

**BUREAU OF CONSUMER FINANCIAL PROTECTION
PAPERWORK REDUCTION ACT SUBMISSION
INFORMATION COLLECTION REQUEST**

**SUPPORTING STATEMENT PART A
CONSUMER LEASING ACT
(REGULATION M) 12 CFR 1013
(OMB CONTROL NUMBER: 3170-0006)**

OMB TERMS OF CLEARANCE:

Not applicable. The Office of Management and Budget (OMB) did not provide Terms of Clearance when approved this information collection on July 6, 2012.

ABSTRACT:

Consumers rely upon the disclosures required by the Consumer Leasing Act, 15 U.S.C. 1667 *et seq.* (CLA) and Regulation M, 12 CFR 1013, for information to comparison shop among leases, as well as to ascertain the true costs and terms of lease offers. Federal and state enforcement 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 federal agencies. Without Regulation M's recordkeeping requirement, the agencies' ability to enforce the CLA would be significantly impaired.

A. JUSTIFICATION

1. Circumstances Necessitating the Data Collection

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 (*i.e.*, with a residual due at lease end) and closed-end leases (*i.e.*, “walkaway” leases, with no substantial amount due at lease end).

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 1013.4; 15 U.S.C. 1667a; 15 U.S.C. 1667f (written disclosures); 12 CFR 1013.7; 15 U.S.C. 1667c; 15 U.S.C. 1667f (advertising disclosures).

Regulation M includes model forms and clauses that can be used to comply with the written disclosure (non-advertising) requirements of the CLA and Regulation M. *See* Appendices A-1, A-2, and A-3 to Regulation M. Correct use of these model forms and clauses insulates lessors from liability under the CLA and Regulation M. *See* comment I-1.

Recordkeeping

Section 1013.8 of Regulation M requires lessors to retain evidence of compliance with its requirements (other than its advertising rules) but does not specify the particular records to be kept. Entities subject to Regulation M 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.

2. Use of the Information

As noted above, consumers rely upon the disclosures required by the CLA and Regulation M for information to comparison shop among leases, as well as to ascertain the true costs and terms of lease offers.

Federal and state enforcement 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 federal agencies. Without Regulation M's recordkeeping requirement, the agencies' ability to enforce the CLA would be significantly impaired.

3. Use of Information Technology

The disclosures required by Regulation M may be provided to the consumer in electronic form, subject to compliance with the consumer consent and other applicable provisions of the Electronic Signatures in Global and National Commerce Act (E-Sign Act), 15 U.S.C. 7001 *et seq.* Use of such electronic communications is consistent with the Government Paperwork Elimination Act (GPEA), Title XVII of Pub. L. 105-277, codified at 44 U.S.C. 3504 note. The E-Sign Act 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 lessors to retain records on any method that reproduces records accurately, including computer programs, microfilm, or microfiche. Lessors need only retain enough information to reconstruct the required disclosure or other records. *See* 12 CFR 1013.8 and comment 8-1.

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

The disclosures required by the CLA and Regulation M are not otherwise available. Although some lease cost information is contained in contractual documents, the information is not standardized, and as a result, consumers cannot use them efficiently to comparison shop or fully appreciate lease terms.

The recordkeeping requirement of Regulation M preserves the information provided by lessors to consumers considering the costs and terms of lease offers. The lessor is the only source of this information. No other federal law mandates retention of this information. No state law known to the CFPB imposes this requirement, although some states may have other rules applicable to consumer leases.

5. Efforts to Minimize Burdens on Small Entities

The CLA and Regulation M disclosure and recordkeeping requirements are imposed on all lessors. 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 their recordkeeping and disclosure requirements. This flexibility presumably yields reduced recordkeeping and disclosure costs (see #3 above). Regulation M also provides model forms and clauses that may be used to comply with its requirements, and correct use of these forms and clauses insulates a lessor from liability for the respective requirements.

6. Consequences of Less Frequent Collection and Obstacles to Burden Reduction

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 enforcement agencies could not fulfill their charge in enforcing CLA.

The current record retention period of two years supports the one-year statute of limitations for private actions, and enforcement 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.

