

**Supporting Statement for Information Collection  
Provisions of Regulation M  
(Consumer Leasing Act)  
12 CFR 213  
(OMB Control Number: 3084-0086)**

**1. Necessity for Collecting and Retaining the Information**

The Consumer Leasing Act, 15 U.S.C. 1667 *et seq.* (“CLA”), an amendment to the Truth in Lending Act (“TILA”), 15 U.S.C. 1601 *et seq.*, was enacted to foster comparison shopping and informed decision making by requiring accurate disclosure of the costs and terms of leases to consumers. Lessors are subject to disclosure requirements that apply to both open-end leases (*e.g.*, with a residual due at lease end) and closed-end leases (*e.g.*, “walkaway” leases, with no substantial amount due at lease end).

The Federal Reserve FRB (“FRB”) promulgated Regulation M, 12 CFR 213, to implement the CLA, as required by the statute. The Federal Trade Commission (“FTC” or “Commission”) enforces the CLA as to all lessors and advertisers except those that are subject to the regulatory authority of another federal agency (such as federally chartered or insured depository institutions). The CLA also contains a private right of action with a one-year statute of limitations for aggrieved consumers.

Recordkeeping

Section 213.8 of Regulation M requires lessors to retain evidence of compliance with its requirements (other than its advertising rules), but it does not specify the particular records to be kept. Entities subject to the regulation may choose the records they consider adequate to show compliance, and each entity may interpret the requirement differently. Records, however, must be retained for twenty-four months.

Disclosure

Regulation M imposes disclosure requirements on all types of lessors, including automobile lessors (such as auto dealers, independent leasing companies, and manufacturers’ captive finance companies), computer lessors (such as computer dealers and other retailers), furniture lessors, various electronic commerce lessors, and diverse types of lease advertisers, and others. These requirements are intended to ensure that consumers are fully apprised of the terms of leases prior to consummation of the transaction. The written disclosures required by Regulation M are derived from statutory disclosures and directives mandated by the CLA. *See* 12 CFR 213.4; 15 U.S.C. 1667a; 15 U.S.C. 1667f (written disclosures); 12 CFR 213.7; 15 U.S.C. 1667c; 15 U.S.C. 1667f (advertising disclosures).

The FRB has issued model forms and clauses that can be used to comply with the written disclosure (non-advertising) requirements of the CLA and Regulation M. *See, e.g.*, Appendices A-1 - A-3 to Regulation M; 12 CFR 213, Appendices A-1 - A-3. Correct use of these model forms and clauses insulates lessors from liability for the respective requirements under the CLA

and Regulation M. See FRB Official Staff Commentary to Regulation M (“Commentary”), Appendix A, Comment 1; 12 CFR 213, Supp. I, Appendix A, Comment 1.

## **2. Use of the Information**

The FTC, other agencies, and private litigants use the records to ascertain whether accurate and complete disclosures of the cost of leases have been provided to consumers prior to consummation of the lease. This information provides the primary evidence of law violations in CLA enforcement actions brought by the FTC. Without the Regulation M recordkeeping requirement, the FTC's ability to enforce the CLA would be significantly impaired.

As noted above, consumers rely upon the disclosures for information to comparison shop among leases, as well as to ascertain the true costs and terms of lease offers. This information provides the primary evidence of law violations in CLA enforcement actions brought by the FTC and private actions brought by consumers. Without these requirements, and the resulting disclosures, the FTC (and consumers) would be unable to enforce the law.

## **3. Consideration of the Use of Improved Information Technology**

The FRB has issued final rules to establish uniform standards for using electronic communication to deliver disclosures required under Regulation M, within the context of the Electronic Signatures in Global and National Commerce Act (“ESIGN”), 15 U.S.C. 7001 *et seq.* 72 FR 63,456 (Nov. 9, 2007) These rules enable businesses to utilize electronic disclosures and compliance, consistent with the requirements of ESIGN, which became effective on Oct. 1, 2000. Use of such electronic communications is also consistent with the Government Paperwork Elimination Act (“GPEA”), Title XVII of Pub. L. 105-277, codified at 44 U.S.C. 3504, note. ESIGN and GPEA serve to reduce businesses’ compliance burden related to federal requirements, including Regulation M, by enabling lessors to utilize more efficient electronic media for disclosures and compliance.

Regulation M also permits a lessor to retain records by microfilm or microfiche or by any other method that reproduces records accurately (including computer programs). Lessors need only retain enough information to reconstruct the required disclosure or other records. Section 213.8-1 of the Commentary.

In addition, most lessors use computer support to calculate the required information and generate the mandated disclosures, thereby limiting the burden on these entities.

