating of 4 or 5 at such examination.

(2) *Trust banks affiliated with full-service national banks.* The OCC will assess a trust bank in accordance with paragraph (c)(1) of this section, notwithstanding that the bank is affiliated with a full-service national bank, if the OCC concludes that the affiliation is intended to evade the assessment regulation.

(3) *Definitions.* For purposes of this paragraph (c) of this section, the following definitions apply:

(i) *Affiliate* has the same meaning as this term has in 12 U.S.C. 221a(b);

(ii) *Full-service national bank* is a national bank that generates more than 50% of its interest and non-interest income from activities other than credit card operations or trust activities and is authorized according to its charter to engage in all types of permissible banking activities.

(iii) *Independent trust bank* is a national bank that has trust powers, does not primarily offer full-service banking, and is not affiliated with a full-service national bank; and

(iv) *Fiduciary and related assets* are those assets reported on Schedule RC-T of FFIEC Forms 031 and 041, Line 9 (columns A and B) and Line 10 (column B), any successor form issued by the FFIEC, and any other fiduciary and related assets defined in the Notice of Comptroller of the Currency Fees.

[59 FR 59642, Nov. 18, 1994, as amended at 65 FR 75862, Dec. 5, 2000; 66 FR 23153, May 8, 2001; 66 FR 29894, June 1, 2001; 67 FR 37665, May 30, 2002; 70 FR 69643, Nov. 17, 2005]

#### **§ 8.7 Payment of interest on delinquent assessments and examination and investigation fees.**

(a) Each national bank, each Federal branch, and each Federal agency shall pay to the Comptroller of the Currency interest on its delinquent payments of semiannual assessments. In addition, each national bank and each entity with a trust department examined by the Comptroller of the Currency and each institution that is the subject of a special examination or investigation conducted by the Comptroller of the Currency shall pay to the Comptroller

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of the Currency interest on its delinquent payments of examination and investigation fees. Semiannual assessment payments will be considered delinquent if they are received after the time for payment specified in § 8.2. Examination and investigation fees will be considered delinquent if not received by the Comptroller of the Currency within 30 calendar days of the invoice date.

(b) In the event that an entity that is required to make semiannual assessment payments or trust examination fee payments believes that the notice of assessments prepared by the Comptroller of the Currency contains an error of miscalculation, the entity may provide the Comptroller of the Currency with a written request for a revised assessment notice and a refund of any overpayments. Any such request for a revised notice and refund must be made after timely payment of the semiannual assessment under the dates specified in § 8.2.

(1) Refund the amount of the overpayment or

(2) Provide notice of its unwillingness to accept the request for a revised notice of assessments. In the latter instance, the Comptroller of the Currency and the entity claiming the overpayment shall thereafter attempt to reach agreement on the amount, if any, to be refunded; the Comptroller of the Currency shall refund this amount within 30 calendar days of such agreement.

The Comptroller of the Currency shall be considered delinquent if it fails to return an overpayment in accordance with the time limitations specified in this paragraph (b). The Comptroller of the Currency shall pay interest on any such delinquent payments.

(c) Interest on delinquent payments, as described in paragraphs (a) and (b) of this section, will be assessed beginning the first calendar day on which payment is considered delinquent, and on each calendar day thereafter up to and including the day payment is received. Interest will be simple interest, calculated for each day payment is delinquent by multiplying the daily equivalent of the applicable interest rate by the amount delinquent. The rate of interest will be the United States Treas-

ury Department's current value of funds rate (the "TFRM rate"); that rate is issued under the Treasury Fiscal Requirements Manual and is published quarterly in the FEDERAL REGISTER. The interest rates applicable to a delinquent payment will be determined as follows:

(1) For delinquent days occurring from January 1 to March 31, the rate will be the TFRM rate that is published the preceding December for the first quarter of the ensuing year.

(2) For delinquent days occurring from April 1 to June 30, the rate will be the TFRM rate that is published the preceding March for the second quarter of that year.

(3) For delinquent days occurring from July 1 to September 30, the rate will be the TFRM rate that is published the preceding June for the third quarter of that year.

(4) For delinquent days occurring from October 1 to December 31, the rate will be the TFRM rate that is published the preceding September for the fourth quarter of that year.

[48 FR 30599, July 1, 1983. Redesignated and amended at 49 FR 50605, Dec. 31, 1984; 70 FR 69643, Nov. 17, 2005]

### § 8.8 Notice of Comptroller of the Currency fees.

(a) *December notice of fees.* A "Notice of Comptroller of the Currency Fees" shall be published no later than the first business day in December of each year for fees to be charged by the Office during the upcoming year. These fees will be effective January 1 of that upcoming year.

(b) *Interim notice of Comptroller of the Currency fees.* The OCC may issue an "Interim Notice of Comptroller of the Currency Fees" or issue an amended "Notice of Comptroller of the Currency Fees" from time to time throughout the year as necessary. Interim or amended notices will be effective 30 days after issuance.

[55 FR 49842, Nov. 30, 1990, as amended at 70 FR 69644, Nov. 17, 2005]