

**1 Supporting Statement for the  
Recordkeeping and Disclosure Requirements  
in Connection with Regulation M (Consumer Leasing)  
(OMB No. 7100-0202)**

***Consumer Lease Exemption Threshold  
(Docket No. R-1400) (RIN 7100-AD60)***

**Summary**

1 The Board of Governors of the Federal Reserve System, under delegated authority from the Office of Management and Budget (OMB), proposes to extend for three years, with revision, the recordkeeping and disclosure requirements of Regulation M, which implements the Consumer Leasing Act (CLA).<sup>1</sup> The Paperwork Reduction Act of 1995 (PRA), classifies these requirements as an information collections.<sup>2</sup>

On December 16, 2010, a notice of proposed rulemaking (NPRM) was published in the *Federal Register* (75 FR 78632) requesting public comment on the proposed amendments to Regulation M. The proposed amendments implement Section 1100E of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act), which was signed into law on July 21, 2010. The Dodd-Frank Act raises the CLA's \$25,000 exemption threshold to \$50,000. In addition, the Dodd-Frank Act requires that, on or after December 31, 2011, the threshold shall be adjusted annually for inflation by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W), as published by the Bureau of Labor Statistics. Therefore, from July 21, 2011 to December 31, 2011, the threshold dollar amount will be \$50,000. Beginning on January 1, 2012, the \$50,000 threshold will be adjusted annually based on any annual percentage increase in the CPI-W. The Federal Reserve is proposing to amend Section 213.2(e), the accompanying commentary, and the commentary to Section 213.7(a) for consistency with the amendments to the CLA's exemption threshold. The comment period for this NPRM expired February 14, 2011. The Federal Reserve received two comment letters; however, neither specifically addressed the paperwork burden. On April 4, 2011, a notice of final rulemaking was published in the *Federal Register* (76 FR 18349) adopting the amendments largely as proposed, with mandatory compliance by July 21, 2011.

The CLA and Regulation M are intended to provide consumers with meaningful disclosures about the costs and terms of leases for personal property. The disclosures enable consumers to compare the terms for a particular lease with those for other leases and, when appropriate, to compare lease terms with those for credit transactions. The CLA and Regulation M also contain rules about advertising consumer leases and limit the size of balloon payments in consumer lease transactions.

The information collection pursuant to Regulation M is triggered by specific events. All disclosures must be provided to the lessee prior to the consummation of the lease and when the availability of consumer leases on particular terms is advertised. There are no required reporting

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<sup>1</sup> The CLA was enacted in 1976 as an amendment to the Truth in Lending Act and is codified at 15 U.S.C. §§ 1667-1667f. Regulation M is located at 12 C.F.R. Part 213.

<sup>2</sup> 44 U.S.C. § 3501 *et seq.*

forms associated with Regulation M. To ease the compliance cost (particularly for small entities) model forms are appended to the regulation. Lessors are required to “retain evidence of compliance” for 24 months, but the regulation does not specify the types of records that must be retained.

Regulation M applies to all types of lessors of personal property. The Federal Reserve accounts for the paperwork burden associated with the regulation only for Federal Reserve-supervised institutions.<sup>3</sup> Other federal agencies account for the paperwork burden on other lessors for which they have administrative enforcement authority. The Federal Reserve estimates that with respect to Regulation M, there are four Federal Reserve-supervised institutions that are deemed “respondents” for purposes of the PRA, and their collective annual burden is estimated to be 8 hours.

The Federal Reserve estimates the final rule will impose a one-time increase of 160 hours in the annual burden under Regulation M for respondents regulated by the Federal Reserve. In addition, the Federal Reserve estimates that, on a continuing basis, the revision to the rule will increase the annual burden by 32 hours. The total annual burden for the Regulation M information collection is estimated to increase by 192 hours from 8 to 200 hours.

## **Background and Justification**

The CLA and Regulation M require lessors to disclose to consumers uniformly the costs, liabilities, and terms of consumer lease transactions. Disclosures are provided to consumers before they enter into lease transactions and in advertisements that state the availability of consumer leases on particular terms. The regulation generally applies to consumer leases of personal property in which the contractual obligation does not exceed \$25,000 and has a term of more than four months. An automobile lease is the most common type of consumer lease covered by the regulation. The CLA does not provide exemptions for small entities.

In October 1996, the Board substantially revised Regulation M in its periodic review of the regulation.<sup>4</sup> The 1996 revisions updated the disclosure requirements to more effectively carry out the purposes of the CLA. In April 1997, Regulation M was amended to implement statutory amendments contained in the Economic Growth and Regulatory Paperwork Reduction Act of 1996 that streamlined the advertising disclosures.<sup>5</sup> The Board also revised the disclosures required for particular lease transactions to parallel the statutory changes for advertising disclosures.<sup>6</sup> In September 1998, the Board published amendments to Regulation M

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<sup>3</sup> Appendix B – Federal Enforcement Agencies – of Regulation M defines the Federal Reserve-supervised institutions as: State member banks, branches and agencies of foreign banks (other than federal branches, federal agencies, and insured state branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under Section 25 or 25A of the Federal Reserve Act.

