

# Rules and Regulations

Federal Register

Vol. 84, No. 162

Wednesday, August 21, 2019

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents.

## DEPARTMENT OF THE TREASURY

### Office of the Comptroller of the Currency

#### 12 CFR Part 8

[Docket No. OCC–2018–0039]

RIN 1557–AE58

#### 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 a final rule to revise its assessment rule to provide partial assessment refunds to national banks, Federal savings associations, and Federal branches and agencies of foreign banks (collectively, banks under the jurisdiction of the OCC) that exit the OCC's jurisdiction within the first half of each six-month period beginning the day after the date of the second or fourth quarterly Consolidated Report of Condition and Income (Call Report). The final rule will not change the current payment due dates for assessments nor will it change the way assessments are calculated for banks that remain under the OCC's jurisdiction. The final rule will also make technical changes to the assessments rules.

**DATES:** Effective September 20, 2019.

#### FOR FURTHER INFORMATION CONTACT:

Deborah Thomas, AT Team Lead, Financial Management, (202) 649–5540; or Mitchell Plave, Special Counsel, Chief Counsel's Office, (202) 649–5490; or for persons who are deaf or hearing impaired, TTY, (202) 649–5597, 400 7th Street SW, Washington, DC 20219.

#### SUPPLEMENTARY INFORMATION:

### I. Background

The National Bank Act<sup>1</sup> and the Home Owners' Loan Act<sup>2</sup> authorize the Comptroller to fund the OCC's operations through assessments, fees, and other charges on banks under the jurisdiction of the OCC.<sup>3</sup> In setting assessments, the Comptroller has broad authority to consider variations among institutions, including the nature and scope of the activities of the entity, the amount and type of assets that the entity holds, the financial and managerial condition of the entity, and any other factor the Comptroller determines is appropriate.<sup>4</sup>

The OCC collects assessments from banks under its jurisdiction in accordance with 12 CFR part 8. Under part 8, the base assessment for banks is calculated using a table with eleven categories, or brackets, each of which comprises a range of asset-size values. The assessment for each bank is the sum of a base amount, which is the same for every bank in its asset-size bracket, plus a marginal amount, which is computed by applying a marginal assessment rate to the amount in excess of the lower boundary of the asset-size bracket.<sup>5</sup> The marginal assessment rate declines as asset size increases, reflecting economies of scale in bank examination and supervision.

The OCC's annual Notice of Office of the Comptroller of the Currency Fees and Assessments (Notice of Fees) sets forth the marginal assessment rates applicable to each asset-size bracket for each year, as well as other assessment components and fees. Under part 8, the OCC may adjust the marginal rates to account for inflation through the annual Notice of Fees.<sup>6</sup> The OCC also has the discretion under part 8 to adjust marginal rates by amounts other than inflation.<sup>7</sup> The OCC may issue an interim or amended Notice of Fees if the

<sup>1</sup> Revised Statutes of the United States, Title LXII, 12 U.S.C. 1 *et seq.*

<sup>2</sup> The Home Owners' Loan Act, 12 U.S.C. 1461 *et seq.*

<sup>3</sup> 12 U.S.C. 16, 481, 482, 1467.

<sup>4</sup> 12 U.S.C. 16. *See also* 12 U.S.C. 1467 (providing that the Comptroller has the authority to recover costs of examination of Federal savings associations "as the Comptroller deems necessary or appropriate").

<sup>5</sup> 12 CFR 8.2(a). Only the total domestic assets of Federal branches and agencies are subject to assessment. 12 CFR 8.2(b)(2).

<sup>6</sup> 12 CFR 8.2(a)(4).

<sup>7</sup> *Id.*

Comptroller determines that it is necessary to revise assessments to meet the OCC's supervisory obligations.<sup>8</sup>

Under 12 CFR 8.2, the OCC collects assessments on a semiannual basis, with fees due by March 31 and September 30 (payment due dates) of each year for the six-month period beginning on January 1 and July 1 before each payment due date.<sup>9</sup> Under this schedule, banks under the jurisdiction of the OCC pay half of the semiannual assessment prospectively and half retrospectively. This schedule for collection of assessments was adopted in 2005 when the OCC issued a rule to streamline the assessments billing process.<sup>10</sup> Between 1976, when the OCC adopted the marginal assessments structure, and 2005, the OCC collected assessments prospectively for five months and retrospectively for one month.<sup>11</sup>

Under current 12 CFR 8.2(a)(5) and (b)(3), each bank under the jurisdiction of the OCC on the date of the second or fourth quarterly Call Report is subject to the full assessment for the next six-month period. As noted in the Notice of Fees for 2018,<sup>12</sup> only those institutions leaving OCC jurisdiction before the close of business on the date of the second or fourth quarterly Call Report avoid paying the semiannual assessment for the period beginning January 1 or July 1, as applicable.

