



Comptroller of the Currency
Administrator of National Banks
US Department of the Treasury

RESCINDED

OCC 2008-34

**Subject: Notice of Comptroller of the Currency
Fees for Year 2009
Date: December 1, 2008**

**To: Chief Executive Officers of All National
Banks, Federal Branches and Agencies,
Department and Division Heads, and All
Examining Personnel**

Description: Year 2009 Fee Structure

This rescission does not change the status of the transmitted document. To determine the current status of the transmitted document, refer to the Code of Federal Regulations, www.occ.gov, or the original issuer of the document.

Reference: 12 CFR 8, amended by final rule published on September 10, 2008. See 73 Fed. Reg. 52576 (September 10, 2008).

2009 Assessment Schedule

Effective January 1, 2009:

- Assessments are due March 31 and September 30 based on call report information as of December 31 and June 30, respectively. The assessments cover the six-month period beginning on January 1 and July 1, respectively. For example, the assessment due March 31, 2009 covers the period January 1 through June 30, 2009.
- The marginal rates of the OCC's general assessment schedule continue to be indexed to reflect inflation as measured by the Gross Domestic Product Implicit Price Deflator (GDIPIPD) for the previous June-to-June period. The GDIPIPD adjustment is 1.9 percent for 2009. The indexation adjustment will apply to the first \$20 billion in a national bank's assets.
- Fees assessed independent trust banks and independent credit card banks have been adjusted for inflation as well.
- The OCC will calculate the assessment fee due and draft the fee amount on March 31 and September 30. The OCC will provide seven business days notice of the amount that will be drafted from an institution's designated account. The institution is responsible for ensuring that the account is funded properly on the due dates.
- The OCC will continue to charge interest on all payments received after the due date. The interest rate charged will be the United States Treasury Department's current value of funds rate that is published quarterly in the *Federal Register*.
- National banks that exit the national banking system on or before December 31, 2008, or June 30, 2009, will not be subject to the semi-annual assessment for the period beginning January 1, 2009 or July 1, 2009, respectively. Only those institutions leaving the national banking system prior to the close of business on those dates avoid paying the semi-annual assessment for the period beginning January 1, 2009 or July 1, 2009, as applicable.

The OCC's assessment schedule continues to include a surcharge for banks that require increased supervisory resources. The surcharge ensures that fees reflect the increased cost of supervision that applies to those national banks and federal branches and agencies of foreign banks rated 3, 4, or 5 under the uniform financial institution rating system (UFIRS), or the risk management, operational controls, compliance and asset quality (ROCA) rating system as of the

relevant date (i.e., December 31, 2008, or June 30, 2009). The surcharge is to be applied to all components of an institution's assessment, including book assets, assets under management (for independent trust banks), and receivables attributable (for independent credit card banks). National banks, federal branches and agencies of foreign banks that are subject to the surcharge calculate the surcharge by multiplying the sum of the general assessment (based on the institution's book assets up to \$20 billion) plus the independent trust bank assessment or the independent credit card bank assessment by 50 percent for 3-rated institutions and 100 percent for 4- and 5-rated institutions.

The OCC will continue to reduce the assessment of nonlead national banks by 12 percent. A nonlead bank, for this purpose, is a national bank and federal branch or agency that is not the largest national bank, based on total assets, controlled by a company owning two or more national banks. Nonlead national banks, when a company should multiply their calculated general assessment by 88 percent to recognize the nonlead discount. The 12 percent discount does not apply to the independent trust bank assessment or the independent credit card bank assessment, given that independent trust banks and independent credit card banks, by definition, are not affiliated with full-service national banks.

Each national bank and federal branch or agency pays the general assessment fee. Independent trust banks pay the general assessment fee and the independent trust bank assessment. Independent credit card banks pay the general assessment fee and the independent credit card bank assessment. Assessments will be calculated using the schedules below and then adjusted for the nonlead discount and/or condition surcharge.

General Assessment Fee Schedule

If the amount of total balance sheet assets (consolidated domestic and foreign subsidiaries) is: (millions)		The Semiannual Assessment will be:		
Over	But Not Over	This Amount	Plus	Of Excess Over (millions)
\$ 0	\$2	\$5,580	0.000000000	\$0
2	20	5,580	0.000220186	2
20	100	9,543	0.000176149	20
100	200	23,635	0.000114494	100
200	1,000	35,084	0.000096880	200
1,000	2,000	112,588	0.000079266	1,000
2,000	6,000	191,854	0.000070459	2,000
6,000	20,000	473,690	0.000059952	6,000
20,000	40,000	1,313,018	0.000047883	20,000
40,000	250,000	2,270,678	0.000032675	40,000
250,000		9,132,428	0.000032348	250,000

Independent Trust Bank Semiannual Assessment Schedule

If the total amount of Fiduciary and Related Assets is: (millions)	The Independent Trust Bank Semiannual Assessment will be:
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Over	But Not Over	This Amount	Plus	Of Excess Over (millions)
\$0	1,000	21,210	0.000000000	\$0
1,000	10,000	21,210	0.000004228	1,000
10,000	100,000	59,253	0.000000708	10,000
100,000		122,973	0.000000450	100,000

Independent Credit Card Bank Semiannual Assessment Schedule

If the bank's total off-balance sheet receivables attributable to it are: (millions)		The Independent Credit Card Bank Semiannual Assessment will be:
Over	But Not Over	
\$0	\$100	\$45,215
100	1,000	67,555
1,000	5,000	90,435
5,000		112,795

HOURLY RATE FOR EXAMINATIONS AND INVESTIGATIONS

Reference: 12 CFR 8.6

Effective date: Examinations and investigations subject to the fee beginning after January 1, 2003.

Rate: \$110 per hour to recover the cost of conducting special examinations and investigations described in 12 CFR 8.6.

LICENSING FEES

Reference: 12 CFR 5.5

All licensing fees have been suspended for calendar year 2009. This change was effective January 1, 2008, for calendar year 2008 and will continue to be in effect for calendar year 2009.

PUBLICATIONS

The OCC has an extensive list of paper-based publications available for a fee, as well as publications available free of charge. For a list of publications and current prices, consult the attached price list. Please note that publication prices are subject to change before the next schedule of fees is published.

Copies of an array of items, including news releases, job announcements, issuances (such as bulletins, advisories, and alerts) and other materials may be downloaded free of charge from the agency's Web site at: [<http://www.occ.gov>]. For your convenience, the site contains a search engine to locate materials by subject.

MISCELLANEOUS FEES

Prepayment is *required* for bank histories and certifications.

Bank History – for single bank:		
Less than 50 years	\$	50.00
Fifty years or more	\$	125.00

Bank histories are provided to determine the successor to an inactive national bank. They include corporate transactions such as name changes, mergers, closings, and the current address of the successor institution, if available.

Certificates relating to licensing bank activities:	\$	100.00
-Title Changes		
-Mergers		
-Articles of Association		
-Declaration of Insolvency		
-Charter		
-Corporate Existence		
-Fiduciary Powers		

Certificate of Authenticity (12 CFR 4)	\$	100.00
Copies of certificates	\$	10.00

Freedom of Information Act and Privacy Act Requests:

Search and Review	\$	35.00 an hour
Photocopying	\$	0.20 a page

Examination Reports:

Initial Copy	\$	Free
Additional Copies – Each	\$	10.00
Special Requests – Each	\$	50.00

Thomas R. Bloom
Senior Deputy Comptroller for the Office of Management and Chief Financial Officer

Related Links

- [OCC Publications List](#)
- [Safety and Soundness](#)
- [Compliance](#)
- [Asset Management](#)
- [Comptroller's Licensing Manual](#)
- [Description of Publications](#)
- [Publication Order Form](#)
- [Final Rule 73 FR 52576](#)

were received in response to the request for comment on the interim final rule.

DATES: *Effective Date:* Effective September 10, 2008 the rule published on February 19, 2008 (73 FR 9012) and corrected at 73 FR 9625, Feb. 21, 2008 is adopted as final without change.

FOR FURTHER INFORMATION CONTACT: MaryAnn Nash, Counsel, Legislative and Regulatory Activities Division, (202) 874-5090; Stuart Feldstein, Assistant Director, Legislative and Regulatory Activities Division, (202) 874-5090; or Colette Baylson, Accounting Operations Manager, Financial Management, (202) 874-4403, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

Background

The National Bank Act authorizes the OCC to fund the expenses of its operations through assessments on national banks.¹ Under this authority, the OCC collects semiannual assessments from national banks in accordance with part 8 of our regulations and with the OCC's Notice of the Comptroller of the Currency Fees (Notice of Fees).²

Part 8 establishes categories, or brackets, each of which comprises a range of size values for a national bank's total assets. Each national bank's assessment is the sum of a base amount, which is the same for every national bank in that asset-size bracket, plus a marginal amount, which is computed by applying a marginal assessment rate to the amount of total assets in excess of the lower boundary of the asset-size bracket.³ The marginal assessment rate declines as asset size increases, reflecting economies of scale in bank examination and supervision, which factor into the OCC's overall cost of operations. Both the base amounts and the marginal rates applicable to each asset-size bracket are published at least once a year in the OCC's Notice of Fees.⁴

Prior to the issuance of the interim final rule, the national bank assessments

were based on asset-size brackets that had been last updated in 1992⁵ and no longer reflected the structure and distribution of assets in the national banking system as a whole. For example, since 1992, there has been a significant increase not only in the amount of assets held by the largest banks, but also in the assets held by national banks in other asset-size brackets, resulting in a general upward shift in the distribution of the population of national banks on the asset-size bracket table in 12 CFR 8.2(a). The growth in the average assets held by national banks reflects the consolidation in the banking industry that has occurred since 1992.

Given these developments, the OCC has determined that it is appropriate to update the existing asset-size brackets to reflect the current structure of the national banking system. The interim final rule has enabled the OCC to adjust the assessment framework to better reflect industry structure and the OCC's corresponding expenses of operations.