<sup>4</sup> 61 FR 52246 (October 7, 1996).

<sup>5</sup> Pub. L. 104-208, 110 Stat. 3009.

<sup>6</sup> 62 FR 15368 (April 1, 1997).

to implement statutory amendments clarifying the rules on disclosures for lease payments, advertisements, and rounding calculations.<sup>7</sup>

In November 2007, the Board published a final rulemaking (72 FR 63456) that amended Regulation M to address the timing and delivery of electronic disclosures, consistent with the requirements of the Electronic Signatures in Global and National Commerce Act (E-Sign Act). Under the E-Sign Act, consumers generally must consent to the use of electronic disclosures. The Board's November 2007 rule provides that certain advertising disclosures may be provided to a consumer in electronic form without regard to the consumer consent and other provisions of the E-Sign Act; and that, when an advertisement is accessed by the consumer in electronic form, the disclosures must be provided in electronic form on or with the advertisement.

### **Description of Information Collection**

The purpose of Regulation M disclosures is to enable consumers to compare the costs and terms of different leases in order to make an informed decision and, where appropriate, to compare lease terms with those for credit transactions. Regulation M's requirements apply to leases of personal property for a period exceeding four months where the contractual obligation is \$25,000 or less. The recordkeeping and disclosure requirements associated with Regulation M are described below.

#### **Lease Disclosures (Section 213.4)**

Under the CLA and Regulation M, lessors are required to provide certain key information to consumers before they enter into the lease transaction. Lessors are persons who regularly lease, offer to lease, or arrange to lease personal property to consumers. The frequency of response varies according to the lessor's level of consumer leasing activities. The costs and terms of the lease must be disclosed to consumers clearly and conspicuously and must be in writing in a form the consumer may keep. Disclosures may be in electronic form, subject to the consumer consent and other provisions of the E-Sign Act. Lessors must disclose, among other things, the total amount due at lease signing or delivery; the number, amount, due dates or periods of payments under the lease, and the total amount of these payments; and other terms relating to the rights and responsibilities of both parties to the lease.

#### **Advertising Rules (Section 213.7)**

The advertising requirements apply to all persons that promote the availability of consumer leases through commercial messages in any form, including messages in print or electronic media, direct mailings, or on any sign or display. The frequency of response varies according to the level of advertising activity by the advertiser. Advertising certain terms triggers the requirement for additional disclosures. For television or radio advertisements, special rules allow alternative disclosures using toll-free telephone numbers or written advertisements in a publication of general circulation.

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<sup>7</sup> 63 FR 52109 (September 29, 1998).

## ***Consumer Lease Exemption Threshold amendments***

The final rule will impose new compliance requirements for consumer leases with total contractual obligations of more than \$25,000 but not more than \$50,000. Specifically, for consumer leases subject to Regulation M, the lessor must provide certain disclosures regarding payments, liability, and other terms of the lease prior to consummation (§§ 213.3 and 213.4) and when the availability of consumer leases on particular terms is advertised (§ 213.7).

### **Sensitive Questions**

This information collection contains no questions of a sensitive nature, as defined by OMB guidelines.

### **Consultation Outside the Agency**

On December 16, 2010, an NPRM was published in the *Federal Register* (75 FR 78632) for public comment to amend Regulation M. The comment period for this NPRM expired February 14, 2011. The Federal Reserve received two comment letters; however, neither specifically addressed the paperwork burden. On April 4, 2011, a notice of final rulemaking was published in the *Federal Register* (76 FR 18349) adopting the amendments largely as proposed, with mandatory compliance by July 21, 2011.

### **Time Schedule for Information Collection**

The information collection pursuant to Regulation M is triggered by specific events. Disclosures must be provided to the lessee prior to the consummation of the lease and when the availability of consumer leases on particular terms is advertised. There is no reporting form associated with the requirements of Regulation M. Lease-specific disclosures are not collected by the Federal Reserve, are not publicly available, and are not published. Disclosures of lease terms that appear in advertisements are available to the public.

### **Legal Status**

The Board's Legal Division has determined that Sections 105(a) and 187 of TILA (15 U.S.C. §§ 1604(a) and 1667f) authorize the Board to issue regulations to carry out the provisions of the CLA. The information collections are mandatory. Since the Federal Reserve does not collect any information, no issue of confidentiality arises.

### **Estimate of Information Collection Burden**

The total annual burden for Federal Reserve-supervised institutions for this information collection is estimated to be 8 hours, as shown in the table below. The Federal Reserve has found that while in recent years the prevalence of leasing has increased amongst finance companies owned by vehicle manufacturers, it has decreased substantially among Federal Reserve-supervised institutions. The Federal Reserve has estimated that only four Federal

Reserve-supervised institutions engage in consumer leasing<sup>8</sup> with an estimated average frequency of four transactions per year. The Federal Reserve also estimates that the four Federal Reserve-supervised institutions advertise their leasing program approximately four times per year. For purposes of the PRA, no paperwork burden is deemed to be associated with the recordkeeping requirement in Regulation M that lessors “retain evidence of compliance” for a minimum of two years after the date disclosures are required to be made (§ 213.8). The regulation does not specify the kind of records that must be retained for this purpose.