### II. Description of the Proposed Rule and Comments Received

#### Assessment Refunds

The OCC published a proposed rule in the **Federal Register** on March 20, 2019, to amend 12 CFR part 8 to provide partial assessment refunds to banks that exit the jurisdiction of the OCC within the first half of each six-month period beginning the day after the date of the second or fourth quarterly Call Report.<sup>13</sup> Under the current assessments structure, banks that are subject to the jurisdiction of the OCC on the date of the second or fourth quarterly Call Report (December 31 or June 30) are subject to the full assessment for the next six-month period beginning January 1 or July 1, with payment due

<sup>8</sup> 12 CFR 8.8(b).

<sup>9</sup> 12 CFR 8.2(a) and (b)(1).

<sup>10</sup> 70 FR 69641 (Nov. 17, 2005).

<sup>11</sup> 41 FR 3284 (Jan. 22, 1976).

<sup>12</sup> *See* OCC Bulletin 2017–60 (Office the Comptroller of the Currency Fees and Assessments).

<sup>13</sup> 84 FR 10270 (March 20, 2019).

March 31 or September 30, as appropriate.<sup>14</sup> Under the proposed rule, banks that leave OCC jurisdiction by the date of the first or third quarterly Call Report, which coincides with the appropriate payment due date, would receive a refund of assessments for the second three months of the semiannual assessment period. For example, a bank that was subject to the jurisdiction of the OCC as of December 31, the date of the fourth quarterly Call Report, would receive a refund of assessments for the second three months of the semiannual assessment period beginning January 1 if it leaves the OCC's jurisdiction by March 31, the date of the first quarterly Call Report.

The proposed rule was intended to eliminate the requirement that banks pay prospectively for one half of each assessment period after they no longer are subject to the jurisdiction of the OCC by setting the refund equal to the prospective portion of the assessment. Under the current rule, the payment due date effectively divides each six-month period into two three-month periods, and a bank subject to the jurisdiction of the OCC on the date of the applicable Call Report (December 31 or June 30) must pay the full assessment on the payment due date of the semiannual assessment (March 31 and September 30) even if it has left OCC jurisdiction by that date. This structure can result in banks prospectively paying assessment fees for three-month periods during which they are not subject to the jurisdiction of the OCC at any time. Under the proposed rule, the payment due date continues to divide each six-month period into two three-month periods. However, a bank that leaves the OCC's jurisdiction after the fourth quarterly Call Report (December 31), but before the date of the first quarterly Call Report (March 31), would not be obligated to pay for the second half of that semiannual assessment period. Similarly, a bank that leaves the OCC's jurisdiction after the second quarterly Call Report (June 30), but before the date of the third quarterly Call Report (September 30) would also not be obligated to pay for the second half of that semiannual assessment period. In doing so, the proposed rule would assess a bank to cover only the relevant three-month period during which it was subject to the jurisdiction of the OCC.

#### *Technical and Conforming Amendments*

The proposed rule also included technical and conforming amendments. These were intended to reduce

ambiguity and make terminology consistent throughout 12 CFR part 8. The first proposed change would amend §§ 8.2(d) and 8.6(c)(1)(iii) concerning the condition surcharge to replace the phrase "at its most recent examination" with the phrase "prior to December 31 or June 30, as appropriate." This change would clarify that the condition surcharge is calculated in tandem with the OCC's calculation of other assessment components based on Call Report information as of December 31 and June 30 of each year.<sup>15</sup> This amendment to the rule would not change the OCC's current practice of calculating a bank's surcharge as of its most recent ratings prior to December 31 or June 30, as appropriate. Under this policy, surcharges are neither raised nor lowered between December 31 and June 30, as appropriate, and the payment due dates of March 31 and September 30, as appropriate.

