

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 8

[Docket No. 01–20]

RIN 1557–ACOO

Assessment of Fees

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

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is proposing to amend 12 CFR 8.2(a), which sets forth the formula for the semiannual assessment the OCC charges each national bank. The amendment would

revise the formula to establish a minimum base amount for the semiannual assessment for the first assessment bracket (\$0–\$2 million) of the assessment schedule. This change will enable the OCC to modestly adjust its assessments to better align with its costs of supervision.

DATES: Comments must be received October 25, 2001.

ADDRESSES: Comments should be directed to: Communications Division, Office of the Comptroller of the Currency, 250 E Street, SW., Mailstop 1–5, Washington, DC 20219, Attention: Docket No. 01–20. In addition, comments may be sent via facsimile to (202) 874–4448 or via Internet at regs.comment@occ.treas.gov. You may make an appointment to inspect and photocopy comments at the same location by calling (202) 874–5043.

FOR FURTHER INFORMATION CONTACT: Michele Meyer, Counsel, Legislative and Regulatory Activities Division, (202) 874–5090; or David Nebhut, Director, Policy Analysis, (202) 874–5220.

SUPPLEMENTARY INFORMATION:

I. 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 approximately 55 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. 2000). The statute requires that our charges be set to meet the Comptroller's expenses in carrying out authorized activities. *Id.* Pursuant to part 8 of its regulations, the OCC currently assesses national banks and Federal branches and agencies according to the following formula, set forth in the table at § 8.2(a):

If the banks' total assets (consolidated domestic and foreign subsidiaries) are:		The semiannual assessment is:		
Over—	But not over—	This amount—Base Amount	Plus—Marginal rates	Of excess over—
Column A	Column B	Column C	Column D	Column E
Million	Million			Million
\$0	\$2	\$0	Y1	\$0
2	20	X1	Y2	2
20	100	X2	Y3	20
100	200	X3	Y4	100
200	1,000	X4	Y5	200
1,000	2,000	X5	Y6	1,000
2,000	6,000	X6	Y7	2,000
6,000	20,000	X7	Y8	6,000
20,000	40,000	X8	Y9	20,000
40,000		X9	Y10	40,000

Under this formula, the OCC assesses a national bank according to the amount of assets the bank reports on its Consolidated Report of Condition (Including Domestic and Foreign Subsidiaries) ("Call Report") filed for the quarter preceding the semiannual assessment period. A bank calculates the book-asset component of its assessment by first identifying which of 10 asset categories it fits within. If the bank fits within the smallest category (*i.e.*, \$0 to \$2 million), it multiplies all

of its assets by a marginal rate that is provided each year by the OCC in the Notice of the Comptroller of the Currency Fees (Notice of Fees). Under this system, a national bank with \$2 million in assets currently pays approximately \$3,211 (\$2 million multiplied by the 0.0016057180 marginal rate currently in effect) semiannually for the cost of its supervision by the OCC.

If the bank fits within any of the other nine asset categories, the bank pays a

base amount provided in the Notice of Fees for that category (which equals the assessment on the largest bank in the next smallest asset category), plus an amount determined by multiplying a marginal rate (also provided in the Notice of Fees) by the amount of its assets that exceed the low end-point of its category. Thus, for example, a bank with \$10 million in assets would fall into the second asset category (\$2 million to \$20 million) and would pay an assessment equal to \$3,211, which is

the current base amount for its category, plus \$1605, which is the product of the current marginal rate for that category (0.0002007170), multiplied by \$8 million (the amount of its assets that exceeds the \$2 million low-end point for its category).¹

II. Proposed Rule

The OCC proposes to revise the table at § 8.2(a) to establish a minimum base amount for the semiannual assessment for the first assessment bracket of the assessment schedule. This would be

accomplished by deleting the figure of \$0 as the base amount in Column C for the first asset bracket and replacing it with a variable (X1), and deleting the variable Y1 in Column D and replacing it with \$0. The proposed revised table at § 8.2(a) would look as follows:

If the banks' total assets (consolidated domestic and foreign subsidiaries) are:		The semiannual assessment is:		
Over—	But not over—	This amount—Base Amount	Plus—Marginal rates	Of excess over—
Column A	Column B	Column C	Column D	Column E
Million	Million			Million
\$0	\$2	X1	\$0	
2	20	X2	Y1	2
20	100	X3	Y2	20
100	200	X4	Y3	100
200	1,000	X5	Y4	200
1,000	2,000	X6	Y5	1,000
2,000	6,000	X7	Y6	2,000
6,000	20,000	X8	Y7	6,000
20,000	40,000	X9	Y8	20,000
40,000		X10	Y9	40,000

As amended, the OCC's assessment formula would require national banks to pay an assessment equal to the base amount (X1) for assets subject to the first asset bracket. The OCC anticipates that the December 1, 2001, Notice of Fees will include a base amount in the range of \$5,000. For example, if this base amount were applied to the smallest asset bracket, this would result in a minimum semiannual assessment charge for these banks of \$5,000, or an increase of \$1,789 for a bank with balance sheet assets of \$2 million. The base amount for each of the larger categories (X2–X10) would increase by the same dollar amount, because the base amount for any category is the maximum that a bank in the immediately preceding asset category would pay.