Interim Final Rule and Comments

On February 19, 2008, the OCC published and requested comment on an interim final rule that expanded the number of asset-size assessment brackets in the table at 12 CFR 8.2(a) by revising the current top bracket, presently \$40 billion and above, to cover banks with assets between \$40 billion and \$250 billion.⁶ In addition, the interim final rule created a new top bracket that applies to banks with assets in excess of \$250 billion.

The OCC also made a conforming change to delete the word "ten" from the description of the asset-size brackets in § 8.2(a)(1) of the assessment rules since it no longer accurately described the number of brackets.

The OCC received no comments in response to the interim final rule and has determined that it is appropriate to adopt as final the interim final rule as originally published on February 19, 2008.

Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act (Pub. L. 96-354, Sept. 19, 1980) (RFA) applies only to rules for which an agency publishes a general notice of proposed rulemaking pursuant to 5 U.S.C. 553(b).⁷ Pursuant to the Administrative Procedure Act (APA), at 5 U.S.C. 553(b)(B), notice and an opportunity for public comment are not required prior to the issuance of a final rule if an

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 8

[Docket No. OCC-2008-0013]

RIN 1557-AD06

Assessment of Fees

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is adopting as final and without change the interim final assessments rule issued on February 19, 2008. The interim final rule added two new asset-size categories to the table in 12 CFR 8.2(a) used to calculate each national bank's semiannual assessment. The addition of these categories is warranted to take account of significant structural changes in the national banking system since 1992, when the table was last revised, and has enabled the OCC to realign assessments to better reflect industry structure and OCC's corresponding expenses of operations. No comments

¹ 12 U.S.C. 482.

² Under part 8, the OCC also collects assessments from Federal branches and Federal agencies. The changes provided for in this final rule will also apply to assessments of Federal branches and Federal agencies.

³ See 12 CFR 8.2(a) (listing the asset-size brackets).

⁴ See, e.g., OCC Bulletin 2007-46, "Notice of the Comptroller of the Currency Fees for Year 2008" (December 1, 2007). The OCC's regulations provide for the annual publication of the Notice of Fees and also authorize the publication of interim, or amended, notices of fees "from time to time throughout the year as necessary." 12 CFR 8.8.

⁵ 57 FR 22413 (May 28, 1992).

⁶ 73 FR 9012 (February 19, 2008).

⁷ 5 U.S.C. 601(2).

agency, for good cause, finds that “notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.”⁸

As we have described, the asset brackets in the assessments table in 12 CFR 8.2(a) were last revised in 1992 and did not reflect the current structure of the national banking industry. The OCC adopted the changes to that framework in the form of an interim final rule because completion of notice and comment rulemaking procedures prior to issuing the interim final rule would have required delaying implementation of the new asset brackets beyond the next scheduled assessment date. Such a delay would have been contrary to the public interest since it would have resulted in national banks’ continued payment of assessments under a framework that the OCC has determined is no longer representative of current industry structure and the OCC’s corresponding expenses of operation. Issuance of the interim final rule also furthered the public interest and reduced regulatory burden because it allowed the OCC, as appropriate, to issue an amended Notice of Fees that better reflects the structure of the national banking system and allocates the OCC’s expenses of operation on that basis. For the same reasons, the OCC found good cause to publish the interim final rule with an immediate effective date. *See* 5 U.S.C. 553(d)(1), 553(d)(3).⁹

Because the OCC determined for good cause that the APA did not require public notice and comment on the interim final rule, we did not publish a general notice of proposed rulemaking. Thus, the RFA, pursuant to 5 U.S.C. 601(2), does not apply to this final rule because it is not a rule for which the OCC was required to publish a general notice of proposed rulemaking pursuant to section 553(b) of the APA.

Executive Order 12866

The OCC has determined that this final rule is not a significant regulatory action under Executive Order 12866.

Unfunded Mandates Reform Act of 1995 Determinations

Section 202 of the Unfunded Mandates Reform Act of 1995¹⁰ (Unfunded Mandates Act) requires that an agency prepare a budgetary impact

statement before promulgating any rule likely to result in a Federal mandate that may result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires the agency to identify and consider a reasonable number of regulatory alternatives before promulgating the rule. The OCC has determined that this final rule will not result in expenditures by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. Accordingly, the OCC has not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR 1320 appendix A.1), we have reviewed the final rule to assess any information collections. There are no collections of information as defined by the Paperwork Reduction Act in the final rule.

Lists of Subjects in 12 CFR Part 8

Assessment of fees.

PART 8—ASSESSMENT OF FEES

■ Accordingly under the authority at 12 U.S.C. 482 the interim rule amending 12 CFR part 8 which was published at 73 FR 9012 on February 19, 2008, and corrected at 73 FR 9012, Feb. 21, 2008 is adopted as final without change.

Dated: August 11, 2008.

John C. Dugan,

Comptroller of the Currency.

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⁸ 5 U.S.C. 553(b)(B).

⁹ Although notice and comment were not required prior to the effective date of the interim final rule, the OCC nonetheless invited comments on all aspects of this interim final rule and intended to revise the interim final rule if necessary or appropriate in light of the comments received. As explained above, however, the OCC received no comments on the interim final rule.

¹⁰ 2 U.S.C. 1532.