The Federal Reserve estimates that the final rule will impose a one-time increase in the total annual burden under Regulation M. The four respondents would take, on average, 40 hours (one business week) to update their systems to comply with the requirements. This one-time revision will increase the total burden for all four respondents by 160 hours. On a continuing basis, the Federal Reserve estimates that the four respondents will each take, on average, an additional 8 hours (one business day) annually to comply with the Disclosures under § 213.4, which will increase the ongoing total annual burden by 32 hours. Therefore, the total annual burden for all respondents is estimated to increase by 192 hours (from 8 to 200 hours) during the first year after a final rule is adopted. Thereafter, the ongoing total annual burden will be 40 hours. The recordkeeping and disclosure requirements represent less than 1 percent of total Federal Reserve System paperwork burden.

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<sup>8</sup> Federal Financial Institutions Examination Council Consolidated Reports of Condition and Income (Call Reports) (FFIEC 031 & 041; OMB No. 7100-0036), Schedule RC-C, data item 10.a - Leases to individuals for household, family, and other personal expenditures

	<i>Estimated number of respondents</i>	<i>Estimated annual frequency</i>	<i>Estimated response time</i>	<i>Estimated annual burden hours</i>
<i>Current</i>				
Disclosures (§ 213.4)	4	4	5 minutes	1
Advertising (§ 213.7)	4	4	25 minutes	7
<i>Total</i>				8
<b><i>Proposed</i></b>				
<b>Disclosures (§ 213.4)</b>	<b>4</b>	<b>4</b>	<b>2.08 hours</b>	<b>33</b>
Advertising (§ 213.7)	4	4	25 minutes	7
<b>One-time change (R-1400)</b>	<b>4</b>	<b>1</b>	<b>40 hours</b>	<b>160</b>
<b><i>Total</i></b>				<b><u>200</u></b>
<b><i>Change</i></b>				<b>192</b>

With the new requirements, the total estimated annual cost to respondents will increase by \$8,189 from \$341 to \$8,530.<sup>9</sup>

### **Estimate of Cost to the Federal Reserve System**

Since the Federal Reserve does not collect any information, the cost to the Federal Reserve System is negligible.

### **Financial Industry Burden Averages**

The other federal financial agencies are responsible for estimating and reporting to OMB the total paperwork burden for the institutions for which they have administrative enforcement authority.<sup>10</sup> They may, but are not required to, use the Federal Reserve's burden estimates. There are approximately 16,200 depository institutions of which the Federal Reserve estimates

<sup>9</sup> Total cost to the public was estimated using the following formula: percent of staff time, multiplied by annual burden hours, multiplied by hourly rate (30% Office & Administrative Support @ \$16, 45% Financial Managers @ \$49, 15% Legal Counsel @ \$54, and 10% Chief Executives @ \$77). Hourly rate for each occupational group are the median hourly wages (rounded up) from the Bureau of Labor and Statistics (BLS), Occupational Employment and Wages 2009, [www.bls.gov/news.release/ocwage.nr0.htm](http://www.bls.gov/news.release/ocwage.nr0.htm) Occupations are defined using the BLS Occupational Classification System, [www.bls.gov/soc/](http://www.bls.gov/soc/)

<sup>10</sup> Appendix B – Federal Enforcement Agencies – of Regulation M lists those federal agencies that enforce the regulation for particular classes of business. The federal financial agencies other than the Federal Reserve include: the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), the Office of Thrift Supervision (OTS), and the National Credit Union Administration (NCUA). The federal non-financial agencies include: the Department of Transportation, the Grain Inspection, Packers, and Stockyards Administration (Department of Agriculture), the Farm Credit Administration, and the Federal Trade Commission.

that 58 depository institutions<sup>11</sup> would be affected by this collection of information and considered respondents for purposes of the PRA. Using the Federal Reserve's method, the total estimated annual burden for all financial institutions subject to Regulation M would be approximately 116 hours. The proposed rule would impose a one-time increase in the estimated annual burden for the estimated 58 institutions thought to engage in consumer leasing by 2,320 hours. On a continuing basis the proposed rule would impose an increase in the estimated annual burden by 464 hours. The total annual burden is estimated to increase by 2,784 hours from 116 to 2,900 hours. The above estimates represent an average across all respondents and reflect variations between institutions based on their size, complexity, and practices. In addition, other institutions covered by Regulation M, such as retailers and finance companies potentially are affected by this collection of information, and thus are also respondents for purposes of the PRA.

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<sup>11</sup> Estimate is based on September 30, 2010, consumer lease data filed by depository institutions in their reports of condition and income: the commercial bank Call Report; (FFIEC 031 & 041) (Federal Reserve OMB No. 7100-0036), (OCC OMB No. 1557-0081), and (FDIC OMB No. 3064-0052); the thrift institution Thrift Financial Report (TFR; form 1313) (OTS OMB No. 1500-0023); and the credit union NCUA Call Reports (form 5300) (NCUA OMB No. 3133-0004).