This modest increase is necessary and appropriate under 12 U.S.C. 482 to carry out the OCC's supervisory responsibilities, particularly in regard to the smallest banks it supervises. The adjustment will help to provide that the assessments received from national banks are better aligned with the banks' fair share of the expenses of the OCC.

III. Comment Solicitation

The OCC requests comment on all aspects of this proposal, as well as on alternatives to the proposal. We also ask for comment on the impact of this proposal on small banks and on community banks. The OCC recognizes that these banks operate with more

limited resources than larger institutions and may present a different risk profile. Thus, the OCC requests comment on the impact of the proposal on small banks' and community banks' current resources, and whether the goals of the proposal could be achieved, for these banks, through an alternative approach.

Solicitation of Comments on Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act, Pub. L. 106–102, sec. 722, 113 Stat. 1338, 1471 (Nov. 12, 1999), requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. We invite your comments on how to make this proposal easier to understand. For example:

- Have we organized the material to suit your needs? If not, how could this material be better organized?
- Are the requirements in the proposed regulation clearly stated? If not, how could the regulation be more clearly stated?
- Does the proposed regulation contain language or jargon that is not clear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the regulation easier to understand? If so, what changes to the format would make the regulation easier to understand?

- What else could we do to make the regulation easier to understand?

IV. Regulatory Flexibility Act

An agency must prepare a Regulatory Flexibility Analysis if a rule it proposes 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 proposed rule will have on small national banks. For purposes of this Regulatory Flexibility Analysis and proposed regulation, the OCC defines "small national banks" to be those banks with less than \$100 million in total assets. Based on that review, the OCC certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. The basis for this conclusion is that the minimum semiannual assessment for these banks will increase by only approximately \$1,789. The OCC does not believe this to be a significant economic impact.

V. Executive Order 12866

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

¹ This simple calculation assumes no adjustments would be made to the assessment to reflect, for instance, a bank's status as a non-lead bank or a

composite supervisory rating of 3, 4, or 5 under the Uniform Financial Institutions Rating System or ROCA rating (which rates risk management,

operational controls, compliance, and asset quality), as appropriate. See 12 CFR 8.2(a)(6) and (7).

VI. Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, Pub. L. 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 proposed 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 proposes to amend 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, paragraph (a) is revised to read as follows:

§ 8.2 Semiannual assessment.

(a) Each national bank and each District of Columbia bank shall pay to the Comptroller of the Currency a semiannual assessment fee, due by January 31 and July 31 of each year, for the six-month period beginning 30 days before each payment date. The amount of the semiannual assessment paid by each bank is computed as follows:

If the banks' total assets (consolidated domestic and foreign subsidiaries) are:		The semiannual assessment is:		
Over—	But not over—	This amount—Base Amount	Plus—Marginal rates	Of excess over—
Column A	Column B	Column C	Column D	Column E
Million	Million			Million
\$0	\$2	X1	\$0	2
2	20	X2	Y1	20
20	100	X3	Y2	100
100	200	X4	Y3	200
200	1,000	X5	Y4	1,000
1,000	2,000	X6	Y5	2,000
2,000	6,000	X7	Y6	6,000
6,000	20,000	X8	Y7	20,000
20,000	40,000	X9	Y8	40,000
40,000		X10	Y9	

* * * * *

Dated: September 17, 2001.

John D. Hawke, Jr.,

Comptroller of the Currency.

[FR Doc. 01-23844 Filed 9-24-01; 8:45 am]

BILLING CODE 4810-33-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. 2000-NM-372-AD]

RIN 2120-AA64

Airworthiness Directives; Airbus Model A319, A320, and A321 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A319, A320, and

A321 series airplanes. This proposed AD would require replacing certain flight warning computers (FWCs) with improved FWCs. This proposed AD is prompted by mandatory continuing airworthiness information issued by a foreign civil airworthiness authority. The actions specified in this proposed AD are intended to ensure that radioaltimeter malfunctions are annunciated to the flightcrew, and to prevent consequent erroneous autopilot behavior during approach and landing. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by October 25, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2000-NM-372-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227-1232.

Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2000-NM-372-AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-2141; fax (425) 227-1149.

SUPPLEMENTARY INFORMATION: