

SUPPORTING STATEMENT
RECORDKEEPING AND DISCLOSURE REQUIREMENTS
IN CONNECTION WITH REGULATION M
(OMB No. 3064-0083)

INTRODUCTION

The Federal Deposit Insurance Corporation (“FDIC”) is requesting OMB approval to extend for three years, with revision, the information collection (3064-0083) for the recordkeeping and disclosure requirements contained in Regulation M. The current clearance for the collection expires on July 31, 2011.

A. Justification

1. Circumstances and Need

The requirements for this collection are contained in Regulation M – Consumer Leasing, 12 C.F.R. Part 213, issued by the Board of Governors of the Federal Reserve System (“FRB”). Regulation M is issued under the authority 15 U.S.C. § 1604 and implements the Consumer Leasing Act (“CLA”). 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 requires lessors of personal property to provide consumers with meaningful disclosures about the costs and terms of the leases for personal property. Although the FRB has authority to promulgate rules to implement CLA, the FDIC has enforcement authority, pursuant to 15 U.S.C. §1607, for state nonmember banks.

On December 16, 2010, the FRB published a notice of proposed rulemaking (NPRM) 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 proposed 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 the NPRM expired February 14, 2011. 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 FRB estimated that the final rule would impose a one-time burden increase of 40 hours per respondent to change their systems to take into account the increase in the exemption threshold from \$25,000 to \$50,000.

2. Use of Information Collected

Regulation M is intended to provide consumers with 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 lease disclosure requirements apply to leases of personal property for a period exceeding four months where the contractual obligation is \$25,000 or less. Lessors are required to provide certain key information to consumers in a standard, uniform manner before they enter into the lease transaction.

The purpose of the advertising rules is to provide potential shoppers with uniform and accurate information. The advertising requirements apply to all persons that promote the availability of consumer leases through commercial messages in any form, including messages in print, electronic media, direct mailings, or on any sign or display. 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.

Lessors are required to retain evidence of compliance with Regulation M for twenty-four months, but the regulation does not specify types of records that must be retained.

3. Use of Technology to Reduce Burden

The Regulation M information collection consists of third party disclosures and advertising requirements. There are no reporting forms. Institutions may provide electronic disclosures consistent with the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §§ 7001 et seq., and § 213.6 of Regulation M.

4. Efforts to Identify Duplication

A lease contract may contain many of the same items required by the Regulation M disclosures, but not all of them and not in the same terminology or form.

5. Minimizing the Burden on Small Businesses

Consistent with the statute, Regulation M and its requirements apply to lessors based on the amount of their leasing activity. The FRB provides model forms to ease the compliance burden for small institutions.

6. Consequence of Less Frequent Collections

The information collection is triggered by specific events consistent with Regulation M. The frequency of response varies according to the lessor's level of consumer leasing and advertising activities.

7. Special Circumstances

None.

8. Consultation with Persons Outside the FDIC

The FRB published a NPRM seeking comment on its proposal to raise the CLA's \$25,000 exemption threshold to \$50,000. Two comments were received; however, neither comment specifically addressed the paperwork burden. In addition, the FDIC published a 60-day *Federal Register* notice seeking comment on extension of its Regulation M information collection (76 FR 23814, April 28, 2011). No comments were received.

9. Payment or Gift to Respondents

None.

10. Confidentiality

As no information is collected, no issue of confidentiality arises.

11. Questions of a Sensitive Nature

No questions of a sensitive nature are included in this collection.

12. Estimates of Annualized Hour Burden and Associated Cost

Estimated Number of Respondents: 2,000

Estimated Time Per Response: .75 hours

Estimated Average Frequency of Transactions Per Year: 100

Annual Recordkeeping & Disclosure Burden: 150,000

One-time systems change: 2,000 respondents x 40 hours = 80,000 hours

Total Annual Burden: 230,000

The total estimated annual cost for each respondent is \$8,530.¹

¹ 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%

13. Capital/Start-up and Operation/Maintenance Cost

None.

14. Cost to Government

Since the FDIC does not collect any information, the cost to the FDIC is negligible.

15. Reason for Change in Burden

The increase in burden of 80,000 hours is the result of a one-time program change.

16. Publication

There is no publication of the information reported.

17. Display of Expiration Dates

Not applicable to these recordkeeping and disclosure requirements.

18. Exceptions to Certification

None.

B. STATISTICAL METHODS

Not applicable.

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/ocwag.nr0.htm. Occupations are defined using the BLS Occupational Classification System, www.bls.gov/soc/.