



RESCINDED

OCC 2001-32

**Subject: Assessment of Fees: Independent
Credit Card Banks; Lower-Rated Institutions**
Date: July 5, 2001

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

Description: Final Rule

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card bank if it engages primarily in credit card operations and is not affiliated with a full-service national bank. The OCC will continue to assess independent credit card banks based on balance sheet assets. In addition, independent credit card banks will pay an assessment component based on the receivables attributable to credit card accounts owned by banks. The independent credit card bank assessment component for the July 1, 2001, through December 31, 2001, period is contained in the Amended Year 2001 Fee Schedule, OCC Bulletin 2001-27. This rule reflects the fact that many independent credit card banks securitize or sell receivables, thereby removing those assets from the banks' books.

The rule also raises the surcharge for national banks and federal branches and federal agencies with composite Uniform Financial Institutions Rating System (UFIRS) or Risk Management, Operational Controls, Compliance, and Asset Quality (ROCA) ratings of 3, 4, or 5. The rule differentiates banks with UFIRS or ROCA ratings of 3 from those with ratings of 4 or 5, based on the comparative supervisory attention these institutions warrant. Banks with composite UFIRS or ROCA ratings of 3 will be assessed a surcharge of 50 percent; banks with composite ratings of 4 or 5 will be assessed a 100 percent surcharge. The OCC has limited the amount of the surcharge this assessment cycle; lower-rated institutions will pay a surcharge on only the first \$20 billion in book assets. The increase in the surcharge reflects the OCC's experience over time, which shows that lower-rated institutions demand considerable supervisory resources.

For further information, contact Mitchell E. Plave, counsel, Legislative and Regulatory Activities Division, (202) 874-5090.

Julie L. Williams
First Senior Deputy Comptroller and Chief Counsel

Related Link

- [Final Rule 66 FR 29890](#)



Federal Register

**Friday,
June 1, 2001**

Part II

Department of the Treasury

**Office of the Comptroller of the
Currency**

**12 CFR Part 8
Assesment of Fees; Final Rule**

DEPARTMENT OF THE TREASURY**Office of the Comptroller of the Currency****12 CFR Part 8**

[Docket No. 01-11]

RIN 1557-AB96

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 making two changes to our assessment rule. First, we are changing the way we assess "independent credit card banks." A national bank is considered independent for purposes of this final rule if it engages primarily in credit card operations and is not affiliated with a full-service national bank. Under the revised assessment structure, all credit card banks will continue to be assessed based on balance sheet assets. Independent credit card banks will pay an additional assessment component based on off-balance sheet credit receivables that are attributable to credit card accounts owned by the banks. This additional assessment will result in payment by these banks of a more appropriate share of the OCC's expenses than under the current on-balance sheet assessment structure.

We also are raising the surcharge for all institutions with composite ratings of 3, 4, or 5 under the Uniform Financial Institutions Rating System (UFIRS) (also referred to as the CAMELS rating, which rates capital, assets, management, earnings, liquidity, and sensitivity to market risk) and for Federal branches and agencies of foreign banks that receive a composite rating of 3, 4, or 5 under the ROCA rating system. This amendment will enable us to allocate more equitably the expenses the OCC incurs in supervising institutions that are experiencing significant problems. The surcharge will apply to the asset-based assessment as well as the independent credit card bank and independent trust bank assessments.

EFFECTIVE DATE: July 1, 2001.

FOR FURTHER INFORMATION CONTACT: Mitchell E. Plave, Counsel, Legislative and Regulatory Activities Division, (202) 874-5090; or Daniel L. Pearson, National Bank Examiner, Credit Risk, (202) 874-5170.

SUPPLEMENTARY INFORMATION:**Background**

The OCC charters, regulates, and supervises approximately 2,200 national banks and 58 Federal branches and agencies of foreign banks in the United States, accounting for nearly 60 percent of the nation's banking assets. Our mission is to ensure a safe, sound, and competitive national banking system that supports the citizens, communities, and economy of the United States.