The second proposed technical change would make several revisions to 12 CFR 8.7 concerning interest on delinquent assessments and fees and refunds in the case of an error or miscalculation of assessments or fees. First, it would add the prefatory clause, "Within 30 calendar days of receipt of such notice, the OCC shall either—" at § 8.7(b)(1). This clause was originally included at § 8.7(b) as introductory text and was inadvertently deleted in connection with a prior rulemaking. Restoring it would clarify the OCC's obligations under § 8.7(b). This change would also redesignate the current § 8.7(b)(1) and (2) as § 8.7(b)(1)(i) and (ii), respectively. In addition, the proposed rule would redesignate the current § 8.7(b) concluding text as § 8.7(b)(2). Finally, the proposed rule would simplify the language used in § 8.7(a) and (b) and clarify that provisions dealing with special examination or investigation fees apply to any institution subject to a special examination or investigation. These amendments would not change the OCC's current policy of considering assessment payments delinquent if received after the time for payment specified in 12 CFR 8.2; considering special examination and investigation fees delinquent if not received within 30 calendar days of the invoice date; requiring interest on delinquent payments and fees; and providing either a refund or notice of its unwillingness to accept a refund request within 30 calendar days of receipt of a request.

The proposed rule would also conform all references to the "Office of the Comptroller of the Currency," "Comptroller of the Currency," or "Office" to "OCC," except with respect to references to the Notice of Fees; conform all references to "Notice of Comptroller of the Currency Fees" or "Notice of Comptroller of the Currency of Fees" to "Notice of Office of the Comptroller of the Currency Fees and Assessments"; add hyphens to all compound modifiers where a hyphen is not currently used; remove references to "Thrift Financial Reports," which are no longer used; remove a duplicate reference to "Uniform Financial Institutions Rating System" in 12 CFR 8.6(c)(1)(iii); remove a duplicate and unnecessary citation to authority in 12 CFR 8.6(a); replace an incorrect reference to "each national bank" with a reference to "each Federal branch and agency" in 12 CFR 8.2(b)(1); add the modifier "national" to references to banks and terms, such as "independent credit card banks," as appropriate; add the term "independent trust" before references to banks and Federal savings associations in 12 CFR 8.6(c)(1)(iii) and add a reference to independent trust Federal savings associations where the provision currently only refers to banks; and add conforming references to Federal branches and agencies, as necessary.

#### *Comments on the Proposed Rule*

The OCC received one comment on the proposed rule. The commenter, a trade association for banks, supported the proposed rule, stating that it would improve the fairness of the assessments process and appropriately refine the scope of fees and charges for banks under the jurisdiction of the OCC. In the commenter's opinion, the proposal would also improve the ability of banks to serve their customers and communities.

#### **III. Description of the Final Rule**

The final rule adopts the assessment refund process presented in the proposed rule without change. Under the final rule, banks that exit the jurisdiction of the OCC within the first half of each six-month period beginning the day after the date of the second or fourth quarterly Call Report will receive a refund equal to the prospective portion of the assessment. This change will prevent banks that exit the OCC's jurisdiction from paying assessment fees for the three-month periods during which they are not subject to the OCC's jurisdiction at any time. This change will not affect current payment due

<sup>15</sup> See OCC Bulletin 2017-60 (Office the Comptroller of the Currency Fees and Assessments) (describing the process for calculating assessments).

<sup>14</sup> 12 CFR 8.2(a) and (b).

dates or the manner in which assessments are calculated.

The final rule adopts the technical and conforming amendments in the proposed rule without substantive change. These amendments will reduce ambiguity and make terminology consistent throughout part 8. The final rule also makes a technical correction to the text of the proposed rule. This correction revises proposed 12 CFR 8.2(a)(5) and (b)(3) by substituting “first” and “third” for “second” and “fourth,” as appropriate, to reflect the new proposed refund policy. This technical correction does not substantively change the partial refund process as proposed and is consistent with the description of the refund policy in the preamble to the proposed rule. The final rule also makes a technical correction to the proposed rule’s prefatory clause at § 8.7(b)(1) by removing the word “notice” and replacing it with the word “request.” This is a nonsubstantive change that aligns the wording with the phraseology in § 8.7(b).

### Regulatory Analysis

#### *Paperwork Reduction Act of 1995*

In accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*) the OCC may not conduct or sponsor, and an organization is not required to respond to, an information collection unless the information collection displays a currently valid Office of Management and Budget (OMB) control number. This final rule does not contain a collection of information under the PRA.

#### *Regulatory Flexibility Act*

In general, the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) requires that in connection with a rulemaking, an agency prepare and make available for public comment a regulatory flexibility analysis that describes the impact of the rule on small entities. Under section 605(b) of the RFA, this analysis is not required if an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities and publishes its certification and a brief explanatory statement in the **Federal Register** along with its rule.

The OCC currently supervises approximately 886 small entities.<sup>16</sup>

<sup>16</sup> The OCC bases its estimate of the number of small entities on the SBA’s size thresholds for commercial banks and savings institutions, and trust companies, which are \$550 million and \$38.5 million, respectively. Consistent with the General Principles of Affiliation in 13 CFR 121.103(a), the OCC counts the assets of affiliated financial institutions when determining if we should classify

Although the number of OCC-supervised small banks affected will vary each year, the OCC does not expect that the final rule will affect a substantial number (generally defined as five percent or more of OCC-supervised small entities) in any given year, based on the OCC’s experience with departures from the charters in recent years. For example, had the final rule applied in 2018, the OCC would have refunded assessments totaling \$579,000 to 22 banks, 19 of which were small banks (approximately two percent of OCC-supervised small entities). Similarly, if the final rule had applied in 2017, the OCC would have refunded assessments totaling \$663,000 to 16 banks, 12 of which were small banks; in 2016, the OCC would have refunded assessments totaling \$392,000 to 26 banks, all of which were small banks; and in 2015, the OCC would have refunded assessments totaling \$555,000 to 29 banks, 27 of which were small banks. In each of these years, the number of institutions that would have been affected by the final rule was less than five percent of OCC-supervised small entities. Therefore, the final rule would not have affected a substantial number of small entities during these years.

The OCC also considered whether the final rule will result in a significant economic impact on small entities. In general, the OCC classifies the economic impact of expected cost (or benefit) to comply with a rule on an individual bank as significant if the total estimated monetized costs (or benefits) in one year are greater than 5 percent of the bank’s total annual salaries and benefits or 2.5 percent of the bank’s total annual non-interest expense. Based on the above criteria, and the refund amounts for the years 2015 through 2018 outlined above, the OCC estimates that impact of the final rule, had it been in place for 2015–2018, would not have had a significant economic impact at any of the affected institutions.

Based on the data and experience of the OCC in recent years with departures from the charters, the OCC certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

#### *Unfunded Mandates Reform Act of 1995*

The OCC analyzed the final rule under the factors set forth in the

an OCC-supervised institution as a small entity. The OCC uses December 31, 2017, to represent size because a “financial institution’s assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year.” See footnote 8 of the U.S. Small Business Administration’s *Table of Size Standards*.

Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1532). Under this analysis, the OCC considered whether the final rule includes 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 (adjusted for inflation). The OCC has determined that the final rule will not impose new mandates and, therefore, will not result in the expenditure of \$100 million or more annually by state, local, and tribal governments, or by the private sector.

#### *Riegle Community Development and Regulatory Improvement Act of 1994*

Section 302 of the Riegle Community Development and Regulatory Improvement Act of 1994 (RCDRIA) (12 U.S.C. 4802) requires that each Federal banking agency, in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions (IDIs), consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such regulations would place on depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations.<sup>17</sup> In addition, new regulations and amendments to regulations that impose additional reporting, disclosures, or other new requirements on IDIs generally must take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form.<sup>18</sup>

Because the final rule does not impose additional reporting, disclosure, or other requirements on IDIs, section 302 of RCDRIA does not apply. Nevertheless, the requirements of section 302 RCDRIA, and the administrative burdens and benefits of the final rule, were considered as part of the overall rulemaking process.

#### *The Congressional Review Act*

Pursuant to the Congressional Review Act, the Office of Management and Budget’s Office of Information and Regulatory Affairs designated this rule as not a “major rule”, as defined at 5 U.S.C. 804(2).

<sup>17</sup> 12 U.S.C. 4802(a).

<sup>18</sup> 12 U.S.C. 4802(b).

**List of Subjects in 12 CFR Part 8**

Assessments, Federal branches and agencies, National banks, Reporting and recordkeeping requirements, Savings associations.