## **4. Efforts to Identify Duplication/Availability of Similar Information**

The recordkeeping requirement of Regulation M preserves the information provided by the lessor to consumers considering the costs and terms of lease offers. The lessor is the only source of this information. No other federal law, nor is staff aware of any state law, that mandates retention of this information. Similarly, the disclosures required by the CLA and

Regulation M are not required by any other provision of law. Although some lease cost information is contained in contractual documents, the information is not standardized. As a result, consumers cannot use it efficiently to comparison shop or fully appreciate lease terms. The lessor is the only source of this information. No other federal law mandates these disclosures. State laws do not duplicate these requirements, although some states may have other rules applicable to consumer leases.

## **5. Efforts to Minimize Burdens on Small Businesses**

The Regulation M recordkeeping and disclosure requirements are imposed on all lessors. The recordkeeping requirement is mandated by Regulation M. The disclosure requirements are mandated jointly by the CLA and Regulation M. As previously noted, the FTC's role in this area is limited to enforcement because the CLA vested rulemaking authority in the FRB.

Most lessors today utilize some measure of computerization in their business, and Regulation M permits lessors to rely on computer support, among other alternatives, to meet its recordkeeping and disclosure requirements. This flexibility presumably yields reduced recordkeeping and disclosure costs. (See #3 above.) Moreover, as noted above regarding disclosures, Regulation M provides model forms and clauses that may be used to comply with its requirements; correct use of these forms and clauses insulates a lessor from liability for the respective requirements.

## **6. Consequences of Conducting Collection Less Frequently**

The current record retention period of two years supports the one-year statute of limitations for private actions, and the FTC's (and other administrative agencies') need for sufficient time to bring enforcement actions regarding lease transactions. If the retention period were shortened, consumers who sue under the CLA, and the administrative agencies, might find that lessor records needed to prove violations of the CLA no longer exist.

The disclosure requirements are needed to facilitate comparison cost shopping and to spur informed lease decision making. If these requirements were eliminated, consumers would not have access to this critical information. Their right to sue under the CLA would be undermined, and the FTC (and other administrative agencies) could not fulfill their made to enforce the CLA.

## **7. Circumstances Requiring Collection Inconsistent with Guidelines**

The recordkeeping and disclosure requirements in Regulation M are consistent with the applicable guidelines contained in 5 CFR 1320.5(d)(2).

## **8. Consultation Outside the Agency**

The disclosure and recordkeeping requirements of Regulation M were promulgated by the FRB. Before the regulation was adopted and prior to each amendment, the FRB published

the regulation for public comment in the Federal Register.

More recently, the Commission sought public comment in connection with its latest PRA clearance request for these regulations, in accordance with 5 CFR 1320.8(d). *See* 73 FR 70,347 (Nov. 20, 2008). No comments were received. Consistent with 5 CFR 1320.12(c), the FTC is again seeking public comment contemporaneously with this submission.

**9. Payments or Gifts to Respondents**

Not applicable.

**10. & 11. Assurances of Confidentiality/Matters of a Sensitive Nature**

The required recordkeeping and written disclosures contain private financial information about consumers who apply for and/or obtain consumer leases. Such information is protected by the Right to Financial Privacy Act, 12 U.S.C. 3401 *et seq.* Such records may also constitute confidential customer lists. Any of these records provided to the FTC would be covered by the protections of Sections 6(f) and 21 of the FTC Act, 15 U.S.C. 46(f) and 57b-2, by Section 4.10 of the Commission's Rules of Practice, 16 CFR 4.10, and by the exemptions of the Freedom of Information Act, 5 U.S.C. 552(b), as applicable.

**12. Estimated Hours Burden: 224,000 hours, rounded to the nearest thousand<sup>1</sup>**

**Recordkeeping**

Staff estimates that Regulation M's recordkeeping requirements affect approximately 120,000 firms leasing products to consumers and subject to the Commission's jurisdiction, at an average annual burden of one hour per firm, for a total of 120,000 hours.

**Disclosure**

Regulation M applies to automobile lessors (such as auto dealers, independent leasing companies, and manufacturers' captive finance companies), computer lessors (such as computer dealers and other retailers), furniture lessors, various electronic commerce lessors, and diverse types of lease advertisers, and others. Below is staff's best estimate of burden applicable to this very broad spectrum of covered entities.

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<sup>1</sup> This is an adjustment to the associated Federal Register notice, 74 FR 10584 (March 11, 2009), in which hours for advertising-related setup/monitoring disclosures were overstated -- shown there as 10,500 hours instead of 10,000 hours -- which, in turn, led to a rounding up to 225,000 hours. Likewise, labor costs calculations were mildly overstated by that input error, and are adjusted accordingly herein.

