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conduct those activities on a competitive basis. The total revenue attributable to the bank's data processing activities under this section must be derived predominantly from processing the activities described in paragraph (a) of this section.

(c) *Software for performance of authorized banking functions.* A national bank may produce, market, or sell software that performs services or functions that the bank could perform directly, as part of the business of banking.

[61 FR 4862, Feb. 9, 1996, as amended at 73 FR 22242, Apr. 24, 2008]

§ 7.5007 Correspondent services.

It is part of the business of banking for a national bank to offer as a correspondent service to any of its affiliates or to other financial institutions any service it may perform for itself. The following list provides examples of electronic activities that banks may offer correspondents under this authority. This list is illustrative and not exclusive; the OCC may determine that other activities are permissible pursuant to this authority.

(a) The provision of computer networking packages and related hardware;

(b) Data processing services;

(c) The sale of software that performs data processing functions;

(d) The development, operation, management, and marketing of products and processing services for transactions conducted at electronic terminal devices;

(e) Item processing services and related software;

(f) Document control and record keeping through the use of electronic imaging technology;

(g) The provision of Internet merchant hosting services for resale to merchant customers;

(h) The provision of communication support services through electronic means; and

(i) Digital certification authority services.

§ 7.5008 Location of a national bank conducting electronic activities.

A national bank shall not be considered located in a State solely because it physically maintains technology,

such as a server or automated loan center, in that state, or because the bank's products or services are accessed through electronic means by customers located in the state.

§ 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.

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AUTHORITY: 12 U.S.C. 16, 93a, 481, 482, 1467, 1831c, 1867, 3102, 3108, and 5412(b)(1)(B); and 15 U.S.C. 78c and 78l.

§ 8.1 Scope and application.

The assessments contained in this part are made pursuant to the authority contained in 12 U.S.C. 16, 93a, 481, 482, 1467, 1831c, 1867, 3102, and 3108; and 15 U.S.C. 78c and 78l.

[76 FR 43566, July 21, 2011]

§ 8.2 Semiannual assessment.

(a) Each national bank and each Federal savings association shall pay to the Comptroller of the Currency a semiannual assessment fee, due by March 31 and September 30 of each

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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 and each Federal savings association no later than 7 business days prior to collection on March 31 and September 30 of each year. In setting assessments, the Comptroller of the Cur-

rency may take into account the nature and scope of the activities of a national bank or Federal savings association, the amount and type of assets that the entity holds, the financial and managerial condition of the entity, and any other factor the Comptroller of the Currency determines is appropriate, as provided by 12 U.S.C. 16. The semi-annual assessment will be calculated as follows:

If the bank's or Federal savings association'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	Column B	Column C	Column D	Column E
Million (dollars)	Million (dollars)	(dollars)		Million (dollars)
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 and every Federal savings association falls into one of the asset-size brackets denoted by Columns A and B. A bank's or Federal savings association'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 or Federal savings association 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 or Federal savings association 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 or Federal savings association's assets in excess of Column E times the marginal rate in Column D:

$$\text{Assessments} = C + [(\text{Assets} - E) \times D].$$

(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 other than the percentage change in the GDPIP. 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 semi-annual assessment is based upon the total assets shown in the national bank's or Federal savings association's most recent "Consolidated Reports of Condition and Income" (Call Report) or "Thrift Financial Report," as appropriate, preceding the payment date. Each bank or Federal savings association subject to the jurisdiction of the Comptroller of the Currency on the

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date of the second or fourth quarterly Call Report or Thrift Financial Report, as appropriate, required by the Office under 12 U.S.C. 161 and 12 U.S.C. 1464(v) 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 or non-lead Federal savings association 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* or *lead Federal savings association* means the largest national bank or Federal savings association controlled by a company, based on a comparison of the total assets held by each national bank or Federal savings association controlled by that company as reported in each bank's or Federal savings association's Call Report or Thrift Financial Report, as appropriate, filed for the quarter immediately preceding the payment of a semiannual assessment.

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

(C) *Control* and *company* with respect to national banks 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)).

(D) *Control* and *company* with respect to Federal savings associations have the same meanings as these terms have in section 10(a) of the Home Owners' Loan Act (12 U.S.C. 1467a(a)).

(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 agency shall be subject to assessment.

(3) Each semiannual assessment of each Federal branch or agency is based upon the total assets shown in the Federal branch's or agency's Call Report most recently preceding the payment date. Each Federal branch or 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 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 and independent credit card Federal savings associations*—(1) *General rule.* In addition to the assessment calculated according to paragraph (a) of this section, each independent credit card bank and independent credit card Federal savings association will pay an assessment based on receivables attributable to credit card accounts owned by the bank or Federal savings association. This assessment will be computed by adding

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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 of Fees,” described at §8.8.

(2) *Independent credit card banks and independent credit card Federal savings associations affiliated with full-service national banks or Federal savings associations.* The OCC will assess an independent credit card bank and an independent credit card Federal savings association in accordance with paragraph (c)(1) of this section, notwithstanding that the bank or Federal savings association is affiliated with a full-service national bank or full service Federal savings association, 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*, with respect to national banks, has the same meaning as this term has in 12 U.S.C. 221a(b).

(ii) *Affiliate*, with respect to Federal savings associations, has the same meaning as in 12 U.S.C. 1462(9).

(iii) *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 a bank or a Federal savings association whose ratio of total gross receivables attributable to the bank’s or Federal savings association’s balance sheet assets exceeds 50%.

(iv) *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.

(v) *Full-service Federal savings association* is a Federal savings association 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 activities permissible for Federal savings associations.

(vi) *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.

(vii) *Independent credit card Federal savings association* is a Federal savings association that engages primarily in credit card operations and is not affiliated with a full-service Federal savings association.

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

(4) *Reports of receivables attributable.* Independent credit card banks and independent credit card Federal savings associations 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 or Federal savings association.* Subject to any limit that the OCC prescribes in the “Notice of 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 or Federal savings association 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 or Federal savings association that receives a composite UFIRS rating of 4 or 5 and any Federal branch or agency that receives a composite rating of 4 or

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5 under the ROCA rating system at its most recent examination.

[76 FR 43566, July 21, 2011, as amended at 79 FR 38772, July 9, 2014]

§ 8.6 Fees for special examinations and investigations.

(a) *Fees.* Pursuant to the authority contained in 12 U.S.C. 16, 481, 482, 1467, and 1831c, the Office of the Comptroller of the Currency may assess a fee for:

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

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

(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 or Federal savings association because of the high risk or unusual nature of the activities performed; the significance to the bank's or Federal saving association's operations and income of the activities performed; or the extent to which the bank or Federal savings association 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, Federal savings associations, and Federal branches or agencies of foreign banks;

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

(6) Conducting examinations of depository-institution permissible activities of nondepository institution subsidiaries of depository institution holding companies pursuant to section 605(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 1831c).

(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 and trust Federal savings associations—*(1) *Independent trust banks and independent trust Federal savings associations.* The assessment of independent trust banks and independent trust Federal savings associations 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 and independent trust Federal savings associations will pay a minimum fee, to be provided in the "Notice of Comptroller of the Currency Fees."

(ii) *Additional amount for independent trust banks and independent trust Federal savings associations with fiduciary and related assets in excess of \$1 billion.* Independent trust banks and independent trust Federal savings associations 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 or of the Federal savings association.* Subject to any limit that the OCC prescribes in the "Notice of 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 and independent trust Federal savings association 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 and trust Federal savings associations affiliated with full-service Federal savings associations.* The OCC will assess a trust bank and a trust