

Comptroller of the Currency, Treasury

§ 8.8

to the Comptroller of the Currency interest on its delinquent payments of semiannual assessments. In addition, each national bank, each Federal savings association 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; 76 FR 43568, July 21, 2011]

§ 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]

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AUTHORITY: 12 U.S.C. 24 (Seventh), 92a, and 93a; 15 U.S.C. 78q, 78q–1, and 78w.

SOURCE: 61 FR 68554, Dec. 30, 1996, unless otherwise noted.

REGULATIONS

§ 9.1 Authority, purpose, and scope.

(a) *Authority.* The Office of the Comptroller of the Currency (OCC) issues this part pursuant to its authority under 12 U.S.C. 24 (Seventh), 92a, and 93a, and 15 U.S.C. 78q, 78q–1, and 78w.

(b) *Purpose.* The purpose of this part is to set forth the standards that apply to the fiduciary activities of national banks.

(c) *Scope.* This part applies to all national banks that act in a fiduciary capacity, as defined in § 9.2(e). This part also applies to all Federal branches of foreign banks to the same extent as it applies to national banks.

§ 9.2 Definitions.

For the purposes of this part, the following definitions apply:

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

(b) *Applicable law* means the law of a state or other jurisdiction governing a national bank's fiduciary relationships, any applicable Federal law governing those relationships, the terms of the instrument governing a fiduciary relationship, or any court order pertaining to the relationship.

(c) *Custodian under a uniform gifts to minors act* means a fiduciary relationship established pursuant to a state law substantially similar to the Uniform Gifts to Minors Act or the Uniform Transfers to Minors Act as published by the American Law Institute.

(d) *Fiduciary account* means an account administered by a national bank acting in a fiduciary capacity.

(e) *Fiduciary capacity* means: trustee, executor, administrator, registrar of stocks and bonds, transfer agent, guardian, assignee, receiver, or custodian under a uniform gifts to minors act; investment adviser, if the bank receives a fee for its investment advice; any capacity in which the bank possesses investment discretion on behalf of another; or any other similar capacity that the OCC authorizes pursuant to 12 U.S.C. 92a.

(f) *Fiduciary officers and employees* means all officers and employees of a national bank to whom the board of directors or its designee has assigned functions involving the exercise of the bank's fiduciary powers.

(g) *Fiduciary powers* means the authority the OCC permits a national bank to exercise pursuant to 12 U.S.C. 92a.

(h) *Guardian* means the guardian or conservator, by whatever name used by state law, of the estate of a minor, an incompetent person, an absent person, or a person over whose estate a court has taken jurisdiction, other than under bankruptcy or insolvency laws.

(i) *Investment discretion* means, with respect to an account, the sole or shared authority (whether or not that authority is exercised) to determine what securities or other assets to purchase or sell on behalf of the account. A bank that delegates its authority