**Authority and Issuance**

For the reasons set forth in the preamble, chapter I of title 12 of the Code of Federal Regulations is amended as follows:

**PART 8—ASSESSMENT OF FEES**

■ 1. The authority for part 8 continues to read as follows:

**Authority:** 12 U.S.C. 16, 93a, 481, 482, 1467, 1831c, 1867, 3102, 3108, and 5412(b)(2)(B); and 15 U.S.C. 78c and 78l.

■ 2. Section 8.2 is amended by:

- a. Adding a heading and revising the first column heading for the table in paragraph (a);
- b. Removing “the bank’s” and adding “the national bank’s” in its place in paragraphs (a)(3) and (c)(3)(iii) and (viii);
- c. Removing “A bank’s” and adding “A national bank’s” in its place in paragraph (a)(1);
- d. Removing “the bank” and adding “the national bank” in its place in paragraphs (a)(1) and (2) and (c)(1) and (2);

- e. Removing “Comptroller of the Currency” and adding “OCC” in its place in paragraphs (a) introductory text and (b)(1);
- f. Revising paragraph (a)(5);
- g. Removing “non-lead bank” and adding “non-lead national bank” in its place in paragraph (a)(6)(i);
- h. Removing “Notice of Comptroller of the Currency Fees” and adding “Notice of Office of the Comptroller of the Currency Fees and Assessments” in its place in paragraphs (a)(6)(i) and (b)(4)(i);
- i. Removing “Lead bank” and adding “Lead national bank” in its place, removing “each bank’s” and adding “each national bank’s” in its place, and removing “or Thrift Financial Report, as appropriate,” in paragraph (a)(6)(ii)(A);
- j. Removing “Non-lead bank” and adding “Non-lead national bank” in its place and removing “lead bank” and adding “lead national bank” in its place in paragraph (a)(6)(ii)(B);
- k. Removing “six month” and adding “six-month” in its place and removing “national bank” and adding “Federal branch and agency” in its place in paragraph (b)(1);
- l. Revising paragraph (b)(3);
- m. Removing “Federal branch or agency” and adding “Federal branch and agency” in its place in paragraph (b)(4)(i);

- n. Removing “independent credit card banks” and adding “independent credit card national banks” in its place in paragraph (c) heading;
- o. Removing “Notice of Comptroller of the Currency of Fees” and adding “Notice of Office of the Comptroller of the Currency Fees and Assessments” in its place in paragraph (c)(1);
- p. Removing “independent credit card bank” and adding “independent credit card national bank” in its place in paragraphs (c)(1) and (2) and (c)(3)(viii);
- q. Removing “Independent credit card banks” and adding in its place “Independent credit card national banks” and removing “full service” and adding “full-service” in its place in paragraph (c)(2);
- r. Removing “or a bank” and adding “or a national bank” in its place in paragraph (c)(3)(iii);
- s. Removing “Independent credit card bank” and adding “Independent credit card national bank” in its place in paragraph (c)(3)(vi);
- t. Removing “Independent credit card banks” and adding “Independent credit card national banks” in its place in paragraph (c)(4); and
- u. Revising paragraph (d).

The revisions read as follows:

**§ 8.2 Semiannual assessment.**  
(a) \* \* \*

TABLE 1 TO PARAGRAPH (a)

If the national bank’s or Federal savings association’s total as-  
sets (consolidated domestic and foreign subsidiaries) are:

*	*	*	*	*	*	*	*
*	*	*	*	*	*	*	*

\* \* \* \* \*

(5) The specific marginal rates and complete assessment schedule will be published in the “Notice of Office of the Comptroller of the Currency Fees and Assessments,” provided for at § 8.8. Each semiannual 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) preceding the payment date. Each national bank or Federal savings association subject to the jurisdiction of the OCC on the date of the second or fourth quarterly Call Report as appropriate, required by the OCC 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. National banks and Federal savings associations that are no longer subject to the jurisdiction of the OCC as of the date of the first or third quarterly Call Report, as

appropriate, will receive a refund of assessments for the second three months of the semiannual assessment period.  
\* \* \* \* \*

(b) \* \* \*

(3) Each semiannual assessment of each Federal branch and each 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. Federal branches and agencies that are no longer subject to the jurisdiction of the OCC as of the date of the first or third quarterly Call Report, as appropriate, will receive a refund of assessments for the second three months of the semiannual assessment period.  
\* \* \* \* \*

(d) *Surcharge based on the condition of the national bank, Federal savings association, or Federal branch or agency.* Subject to any limit that the OCC prescribes in the “Notice of Office of the Comptroller of the Currency Fees and Assessments,” 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 national 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 prior to December 31 or June 30, as appropriate; and

(2) 2.0, in the case of any national 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 5 under the ROCA rating system at its most recent examination prior to December 31 or June 30, as appropriate.

