



# RESCINDED

OCC 1998-51

**Subject:** Allocated Transfer Risk Reserves  
**Date:** October 30, 1998

**To:** Chief Executive Officers of all National  
Banks, Department and Division Heads, and all  
Examining Personnel

**Description:** Final Rule

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conform to generally accepted accounting principles.

For more information, contact Tom Rees, senior accountant, Bank Supervision Policy, at (202) 874-5180, or Mark Tenhundfeld, assistant director, Legislative and Regulatory Activities, at (202) 874-5090.

Raymond Natter  
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**Related Links**

- [Final Rule 63 FR 57047](#)

[Federal Register: October 26, 1998 (Volume 63, Number 206)]  
[Rules and Regulations]  
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DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 28

[Docket No. 98-16]  
RIN 1557-AB58

International Banking Activities

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

ACTION: Final rule.

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SUMMARY: The Office of the Comptroller of the Currency (OCC) is amending its regulation governing international lending. This amendment removes the lengthy discussion concerning the accounting for fees on international loans and instead states that the accounting for these fees is to conform to generally accepted accounting principles (GAAP). The amendment is intended to simplify the rule and eliminate unnecessary burden.

EFFECTIVE DATE: This final rule is effective January 1, 1999.

FOR FURTHER INFORMATION CONTACT: Tom Rees, Senior Accountant, Bank Supervision Policy, (202) 874-5180; Frank Carbone, Senior International Advisor, International Banking & Finance, (202) 874-4730; Raija Bettauer, Counselor for International Activities, (202) 874-0680; or Mark Tenhundfeld, Assistant Director, Legislative and Regulatory Activities, (202) 874-5090, Office of the Comptroller of the Currency, 250 E Street, S.W., Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

Background

The International Lending Supervision Act of 1983 (ILSA), 12 U.S.C. 3901 et seq., requires, among other things, that the OCC and other Federal banking agencies issue regulations governing accounting for fees charged by banks in connection with international loans (i.e., those loans reported on a bank's Country Exposure Report, form FFIEC 009). In order to avoid excessive debt service burden on debtor countries, section 906(a) of ILSA (12 U.S.C. 3905(a)) prohibits a bank, in connection with restructuring an international loan, from charging

fees in an amount that exceeds the administrative costs of restructuring the loan, unless the fee is amortized over the life of the loan. Section 906(b) of ILSA (12 U.S.C. 3905(b)) requires that the OCC prescribe the accounting treatment for agency, commitment, management, and other fees in connection with international loans to assure that the appropriate portion of these fees is accrued in income over the effective life of each loan.

When the OCC first published its rules on accounting for international loan fees in 1984 (see 49 FR 12192 (March 29, 1984)), the OCC determined that the application of the fee accounting principles for banks then set out in GAAP did not ensure a uniform accounting treatment for international loan fees. Accordingly, the OCC adopted detailed rules governing the accounting treatment for various types of fees generated in connection with international loans. The preamble to the 1984 rule stated, however, that the OCC would reexamine whether the rule needed to discuss the accounting treatment if the Financial Accounting Standards Board (FASB) were to issue further guidance on the accounting for fees on international loans. Since then, FASB has amended GAAP to provide that guidance.

#### Proposal

In April of this year, the OCC published a proposed rule that invited comment on whether the OCC should remove the lengthy discussion in Sec. 28.53 concerning the accounting treatment for fees on international loans and replace it with a statement that the accounting is to conform to GAAP. See 63 FR 16708 (April 6, 1998). The OCC received one comment, from an individual who supported the proposal in its entirety.

#### Final Rule

The OCC is adopting the proposal without change. Accordingly, upon the effective date of this final rule, national banks will be required to follow GAAP in accounting for fees on international loans, subject to the amortization requirement for fees charged in connection with restructuring an international loan that exceed the administrative cost of the restructuring. In the event that GAAP rules regarding fee accounting for international loans changes, the OCC will reexamine its rule to assess the need for further revision.