The OCC funds the activities it undertakes to carry out this mission through assessments on institutions regulated by the OCC. The National Bank Act authorizes the OCC to collect assessments, fees, or other charges as necessary or appropriate to carry out the responsibilities of the Office. 12 U.S.C. 482 (Supp. 1999). The statute requires that our charges be set to meet the Comptroller's expenses in carrying out authorized activities. Id. The OCC, under 12 CFR part 8, currently assesses national banks and Federal branches and agencies according to a formula based on factors such as a bank's size and condition and whether it is the "lead" bank or "non-lead" bank among national banks in a holding company.¹ The OCC also imposes an additional assessment on independent trust banks based on the amount of trust assets under management.²

Independent credit card banks. The OCC's current assessment regulations do not distinguish independent credit card banks from other national banks. As a result, independent credit card banks pay assessments according to the same formula that applies to full-service national banks. That formula is comprised of a fixed component based solely on a bank's asset size plus a variable component derived by multiplying asset amounts in excess of certain thresholds by a series of declining marginal rates.³ The

¹ A "lead bank" is the largest national bank controlled by a company, based on a comparison of the total assets held by each national bank controlled by that company as reported in each bank's most recent Consolidated Report of Condition (Including Domestic and Foreign Subsidiaries) (Call Report). 12 CFR 8.2(a)(6)(ii)(A).

² 65 FR 75859 (December 5, 2000), *to be codified* at 12 CFR 8.6(c). An "independent trust bank" for purposes of § 8.6 is a national bank that (a) has trust powers, (b) does not primarily offer full-service banking, and (c) is not affiliated with a full-service national bank. A bank will be considered as not primarily offering full-service banking if it derives more than 50 percent of its interest and non-interest income from credit card operations or trust activities, or the terms of the bank's charter restrict its ability to engage in a full range of permissible banking activities.

³ The assessment formula is set out at 12 CFR 8.2. The elements of the formula, including the marginal rates, may change from year to year and are

assessment amount that results from this computation may then be adjusted based on a bank's condition and on whether it is a "lead bank" or a "non-lead bank." The amount of assets on a bank's balance sheet is, however, the most significant component of the current assessment computation.

The magnitude and complexity of the business of independent credit card banks is not fully reflected by the volume of assets reported on those banks' balance sheets as of a particular date. For example, in order to comply with restrictions governing affiliate transactions, most private label credit card banks sell their receivables within twenty-four hours of their production. Other independent credit card banks regularly securitize substantial amounts of their receivables. A credit card bank's balance sheet, therefore, is not, by itself, generally a meaningful measure of the resources the OCC must expend to supervise this type of bank, nor is it a fair measure of the value of the national bank charter to the enterprise. As a result, the assessments the OCC currently applies to these banks do not represent the banks' fair share of the OCC's overall expenses.

Institutions with composite ratings of 3, 4, or 5. The OCC adds a surcharge to the asset-based assessment for national banks and Federal branches and agencies that have composite UFIRS or ROCA⁴ ratings, as appropriate, of 3, 4, or 5. This surcharge reflects the greater supervisory resources demanded by the circumstances of these lower-rated institutions. The OCC's experience since 1997, when we introduced the surcharge,⁵ has shown that the current surcharge for these institutions does not adequately compensate the OCC for the additional demands on its resources given the substantial level of supervision warranted.

On April 4, 2001, we published a notice of proposed rulemaking in the **Federal Register** (66 FR 17821) to amend the OCC's assessment regulation by adding a new assessment component to the existing balance sheet assessments for independent credit card banks. The proposal also increased the surcharge for lower-rated national banks. For the reasons discussed below, the OCC is adopting the rule as proposed.

announced in the OCC's annual "Notice of Comptroller of the Currency Fees" (Notice of Fees). See 12 CFR 8.8.

⁴ The ROCA rating system rates risk management, operational controls, compliance, and asset quality.

⁵ See 62 FR 64135 (December 4, 1997); 12 CFR 8.2(a)(7); 12 CFR 8.2(b)(5).

Proposed Rule and Comments Received

Independent credit card bank assessment. We proposed to amend 12 CFR 8.2 by adding a new paragraph (c) to increase assessments on independent credit card banks by adding an off-balance sheet "receivables attributable" component to the assessment structure. For purposes of the proposal, we defined "independent credit card banks" as banks that primarily engage in credit card operations and are not affiliated with a full-service national bank.⁶ Under the proposed rule, a bank is considered "primarily engaged in credit card operations" if it is a bank described in section 2(c)(2)(F) of the Bank Holding Company Act (a so-called "CEBA credit card bank"),⁷ or if the ratio of (a) its total gross receivables attributable to (b) the bank's balance sheet assets exceeds 50%. A bank is a "full-service national bank" for purposes of the proposed rule if more than 50% of its interest and non-interest income is generated by activities other than credit card operations or trust activities and the bank's charter permits it to conduct all authorized banking activities.⁸ The proposal used the same test for affiliation (*i.e.*, the definition of "affiliate" appearing in the Federal Reserve Act at 12 U.S.C. 221a(b)) that we used in the OCC's recently adopted rule affecting independent trust banks.

