AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

§ 7.5009 Location under 12 U.S.C. 85 of national banks operating exclusively through the Internet.

For purposes of 12 U.S.C. 85, the main office of a national bank that operates exclusively through the Internet is the office identified by the bank under 12 U.S.C. 22(Second) or as relocated under 12 U.S.C. 30 or other appropriate authority.

§ 7.5010 Shared electronic space.

National banks that share electronic space, including a co-branded web site, with a bank subsidiary, affiliate, or another third-party must take reasonable steps to clearly, conspicuously, and understandably distinguish between products and services offered by the bank and those offered by the bank's subsidiary, affiliate, or the third-party.

PART 8—ASSESSMENT OF FEES

Sec.
8.1 Scope and application.
8.2 Semiannual assessment.
8.6 Fees for special examinations and investigations.
8.7 Payment of interest on delinquent assessments and examination and investigation fees.
8.8 Notice of Comptroller of the Currency fees.

AUTHORITY: 12 U.S.C. 93a, 481, 482, 1867, 3102, and 3108; and 15 U.S.C. 78c and 78*l*.

§ 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, 1867, 3102, and 3108; and 15 U.S.C. 78c and 78*l*.

[70 FR 69643, Nov. 17, 2005]

§ 8.2 Semiannual assessment.

(a) Each national bank shall pay to the Comptroller of the Currency a semiannual assessment fee, due by March 31 and September 30 of each year, for the six month period beginning on January 1 and July 1 before each payment date. The Comptroller of the Currency will calculate the amount due under this section and provide a notice of assessments to each national bank no later than 7 business days prior to March 31 and September 30 of each year. The semiannual assessment will be calculated as follows:

If the bank's total assets (consolidated domestic and foreign subsidiaries) are:		The semiannual assessment is:		
Over—	But not over—	This amount—base amount	Plus marginal rates	Of excess over—
Column A Million	Column B Million	Column C	Column D	Column E Million
$0	$2	$X1	0	
2	20	X2	Y1	$2
20	100	X3	Y2	20
100	200	X4	Y3	100
200	1,000	X5	Y4	200
1,000	2,000	X6	Y5	1,000
2,000	6,000	X7	Y6	2,000
6,000	20,000	X8	Y7	6,000
20,000	40,000	X9	Y8	20,000
40,000	250,000	X10	Y9	40,000
250,000	.....	X11	Y10	250,000

(1) Every national bank falls into one of the 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 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

of Column E times the marginal rate in Column D: Assessments = C+[(Assets − E) × 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 (GDPIPD) for each June-to-June period. The OCC may at its discretion adjust marginal rates by amounts less than the percentage change in the GDPIPD. The OCC will also adjust the amounts in Column C to reflect any change made to the marginal rate.

(5) The specific marginal rates and complete assessment schedule will be published in the ''Notice of Comptroller of the Currency Fees,'' provided for at §8.8 of this part. Each semiannual assessment is based upon the total assets shown in the national bank's most recent ''Consolidated Reports of Condition and Income'' (Call Report) preceding the payment date. Each bank subject to the jurisdiction of the Comptroller of the Currency on the date of the second or fourth quarterly Call Report required by the Office under 12 U.S.C. 161 is subject to the full assessment for the next six month period.

(6)(i) Notwithstanding any other provision of this part, the OCC may reduce the semiannual assessment for each non-lead bank by a percentage that it will specify in the Notice of Comptroller of the Currency Fees described in §8.8.

(ii) For purposes of this paragraph (a)(6):

(A) *Lead bank* means the largest national bank controlled by a company, based on a comparison of the total assets held by each national bank controlled by that company as reported in each bank's Call Report filed for the quarter immediately preceding the payment of a semiannual assessment.

(B) *Non-lead bank* means a national bank that is not the lead bank controlled by a company that controls two or more national banks.

(C) *Control* and *company* have the same meanings as these terms have in sections 2(a)(2) and 2(b), respectively, of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a)(2) and (b)).

(b)(1) Each Federal branch and each Federal agency shall pay to the Comptroller of the Currency a semiannual assessment fee, due by March 31 and September 30 of each year, for the six month period beginning on January 1 and July 1 before each payment date. The Comptroller of the Currency will calculate the amount due under this section and provide a notice of assessments to each national bank no later than 7 business days prior to March 31 and September 30 of each year.

(2) The amount of the semiannual assessment paid by each Federal branch and Federal agency shall be computed at the same rate as provided in the Table in 12 CFR 8.2(a); however, only the total domestic assets of the Federal branch or Federal agency shall be subject to assessment.