■ 3. Section 8.6 is amended by:

■ a. Revising paragraphs (a)

introductory text and (a)(1) and (3);

■ b. Removing “Notice of Comptroller of the Currency fees” and adding “Notice of Office of the Comptroller of the Currency Fees and Assessments” in its place in paragraph (b);

■ c. Removing “Notice of Comptroller of the Currency Fees” and adding “Notice of Office of the Comptroller of the Currency Fees and Assessments” in its place in paragraphs (b), (c)(1)(i) and (ii), and (c)(3)(vii);

■ d. Removing “trust banks” and adding “trust national banks” in its place in paragraph (c) heading;

■ e. Removing “Independent trust banks” and “independent trust banks” wherever they appear and adding “Independent trust national banks” and “independent trust national banks” in their place, respectively, in paragraph (c)(1);

■ f. Revising paragraph (c)(1)(iii);

■ g. Removing “Trust banks” and adding “Trust national banks” in its place, removing “trust bank” and adding “trust national bank” in its place, and removing “the bank” and adding “the national bank” in its place in paragraph (c)(2); and

■ h. Removing “Independent trust bank” and adding “Independent trust national bank” in its place in paragraph (c)(3)(v).

The revisions read as follows:

**§ 8.6 Fees for special examinations and investigations.**

(a) *Fees.* The OCC may assess a fee for: (1) Examining the fiduciary activities of national banks, Federal branches of foreign banks, and Federal savings associations and related entities;

(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 national bank, Federal branch or agency of a foreign bank, or Federal savings association because of the high risk or unusual

nature of the activities performed; the significance to the national bank’s, Federal branch’s or agency’s, or Federal saving association’s operations and income of the activities performed; or the extent to which the national bank, Federal branch or agency, or Federal savings association has sufficient systems, controls, and personnel to adequately monitor, measure, and control risks arising from such activities;

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(iii) *Surcharge based on the condition of the independent trust national bank or of the independent trust Federal savings association.* Subject to any limit that the OCC prescribes in the “Notice of Office of the Comptroller of the Currency Fees and Assessments,” 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 national bank and independent trust Federal savings association that receives a composite UFIRS rating of 3 at its most recent examination prior to December 31 or June 30, as appropriate, and by 2.0 for each independent trust national bank and independent trust Federal savings association that receives a composite UFIRS rating of 4 or 5 at such examination.

\* \* \* \* \*

■ 4. Section 8.7 is amended by revising paragraphs (a) and (b) and removing the undesignated paragraph following paragraph (b) to read as follows:

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

(a) Each national bank, Federal savings association, Federal branch, and Federal agency shall pay to the OCC interest on its delinquent payments of semiannual assessments. In addition, each institution subject to a special examination or investigation fee shall pay to the OCC interest on its delinquent payments of special examination and investigation fees. Semiannual assessment payments will be considered delinquent if they are received after the time for payment specified in § 8.2. Special examination and investigation fees will be considered delinquent if not received by the OCC within 30 calendar days of the invoice date.

(b) In the event that an institution believes that the notice of assessments or special examination and investigation fees contains an error or miscalculation,

the institution may provide the OCC with a written request for a revised 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 or timely payment of the special examination and investigation fee within 30 calendar days of the invoice date.

(1) Within 30 calendar days of receipt of such request, the OCC shall either—

(i) Refund the amount of the overpayment; or

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

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

\* \* \* \* \*

■ 5. Section 8.8 is amended by revising the section heading and paragraph (b) to read as follows:

**§ 8.8 Notice of Office of the Comptroller of the Currency fees and assessments.**

\* \* \* \* \*

(b) *Interim and amended notice of fees.* The OCC may issue a “Notice of Interim Office of the Comptroller of the Currency Fees and Assessments” or a “Notice of Amended Office of the Comptroller of the Currency Fees and Assessments” from time to time throughout the year as necessary. Interim or amended notices will be effective 30 days after issuance.

Dated: August 5, 2019.

**Joseph M. Otting,**

*Comptroller of the Currency.*

[FR Doc. 2019–17535 Filed 8–20–19; 8:45 am]

**BILLING CODE 4810–33–P**