The proposal defined "receivables attributable" as the total amount of outstanding balances due on credit card accounts owned by an independent credit card bank (the receivables attributable to those accounts) on the last day of the assessment period. We described receivables attributable as the measure of the volume of a credit card bank's business. Given that some credit card banks retain receivables on balance sheet, the proposal allowed the banks to deduct on-book receivables from total gross receivables attributable to determine "receivables attributable." This provision avoids assessing the same asset twice. Under the proposal, independent credit card banks would report receivables attributable data to the OCC on a semiannual basis.

The proposed rule provided that an independent credit card bank's assessment would be determined by

adding to its book asset-based assessment an additional amount determined by its level of receivables attributable. We noted that the dollar amount of the additional assessment would be published each year in the Notice of Fees,⁹ and that the amounts of the additional assessment would be adjusted to reflect changes in the OCC's expenses.

We received comments on the proposal from eight independent credit card banks and two banking trade associations. Three of the commenters acknowledged that balance sheet asset assessments do not capture an independent credit card bank's business, but suggested that relative risk to the deposit insurance fund, rather than receivables attributable, would be a better measure for additional assessments. They said that the off-balance sheet and limited purpose nature of credit card banking reduce risk to the national banking system, as well as the OCC's supervisory responsibilities. The commenters also argued that the assessments should be based on the quality of bank management and reflect a bank's composite UFIRS rating.

One of the banking trade associations commented that it believed a special assessment for independent credit card banks might be appropriate to defray supervisory costs if demands on agency resources and the risk profiles of the banks supported an additional assessment. This commenter suggested that a special assessment should be tied to whether receivables are securitized.

The tenor of these comments is that the OCC's assessments should be tied to all independent credit card banks' level of risk. In view of the purpose of assessments, as set forth in 12 U.S.C. 482, however, the risk-based approach suggested by the commenters is too narrow. Rather, our assessments should reflect the resources the OCC dedicates to supervision of national banks (which is, in itself, an indirect measure of risk) and the value of the national charter to these banks. While independent credit card banks do not engage in the full range of banking activities, they nonetheless require substantial supervision. The OCC examines credit card banks in the areas of credit risk management, which includes underwriting, account management, collections, and fraud controls; securitizations; marketing practices; credit scoring models; daily settlement practices for VISA, MasterCard, and retailer stores; affiliate transactions; internal audits; vendor management;

compliance operations concerning credit card disclosure (fees, rates, and terms) and fair lending; and information technology. We also examine the relationship between the credit card bank and the banks' affiliates and parent companies. Thus, although some types of independent credit card banks may not represent the same level of direct risk to the Federal Deposit Insurance Corporation insurance fund as banks that hold a significant amount of insured deposits, the current level of assessments for this population of banks does not correlate with the resources we devote to evaluating the various types of risks they present.

In general, the need for sophisticated regulation and supervision in the credit card industry is increasing. With the increase in information technology, Internet banking, and outsourcing of services, the OCC is spending more time in the banks reviewing transaction risk, data security, vendor management, and customer privacy issues. The volume of credit card transactions that flow through the national banking system on a daily basis is significant. The volume of credit card direct mail solicitations, telephone solicitations, retail store promotions, and Internet advertisements continues to increase, as do consumer disclosures, add-on insurance-related products, third-party marketing vendors, and consumer complaints and litigation. The variation of credit card products, fees, interest rates, and disclosures is substantial. The consumer population expects regulators to oversee these activities, as is evidenced by the fact that consumer inquiries concerning credit card banks represent the highest volume of inquiries received by the OCC's Customer Assistance Group. The OCC has increased the levels of its oversight to match the level of compliance and reputation risk in this group of banks.