(3) Each semiannual assessment of each Federal branch or Federal agency is based upon the total assets shown in the Federal branch's Call Report most recently preceding the payment date. Each Federal branch or Federal agency subject to the jurisdiction of the OCC on the date of the second and fourth Call Reports is subject to the full assessment for the next six-month period.

(4)(i) Notwithstanding any other provision of this part, the OCC may reduce the semiannual assessment for each non-lead Federal branch or agency by an amount that it will specify in the Notice of Comptroller of the Currency Fees described in §8.8.

(ii) For purposes of this paragraph (b)(4):

(A) *Lead Federal branch or agency* means the largest Federal branch or agency of a foreign bank, based on a comparison of the total assets held by each Federal branch or agency of that foreign bank as reported in each Federal branch's or agency's Call Report filed for the quarter immediately preceding the payment of a semiannual assessment.

(B) *Non-lead Federal branch or agency* means a Federal branch or Federal agency that is not the lead Federal branch or agency of a foreign bank that controls two or more Federal branches or agencies.

(c) *Additional assessment for independent credit card banks*—(1) *General*

rule. In addition to the assessment calculated according to paragraph (a) of this section, each independent credit card bank will pay an assessment based on receivables attributable to credit card accounts owned by the bank. This assessment will be computed by adding to its asset-based assessment an additional amount determined by its level of receivables attributable. The dollar amount of the additional assessment will be published in the ''Notice of Comptroller of the Currency Notice of Fees,'' described at §8.8.

(2) *Credit card banks affiliated with full-service national banks.* The OCC will assess an independent credit card 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 this part.

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

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

(ii) *Engaged primarily in card operations* means a bank described in section 2(c)(2)(F) of the Bank Holding Company Act (12 U.S.C. 1841(c)(2)(F)) or whose ratio of total gross receivables attributable to the bank's balance sheet assets exceeds 50%.

(iii) *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.

(iv) *Independent credit card bank* is a national bank that engages primarily in credit card operations and is not affiliated with a full-service national bank.

(v) *Receivables attributable* is the total amount of outstanding balances due on credit card accounts owned by an independent credit card bank (the receivables attributable to those accounts) on the last day of the assessment period, minus receivables retained on the bank's balance sheet as of that day.

(4) *Reports of receivables attributable.* Independent credit card banks will report receivables attributable data to the OCC semiannually at a time specified by the OCC.

(d) *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 apply a surcharge to the semiannual assessment computed in accordance with paragraphs (a) through (c) of this section. This surcharge will be determined by multiplying the semiannual assessment computed in accordance with paragraphs (a) through (c) of this section by—

(1) 1.5, in the case of any bank that receives a composite rating of 3 under the Uniform Financial Institutions Rating System (UFIRS) and any Federal branch or agency that receives a composite rating of 3 under the ROCA rating system (which rates risk management, operational controls, compliance, and asset quality) at its most recent examination; and

(2) 2.0, in the case of any bank that receives a composite UFIRS rating of 4 or 5 and any Federal branch or agency that receives a composite rating of 4 or 5 under the ROCA rating system at its most recent examination.

[44 FR 20065, Apr. 4, 1979, as amended at 49 FR 26205, June 27, 1984; 49 FR 50602, Dec. 31, 1984; 53 FR 48627, Dec. 1, 1988; 55 FR 49842, Nov. 30, 1990; 57 FR 22416, May 28, 1992; 61 FR 64002, Dec. 2, 1996; 62 FR 54745, Oct. 21, 1997; 62 FR 64137, Dec. 4, 1997; 66 FR 29893, June 1, 2001; 66 FR 57647, Nov. 16, 2001; 66 FR 58786, Nov. 23, 2001; 67 FR 57509, Sept. 11, 2002; 67 FR 62873, Oct. 9, 2002; 70 FR 69643, Nov. 17, 2005; 73 FR 9014, Feb. 19, 2008; 73 FR 9625, Feb. 21, 2008]

§8.6 Fees for special examinations and investigations.

(a) *Fees.* Pursuant to the authority contained in 12 U.S.C. 481 and 482, the Office of the Comptroller of the Currency assesses a fee for:

(1) Examining the fiduciary activities of national banks and related entities;

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

(3) Conducting special examinations and investigations of an entity with respect to its performance of activities described in section 7(c) of the Bank Service Company Act (12 U.S.C.

1867(c)), if the OCC determines that assessment of the fee is warranted with regard to a particular bank because of 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 recent 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 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 Treasury 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]