



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

RESCINDED

OCC 2006-36

Subject: Assessment of Fees
Date: August 15, 2006

**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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calculates the semiannual assessment based on the most recent Consolidated Reports of Condition and Income (call report), and the assessment is due two months later than under the prior system. Thus, payments that were previously due on January 31 and July 31 of each year are instead due on March 31 and September 30 of each year. The final rule is identical to the interim rule, which changed the invoicing process only; it did not change the method of calculating assessments due from national banks or the amount of national banks' assessments.

For further information, contact Colette Baylson, Accounting Operations Manager, Financial Management, at (202) 874-4403, or Jean Campbell, Senior Attorney, or Mitchell Plave, Counsel, in the Legislative and Regulatory Activities Division at (202) 874-5090.

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Related Links

- [71 FR 42017](#)

Rules and Regulations

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to determine the amount of assessment due to the OCC. Previously, national banks were required to make the initial calculation of the amount due to the OCC. Under the interim rule, the OCC, rather than each national bank, calculates the semiannual assessment based on the most recent Consolidated Reports of Condition and Income (Call Report). The assessment is due by March 31 and September 30 of each year, two months later than under the previous process. Thus, payments that would have been due on January 31 of each year are instead due on March 31, and payments that would have been due on July 31 are due on September 30 of each year. The OCC will notify each national bank of the amount of its semiannual assessment and automatically deduct that amount from each bank's designated account on the payment due date. The interim rule changed the assessment collection process only; it did not make any changes to the method for calculating assessments due from national banks.

DATES: *Effective Date:* This rule is adopted as final, effective August 24, 2006.

FOR FURTHER INFORMATION CONTACT: Jean Campbell, Senior Attorney, or Mitchell Plave, Counsel, 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:

I. Background

The National Bank Act authorizes the OCC to collect assessments, fees, or other charges as necessary or appropriate to carry out its responsibilities. 12 U.S.C. 482. Under this authority, the OCC collects semiannual assessments from national banks, as described in 12 CFR part 8 and in the Notice of Comptroller of the Currency Fees, which is published no later than the first business day of December each year.¹ Prior to adoption of the interim final rule on November 17, 2005, 70 FR 69641, part 8 required

¹ 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 payment of assessments by Federal branches and Federal agencies.

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 8

[Docket No. 06-08]

RIN 1557-AC96

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 in final form, without change, an interim final rule that amended our regulations at 12 CFR part 8 concerning the timing of payments of OCC assessments. The interim rule replaced the process used

each national bank to compute the amount of its semiannual assessment and pay that amount to the OCC by January 31 and July 31 of each year. Banks based their assessments on the data each bank submitted in its most recent Call Report.

Under the procedure in effect prior to November 17, 2005, the OCC reviewed each assessment computation after receiving Call Report data from the Federal Deposit Insurance Corporation (FDIC) in March and September of each year. When the OCC found an overpayment or underpayment of a semiannual assessment, we contacted the national bank, explained the error, and refunded (or collected, as the case may be) the funds electronically. This assessment collection process was cumbersome and outdated, and the procedure for reviewing and correcting miscalculations was inefficient. For these reasons the OCC revised the assessment process as described below.

II. The Interim and Final Rules

On November 17, 2005, the OCC published and requested comment on an interim rule amending 12 CFR part 8. The comment period ended on December 17, 2005, and no comments were received. Accordingly, the OCC is adopting the interim rule as a final rule with no modifications.

Calculation of the Semiannual Assessment Fee

The final rule provides that the OCC will calculate the semiannual assessment due from each bank based on the most recent Call Report data. Under the new assessment process, the OCC will send each national bank an assessment collection notification no later than 7 business days prior to March 31 and September 30 of each year. The assessment covers the six-month period beginning on January 1 and July 1 before each payment date. The OCC will automatically deduct the assessed amount from the bank's designated account on March 31 and September 30. By delaying the assessment calculation date by two months, the OCC will collect assessments based on final Call Report data, and thus eliminate the cumbersome correction process that we previously used. Under the final rule, a national bank can notify the OCC of any errors in the calculation of semiannual assessments or errors in the electronic transfer process, and the Comptroller is required to respond to such notices within 30 days of receipt.

This streamlining of the OCC's assessment collection process reduces regulatory burden for national banks

and is therefore consistent with the objectives of section 2222 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996,² which calls for the periodic review of the OCC's regulations and the elimination of unnecessary burden.

Technical and Conforming Amendments

The final rule eliminates an erroneous sentence in § 8.7(a) regarding delinquent semiannual assessment payments. The final rule also makes conforming changes to § 8.7(b) to describe the new streamlined procedure to correct errors in the assessment process. The final rule makes non-substantive changes to conform part 8 to the new assessment collection process and other minor technical changes. Finally, in § 8.6(a)(1), (2), and (4), and § 8.7(a), the final rule eliminates references to "District of Columbia," "District of Columbia banks" and "each district bank" to reflect the provisions of the 2004 District of Columbia Omnibus Authorization Act, section 8, Public Law 108-386, 118 Stat. 2228 (2004), which shifted regulatory responsibility of District of Columbia banks from the OCC to the FDIC and Board of Governors of the Federal Reserve System.

Effective Date

This final rule takes effect 30 days after publication in the **Federal Register**. 5 U.S.C. 553(d). Under 12 U.S.C. 4802(b)(1), Federal banking agency regulations or amendments to regulations "which impose additional reporting, disclosure, or other requirements on insured depository institutions" must be effective on the first day of a calendar quarter which begins on or after the date on which the regulations are published in final form. As described above, this final rule imposes no new requirements on national banks. Accordingly, the delayed effective date requirement in section 4802(b)(1) does not apply to this final rule.

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 (NPRM) pursuant to 5 U.S.C. 553(b).³ Because the OCC did not publish an NPRM, the RFA does not apply to this final rule. In any case, however, the final rule affects only the

process for calculating the semiannual assessment and the timing of required payment. It does not affect the amount of assessment a bank must pay.

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 1995⁴ (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 any regulatory alternatives.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Ch. 3506; 5 CFR 1320 Appendix A.1), we have reviewed the final rule to determine whether it contains 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, the interim final rule amending 12 CFR part 8 which was published at 70 FR 69641 on November 17, 2005, is adopted as a final rule without change.

Dated: July 18, 2006.

John C. Dugan,

Comptroller of the Currency.

[FR Doc. E6-11804 Filed 7-24-06; 8:45 am]

BILLING CODE 4810-33-P

² Pub. L. 104-208, § 2222, 110 Stat. 3009-414 to 3009-415 (Sept. 30, 1996).

³ 5 U.S.C. 601(2).

⁴ 2 U.S.C. 1532.