Several of the commenters questioned why the proposal focused on independent credit card banks rather than the whole universe of credit card banks. Where a full-service national bank elects to conduct its credit card business through a separately chartered entity, rather than in the bank itself, it has essentially made a decision about the organizational format that best suits its needs. As we stated in the proposal, where such a corporate format has been chosen, it is our experience that the aggregate assessments received from the national bank and its credit card affiliate generally are sufficient to pay the institution's fair share of the OCC's

⁶ See *Charters*, Corporate Manual at 21–22 (1998) (describing credit card banks).

⁷ See 12 U.S.C. 1841(c)(2)(F) (excluding from the definition of the term "bank" in the Bank Holding Company Act (BHCA) an institution that engages only in credit card operations and satisfies certain other conditions). This provision was added to the BHCA by the Competitive Equality Banking Act of 1987.

⁸ This definition also applies for purposes of the independent trust bank rule. See *supra*, note 2.

⁹ 12 CFR 8.8(b).

overall expenses.¹⁰ Where the credit card bank is not affiliated with a full-service national bank, however, it typically represents a choice by a non-bank or state-chartered affiliate to use the national bank charter for the distinct benefits it affords for the operation of a credit card business under circumstances where the affiliate is not sharing equitably in defraying the OCC's costs of operation.

Moreover, where a credit card bank is affiliated with a full-service national bank, the OCC achieves efficiencies from the coordinated supervision of the affiliated banks that are not present in the supervision of independent credit card banks. Our cost of supervision, therefore, is not only that of on-site examination, but includes other supervisory costs, such as handling consumer complaints concerning these institutions.

In the proposal, we invited comment on whether we should use "transaction flow" instead of receivables attributable to measure an independent credit card bank's business. "Transaction flow" is the total net amounts charged to cards issued by the bank during each semi-annual assessment period. Three commenters addressed the transaction flow alternative. The first, an independent credit card bank, found this alternate unacceptable because it would penalize rewards-based credit cards that have significantly higher transactions per account than non-reward cards. The commenter added that the value of the charter and the costs to supervise are more closely aligned with average balances than transaction volume.

The second and third commenters, banking trade associations, strongly endorsed the receivables attributable methodology rather than transaction flow. One trade association focused on the availability of data and stated that, while receivables attributable data are readily available, transaction flow is not. The commenter also inquired about the possibility of gathering receivables attributable data from the information reported in the Consolidated Report of Condition (Including Domestic and Foreign Subsidiaries) (Call Report). In response to this point, we note that the OCC can extract receivables attributable information from only a portion of the relevant independent credit card bank population; therefore, the suggestion is not feasible. The other trade association endorsed receivables attributable over transaction flow, suggesting that seasonal changes in transaction volume could skew the assessment.

For these reasons, the final rule adopts the receivables-attributable methodology for independent credit card banks as proposed. We note that this methodology will result in no additional assessment for an independent credit card bank that keeps all of its receivables on its balance sheet. In such a situation, the asset-based component of the assessment rule will produce the assessment measure for the institution.

In the proposal, we stated that the initial semiannual charge to be paid in July, 2001, would be in the range of the following:¹¹

If the bank's total off-balance sheet receivables attributable are		The additional semi-annual assessment is:
Over	But not over	
Column A Million	Column B Million	Column C
\$0	\$100	\$40,000
100	1000	60,000
1000	5000	80,000
5000		100,000

We intend to charge these amounts beginning with the July, 2001, semiannual assessment period. Adjustments to these amounts thereafter may be made in our Notice of Fees.

Assessment surcharge for institutions with composite UFIRS or ROCA ratings of 3, 4, or 5. As we stated in the proposal, OCC data show that there is a significant increase in the supervisory demands on the OCC once a bank's or Federal branch's or agency's composite UFIRS or ROCA rating moves from 1 or 2 to 3, 4, or 5. Since introducing the surcharge in 1997, we have found that the demands placed on the OCC by these lower-rated institutions is greater than was anticipated in 1997. Not only have the demands on supervisory resources increased for institutions with a 3 rating, we have found they are even greater when institutions are rated 4 or 5. Accordingly, we proposed to increase the surcharge for all lower-rated institutions.