Regulation M: Disclosures – Burden Hours

Disclosures	----- Setup/Monitoring -----			----- Transaction-related-----			
	Respondents	Average Burden per Respondent (hours)	Total Setup/ Monitoring Burden (hours)	Number of Transactions	Average Burden per Transaction (minutes)	Total Transaction Burden (hours)	Total Burden (hours)
Auto Leases <sup>1</sup>	45,000	.75	33,750	2,000,000	.50	16,667	50,417
Other Leases <sup>2</sup>	75,000	.50	37,500	750,000	.25	3,125	40,625
Advertising	20,000	.50	10,000	800,000	.25	3,333	13,333
Total							104,375

<sup>1</sup> This category focuses on consumer vehicle leases. Vehicle leases are subject to more lease disclosure requirements (pertaining to computation of payment obligations) than other lease transactions. (Only consumer leases for more than four months are covered.) See 15 U.S.C. § 1667(1); 12 CFR § 213.2(e)(1). This reflects a decrease in auto leasing entities and transactions, compared to prior FTC estimates.

<sup>2</sup> This category focuses on all types of consumer leases other than vehicle leases. It includes leases for computers, other electronics, small appliances, furniture, and other transactions. (Only consumers leases for more than four months are covered.) See 15 U.S.C. § 1667(1); 12 CFR § 213.2(e)(1). This reflects a decrease in consumer leasing entities and transactions, compared to prior FTC estimates.

**Associated labor costs: \$5,334,050**

Staff calculated labor costs by applying appropriate hourly cost figures to the burden hours described above. The hourly rates used below (\$41 for managerial or professional time, \$30 for skilled technical time, and \$16 for clerical time) are averages.

**Recordkeeping**

For the 120,000 recordkeeping hours, staff estimates that 10 percent of the burden hours require skilled technical time and 90 percent require clerical time. As shown below, the total recordkeeping cost is \$2,088,000.

**Disclosure**

For each notice or information item listed, staff estimates that 10 percent of the burden hours require managerial or professional time and 90 percent require skilled technical time. As shown below, the total disclosure cost is \$3,246,050.

Regulation M: Recordkeeping and Disclosures – Cost

Required Task (hours)	-----Managerial-----		-----Skilled Technical-----			-----Clerical-----		Total Cost
	Time	Cost (\$41/hr.)	Time	Cost (\$30/hr.)	Time	Cost (\$16/hr.)	Cost (\$)	
Recordkeeping		0	\$0	12,000	\$360,000	108,000	\$1,728,000	\$2,088,000
Disclosures								
Auto Leases		5,042	\$206,722	45,375	\$1,361,250	0	\$0	\$1,567,972
Other Leases		4,063	\$166,583	36,562	\$1,096,860	0	\$0	\$1,263,443
Advertising		1,333	\$54,665	11,999	\$359,970	0	\$0	\$414,635
Total Disclosures								\$3,246,050
Total Recordkeeping and Disclosures								\$5,334,050

**13. Estimated Capital and Other Non-Labor Costs**

The applicable requirements impose minimal start-up costs, as lessors and/or advertisers generally have or obtain necessary equipment for other business purposes. For the same reason, staff believes that the cost of printing and copying needed to comply with Regulation M is minimal. Staff anticipates that the requirements noted above necessitate ongoing, regular training so that covered entities stay current and have a clear understanding of federal mandates. However, this training would be a small portion of and subsumed within the ordinary training that employees receive apart from that associated with collecting information to comply with Regulation M.

**14. Estimated Cost to the Federal Government**

The FRB promulgated the recordkeeping requirement of Regulation M, so there is no cost to the FTC for that purpose. Enforcement of the recordkeeping requirement of Regulation M is incidental to overall enforcement of the CLA. Staff estimates that enforcing this requirement will cost the FTC Bureau of Consumer Protection no more than \$6,603, which is a representative years' cost of enforcing Regulation M's requirement during the three-year clearance period sought. This estimate is based on the assumption that one-twenty-fourth of one attorney work year will be expended. Clerical and support services are included in this estimate.

The FRB promulgated the Regulation M disclosure requirements, so there is no cost to the FTC for that purpose. Regarding enforcement, staff estimates that the cost to the FTC Bureau of Consumer Protection for these requirements will approximate \$78,593. This estimate is based on the assumption that one-half of one attorney work year will be expended. Clerical and other support services are included in this estimate.

**15. Program Changes or Adjustments**

Staff has adjusted downward the FTC's previous annual burden estimate by approximately 68,000 hours (from 292,000 to 224,375). This reflects a decrease in auto and other leasing entities and transactions, relative to prior FTC estimates.

**16. Publishing Results of the Collection of Information**

Not applicable.

**17. Display of Expiration Date for OMB Approval**

Not applicable.

**18. Exceptions to the Certification for PRA Submissions**

Not applicable.