

**Supporting Statement for the
Recordkeeping and Disclosure Requirements
Associated with CFPB’s Regulation M (Consumer Leasing) (Reg M) (OMB No. 7100-0202)**

Summary

The Board of Governors of the Federal Reserve System (the Board), under delegated authority from the Office of Management and Budget (OMB), proposes to extend for three years, without revision, the Recordkeeping and Disclosure Requirements Associated with CFPB’s Regulation M (Consumer Leasing) (Reg M) (OMB No. 7100-0202). Since 2011, the Consumer Financial Protection Bureau (CFPB) has been responsible for issuing Consumer Leasing Act (CLA)¹ regulations that apply to depository institutions and other lessors. However, the Board continues to be responsible under the Paperwork Reduction Act (PRA) for renewing every three years the information collections mandated by the regulation for institutions supervised by the Board.² The PRA classifies reporting, recordkeeping, or disclosure requirements of a regulation, including the disclosure and recordkeeping requirements of Regulation M, as a “collection of information.”³

Four Federal Reserve-supervised institutions are estimate to be respondents for purposes of the PRA, and their collective annual burden is estimate to be 40 hours.⁴

Background and Justification

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 CFPB’s Regulation M applies to all types of lessors of personal property (except motor vehicle dealers excluded from the CFPB’s authority under Dodd-Frank Act section 1029, which are covered by the Board’s Regulation M⁵). The CLA and Regulation M require lessors to disclose to consumers uniformly the costs, liabilities, and terms of consumer lease

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

² The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) transferred rulemaking authority for the CLA to the CFPB except for certain motor vehicle dealers that are excluded from the CFPB’s authority, which remain subject to the Board’s Regulation M. See section 1029 of the Dodd-Frank Act, Pub. L. 111-203, 124 Stat. 1376 (2010), 12 U.S.C. 5512, 5519, 5581. The CFPB’s Regulation M is published at 12 C.F.R. part 1013 and the Board’s Regulation M is published at 12 C.F.R. part 212.

³ 44 U.S.C. § 3501 *et seq.*

⁴ 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.

⁵ 12 U.S.C. 5519; 12 C.F.R. part 213.

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 \$53,500 and has a term of more than four months. The CLA does not provide exemptions for small entities.

In April 2011, shortly before primary rule writing authority for the CLA transferred to the CFPB, the Board published a final rule that established a new dollar threshold for lease transactions subject to Regulation M, implementing an amendment to the CLA by the Dodd-Frank Act.⁶ This amendment increased the dollar threshold for lease contracts subject to the CLA and Regulation M from \$25,000 to \$50,000. The amendment also required that this threshold 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. For 2014, the Regulation M threshold is \$53,500,⁷ which will be increased to \$54,600 effective January 1, 2015.⁸

Description of Information Collection

The information collection under 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 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’s recordkeeping and disclosure requirements are described in greater detail below.

Lease Disclosures (Section 1013.4)

Under the CLA and Regulation M, lessors are required to provide certain key information to consumers before they enter into a transaction to lease personal property for consumer (not business) purposes. Lessors are persons who regularly lease, offer to lease, or arrange to lease personal property to consumers. 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 Electronic Fund Transfer Act (the “E-Sign Act”).⁹ 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.

⁶ Pub. L. 111-203, § 1100E, 124 Stat. 1376 (2010), amending 15 U.S.C. 1667(1). See 76 FR 18349, Apr. 4, 2011.

⁷ 78 FR 70193 (Nov. 25, 2013). This threshold adjustment was issued jointly by the Board, for its Regulation M at 12 C.F.R. part 213, and the CFPB, for its Regulation M at 12 C.F.R. 1013.

⁸ 79 FR 56482 (Sept. 22, 2014).

⁹ 15 U.S.C. 1693 *et seq.*

Advertising Rules (Section 1013.7)

The advertising requirements apply to all persons that promote consumer leases through commercial messages in any form, including messages in print or 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.

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 respectively, authorize the CFPB to issue regulations to carry out the provisions of the CLA. The CFPB's Regulation M, 12 C.F.R. Part 1013, implements these statutory provisions. An institution's recordkeeping and disclosure obligations under Regulation M are mandatory. Because the Federal Reserve does not collect any information pursuant to the CFPB's Regulation M, no issue of confidentiality normally arises. Furthermore, the lease information regarding individual leases with consumers is confidential between the institution and the consumer. In the event the Board were to retain information regarding consumer leases during the course of an examination, the information regarding the consumer and the lease would be kept confidential pursuant to section (b)(8) of the Freedom of Information Act (5 U.S.C. § 522 (b)(8)).

Consultation Outside the Agency

On January 28, 2015, the Federal Reserve published a notice in the *Federal Register* (80 FR 4571) requesting public comment for 60 days on the extension, without revision, of this information collection. The comment period for this notice expired on March 30, 2015. The Federal Reserve did not receive any comments. On April 21, 2015, the Federal Reserve published a final notice in the *Federal Register* (80 FR 22186).

Estimate of Respondent Burden

The total annual burden for Federal Reserve-supervised institutions for this information collection is estimated to be 40 hours, as shown in the table below. The Federal Reserve has

estimated that only four Federal Reserve-supervised institutions engage in consumer leasing¹⁰ 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. This represents less than 1 percent of total Federal Reserve System paperwork burden.

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 (section 213.8). The regulation does not specify the kind of records that must be retained for this purpose.

Reg M	<i>Number of respondents¹¹</i>	<i>Annual frequency</i>	<i>Estimated average time per response</i>	<i>Estimated annual burden hours</i>
Disclosures (Section 1013.4)	4	4	2.08 hours	33
Advertising (Section 1013.7)	4	4	25 minutes	7
<i>Total</i>				40

The total cost to the public is estimated to be \$2,070.¹²

Sensitive Questions

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

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.

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

¹¹ Of these respondents, one is considered a small entity as defined by the Small Business Administration (i.e., entities with less than \$550 million in total assets) www.sba.gov/content/table-small-business-size-standards.

¹² Total cost to the public was estimated using the following formula: percent of staff time, multiplied by annual burden hours, multiplied by hourly rates (30% Office & Administrative Support at \$17, 45% Financial Managers at \$63, 15% Lawyers at \$64, and 10% Chief Executives at \$87). Hourly rates for each occupational group are the (rounded) mean hourly wages from the Bureau of Labor and Statistics (BLS), *Occupational Employment and Wages 2014*, published March 25, 2015, www.bls.gov/news.release/ocwage.nr0.htm. Occupations are defined using the BLS Occupational Classification System, www.bls.gov/soc/.