The surcharge we proposed would apply to all components of an institution's assessment, not only the asset-based assessment. Thus, for instance, an independent credit card bank would calculate its asset-based component and receivables attributable component, add those two together, and multiply the sum by the amount of the ratings-based surcharge. An

independent trust bank would follow the same method, using the managed assets component.¹²

Under the proposal, banks with composite UFIRS or ROCA ratings of 3 would be assessed a surcharge of 50%; banks with composite ratings of 4 or 5 would be assessed a 100% surcharge. By linking assessments with the condition of the banks, the elevated supervisory cost of lower-rated institutions would be borne by the lower-rated institutions, rather than by the national banking system as a whole.¹³ This proposed approach would enable the OCC's assessment revenue to expand or contract in a way that responds to the changing demands on the OCC.

We received three comments on this proposed increase in the surcharge from banks that supported charging lower-rated institutions a higher assessment. A banking industry trade association also commented, noting that while it supports higher assessments for lower-rated institutions, it is concerned that the proposed surcharges might hasten the demise of some banks. Our experience using the surcharges in the current rule indicates that this result has not occurred. In addition, we believe it is fairer to charge the higher costs of supervising lower-rated banks to those banks, rather than to all national banks. Lower-rated banks create a significantly greater demand for the allocation of the OCC's supervisory time and resources than do better rated banks of comparable size. Well-run banks should not have to bear the burden of these additional costs. Moreover, the prospect of higher assessments should add an element of market discipline by providing an additional incentive for a bank to maintain a higher rating.

The trade association also questioned whether the magnitude of the proposed increase was warranted. Our analysis shows that, on average, OCC workdays devoted to institutions rated 3, 4, or 5 increase by a percentage that exceeds the percentage increases in the problem-bank surcharge. Accordingly, we believe it is appropriate to adopt the increase in the surcharge for lower-rated institutions as proposed.

Regulatory Flexibility Act

An agency must prepare a Regulatory Flexibility Analysis if a rule it proposes

¹² See 12 CFR 8.6(c) (assessments on independent trust banks).

¹³ The regulation permits the OCC to limit the amount of the surcharge. We currently contemplate, for example, that lower-rated full-service national banks would pay a surcharge only on the first \$20 billion in book assets. The OCC will publish this limit and any similar limit that may apply to surcharges on lower-rated independent credit card or independent trust banks in the Notice of Fees.

¹⁰ 66 FR 17821, 17822 (April 4, 2001).

¹¹ See 66 FR 21045 (April 26, 2001) (corrected version of the chart).

will have a "significant economic impact" on a "substantial number of small entities." 5 U.S.C. 603, 605. If, after an analysis of a rule, an agency determines that the rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) provides that the head of the agency may so certify.

The OCC has reviewed the impact this final rule will have on small independent credit card banks. Based on that review, the OCC certifies that the final rule will not have a significant economic impact on a substantial number of small entities. This rule will apply to a small number of national banks. For purposes of this review, the OCC defines "small independent credit card banks" to be those banks with less than \$100 million in total assets.¹⁴ Using this definition, the final rule will affect only nineteen small independent credit card banks, representing less than 1% of all national banks. The OCC does not believe this to be a substantial number of small entities.

The proposed rule contained an Initial Regulatory Flexibility Analysis (IRFA) that addressed the increase in the lower-rated bank surcharge and invited the public's comments on the impact of the proposed rule on small entities. As noted above, we received only three comments from independent credit card banks on the surcharge increase, all in support of the increase. We also received a comment from a bank trade association, which supported higher assessments for lower-rated institutions but suggested that the surcharge might hasten the demise of some institutions. As previously discussed, our experience using the surcharges in the current rule indicates that this result has not occurred. Given the generally positive comments on the surcharge, and that the rule currently would affect only approximately 4% of small entities, the OCC certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

We note that we considered alternatives to the increase in the surcharge for lower-rated institutions when preparing this rule. At present, there is an imbalance in the surcharge between the level of our supervision of lower-rated banks and their contributions to the overall assessment pool. As a result, the current surcharge passes the burden of supervision from lower-rated institutions to higher-rated banks that consume far fewer OCC

resources. We concluded that a surcharge increase on lower-rated institutions was the most equitable way to correct this imbalance and the least burdensome solution when viewed from the perspective of the national banking system as a whole.