The final rule reduces the regulatory burden on banks and simplifies the OCC's requirements by replacing the discussion of the separate accounting methods for different types of fees on international loans with a reference to GAAP. As noted in the preamble to the proposed rule, while there are some differences between the language in Sec. 28.53 that is being removed and the GAAP standard (Financial Accounting Standard No. 91), these differences are relatively minor. For instance, GAAP requires a method for recognizing fees and administrative costs of originating, restructuring, or syndicating international loans that is slightly different from the method required by former Sec. 28.53. However, adoption of the GAAP standard will not impose additional burden on banks, and will reduce burden in some instances.

This final rule does not affect, in any way, the standards by which

a bank recognizes loss on international assets affected by transfer risk,<sup>1</sup> nor does it change the accounting treatment of a bank's transfer risk reserve. As discussed earlier, the final rule merely changes the accounting treatment of fees that banks collect on international loans

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by adopting GAAP accounting requirements for fee income on loans.

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\1\ ``Transfer risk'' arises from an obligor's inability to perform on its debt obligations using the agreed-upon currency because of a lack of, or restraints on the availability of, needed foreign exchange in the country of the obligor.

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The change summarized above removes the need to define the terms ``international syndicated loan'' and ``loan agreement,'' which are used only in the discussion in former Sec. 28.53. Accordingly, the rule amends Sec. 28.51 by removing the definitions of ``international syndicated loan'' and ``loan agreement'' from Sec. 28.51 (e) and (f), respectively, and redesignating the remaining definitions as appropriate.

#### Regulatory Flexibility Act

It is hereby certified that this final rule will not have a significant economic impact on a substantial number of small entities. As is explained in the preamble to this final rule, there is only one substantive change, and this change will simplify the regulation to make it consistent with GAAP. The rule reduces the regulatory burden on all national banks that make international loans, regardless of size. Accordingly, a regulatory flexibility analysis is not required.

#### Executive Order 12866

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

#### Unfunded Mandates Act of 1995

The OCC has determined that this final rule will not result in expenditures by State, local, and tribal governments, or by the private sector, of more than \$100 million in any one year. Accordingly, consistent with section 202 of the Unfunded Mandates Act of 1995 (2 U.S.C. 1532), the OCC has not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered. As discussed in the preamble, the rule simplifies the discussion concerning the accounting for fees on international loans to make the regulation consistent with generally accepted accounting principles. The rule also makes other nonsubstantive changes to subpart C of Part 28 that are intended to clarify and simplify the rule.

#### List of Subjects in 12 CFR Part 28

Foreign banking, National banks, Reporting and recordkeeping requirements.

#### Authority and Issuance

For the reasons set out in the preamble, the OCC amends part 28 of chapter I of title 12 of the Code of Federal Regulations as set forth below:

#### PART 28--INTERNATIONAL BANKING ACTIVITIES

1. The authority citation for part 28 continues to read as follows:

Authority: 12 U.S.C. 1 et seq., 93a, 161, 602, 1818, 3102, 3108, and 3901 et seq.

#### Sec. 28.51 [Amended]

2. Section 28.51 is amended by removing paragraphs (e) and (f), and redesignating paragraphs (g) and (h) as paragraphs (e) and (f), respectively.

3. Section 28.53 is revised to read as follows:

#### Sec. 28.53 Accounting for fees on international loans.

(a) Restrictions on fees for restructured international loans. No banking institution shall charge, in connection with the restructuring of an international loan, any fee exceeding the administrative costs of the restructuring unless it amortizes the amount of the fee exceeding the administrative cost over the effective life of the loan.

(b) Accounting treatment. Subject to paragraph (a) of this section, a banking institution is to account for fees in accordance with generally accepted accounting principles.

Dated: October 14, 1998.

Julie L. Williams,  
Acting Comptroller of the Currency.  
[FR Doc. 98-28593 Filed 10-23-98; 8:45 am]  
BILLING CODE 4810-33-P