Paperwork Reduction Act

The OCC may not conduct or sponsor, and an organization is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. OMB has reviewed and approved the collection of information requirements contained in this rule under emergency processing procedures under control number 1557-0223, in accordance with the Paperwork Reduction of 1995 (44 U.S.C. 3501 *et seq.*). OMB clearance will expire on October 31, 2001. The OCC is currently seeking an extension of OMB approval under ordinary OMB clearance procedures. The OCC sought comment on all aspects of the burden estimates for the information collection contained in the proposed rule. The OCC received no comments.

The information collection requirements contained in 12 CFR part 8 are contained in section 8.2(c). Under this section, the final regulation would require national banks to provide the OCC with "receivables-attributable" data from independent credit card banks, that is national banks that primarily engage in credit card operations and are not affiliated with a full service national bank. "Receivables attributable" are the total amount of outstanding balances due on credit card accounts owned by an independent credit card bank (the receivables attributable to those accounts) on the last day of the assessment period, minus receivables retained on the bank's balance sheet as of that day. The respondents are national banks.

Estimated number of respondents: 35.

Estimated number of responses: 70.

Frequency of response: Semiannually.

Estimated burden hours per response: 1 hour.

Estimated total annual burden: 70 hours.

The OCC has a continuing interest in the public's opinion regarding collections of information. Members of the public may submit comments at any time regarding any aspects of these collections of information. Comments may be sent to Jessie Dunaway, Clearance Officer, Office of the Comptroller of the Currency, 250 E Street, SW, Mailstop 8-4, Washington, DC 20219.

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

Section 202 of the Unfunded Mandates Reform Act of 1995, Public Law 104-4 (2 U.S.C. 1532) (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 an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. The OCC has determined that the final rule will not result in expenditures by state, local, and tribal governments, or by the private sector, of \$100 million or more in any one year. Accordingly, this rulemaking requires no further analysis under the Unfunded Mandates Act.

List of Subjects in 12 CFR Part 8

National banks, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set forth in the preamble, the OCC amends part 8 of chapter I of title 12 of the Code of Federal Regulations as follows:

PART 8—ASSESSMENT OF FEES

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

Authority: 12 U.S.C. 93a, 481, 482, 1867, 3102, and 3108; 15 U.S.C. 78c and 781; and 26 D.C. Code 102.

2. In § 8.2:

A. Paragraphs (a)(7) and (b)(5) are removed; and

B. New paragraphs (c) and (d) are added to read as follows:

§ 8.2 Semiannual assessment.

* * * * *

(c) *Additional assessment for independent credit card banks—(1) General rule.* In addition to the assessment calculated according to paragraph (a) of this section, each independent credit card bank will pay an assessment based on receivables attributable to credit card accounts owned by the bank. This assessment will be computed by adding to its asset-based assessment an additional amount determined by its level of receivables

¹⁴ This definition is consistent with the Small Business Administration's definition of "small entity." See 13 CFR 121.201.

attributable. The dollar amount of the additional assessment will be published in the "Notice of Comptroller of the Currency Notice of Fees," described at § 8.8.

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

(ii) *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 whose ratio of total gross receivables attributable to the bank's balance sheet assets exceeds 50%.

(iii) *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.

(iv) *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.

(v) *Receivables attributable* is the total amount of outstanding balances due on credit card accounts owned by an

independent credit card bank (the receivables attributable to those accounts) on the last day of the assessment period, minus receivables retained on the bank's balance sheet as of that day.

(4) *Reports of receivables attributable.* Independent credit card banks 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.* Subject to any limit that the OCC prescribes in the Notice of the 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 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 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.

3. In § 8.6:

A. A new paragraph (c)(1)(iii) is added; and

B. Paragraphs (c)(3)(ii) and (c)(3)(iii) are redesignated as paragraphs (c)(3)(iii) and (c)(3)(iv), and a new paragraph (c)(3)(ii) is added to read as follows:

§ 8.6 Fees for special examinations and investigations.

* * * * *

(c) * * *

(1) * * *

(iii) *Surcharge based on the condition of the bank.* Subject to any limit that the OCC prescribes in the Notice of the 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 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.

* * * * *

(3) * * *

(ii) *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.

* * * * *

Dated: May 24, 2001.

John D. Hawke, Jr.,

Comptroller of the Currency.

[FR Doc. 01-13723 filed 5-31-01; 8:45am]

BILLING CODE 4810-33-P