7. Circumstances Requiring Special Information Collection

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

We have consulted with industry experts and other federal regulators to gather information relating to the burdens of CLA and Regulation M. In addition, in accordance with 5 CFR §1320.8(d)(1), the Bureau has published a notice in the Federal Register allowing the public 60 days to comment on this proposed extension (renewal) of this currently approved collection of information. One comment was received, however it was not related to the PRA estimates or calculations and so will not be responded to here. Further and in accordance with 5 CFR §1320.5(a)(1)(iv), the Bureau has also published a notice in the Federal Register allowing the public 30 days to comment on the submission of this information collection request to the Office of Management and Budget.

9. Payments or Gifts to Respondents

No payments or gifts are provided to respondents.

10. Assurances of Confidentiality

The recordkeeping and written disclosure requirements 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. However, there is no part of the rule that mandates information collection by the CFPB.

To the extent that information covered by a recordkeeping requirement is collected by the CFPB for law enforcement purposes, the confidentiality provisions of CFPB's rules on Disclosure of Records and Information, 12 CFR Part 1070, would apply.

11. Justification for Sensitive Questions

Regulation M only requires institutions to provide leasing information disclosures to consumers and keep records of those disclosures. No questions of a sensitive nature are asked of respondents.

12. Estimated Burden of Information Collection

Labor Hours: 5,018

Exhibit 1: Burden Hour Summary

Non-Motor Vehicle Lessors Labor Burden											
<i>Regulation</i>	<i>Type</i>	<i>One time</i>				<i>Ongoing</i>				<i>Combined Total</i>	
		<i>Respondents</i>	<i>Responses per Respondent</i>	<i>Average Response Time (hours)</i>	<i>Total Hours</i>	<i>Respondents</i>	<i>Responses per Respondent</i>	<i>Average Response Time (hours)</i>	<i>Total Hours</i>		
1013.3	Requires Disclosures described in 1013.4	376	1	0.00	0	13,718	1	0.00	0	0	
1013.4(a) through (e), g(1), h(1)(2),(i) through (t)	Content of disclosures required by 1013.3 for any "consumer lease"	376	1	5.13	1928	13,718	1	0.13	1783	3,711	
1013.5 (a) through (c)	Extends disclosure requirements of 1013.3 to lease renegotiation and extension	376	1	5.13	1928	13,718	1	0.13	1783	3,711	
1013.7(a) through (e)	Advertising disclosures	0	0	N/A	0	0	0	N/A	0	0	
1013.7(f)	Advertising disclosures on TV/Radio alternative requirements	0	0	N/A	0	0	0	N/A	0	0	
1013.8	Recordkeeping	376	1	5.13	1928	13,718	1	0.05	686	2,614	
Other Lessors Total					5784					4253	10,036
CFPB portion					2892					2126	5,018

The CFPB and Federal Trade Commission (FTC) share enforcement authority for those non-depository institutions subject to the CFPB's regulation M, with the CFPB assuming burden for half of all non-depository institutions. Our estimate excludes burden for motor vehicle dealers, which the FTC assumes burden for. The CFPB believes that depository institutions represent a negligible segment of the leasing market.

While the CFPB includes section 1013.3 in the table above, we attribute to it no burden, as it just refers to other provisions in the regulation, where we do estimate burden. The CFPB estimates the total labor burden for ongoing recordkeeping and disclosure requirements under Regulation M to be 10,036 hours for non-motor vehicle lessors. The CFPB assumes 5,018 hours of this burden associated with regulation M. The CFPB estimates of respondent and market volumes are drawn from a number of public and proprietary sources.¹

Associated Labor Cost: \$180,598

¹ Market size sources include internal CFPB automobile markets data, Mintel[®] auto advertising data, publicly available Census data on County Business Patterns (2013-2014), and previous FTC estimate under OMB 3084-0086 (2012).

The CFPB calculated labor costs by estimating the burden hours associated with complying with the required disclosures, advertising disclosures, and recordkeeping activities described in Exhibit 1,² and applying appropriate hourly cost figures.³ With a composite wage of \$35.99, the cost for these labor hours then works out to be 10,036 hours * \$35.99/hour = \$361,196 labor cost overall, of which 5,018 hours * \$35.99/hour = \$180,598 labor cost is attributed to the CFPB.

13. Estimated Total Annual Cost Burden to Respondents or Recordkeepers

Additional Materials Cost: \$14,137.23

Exhibit 2: Additional Materials Cost

<i>Non-Motor-Vehicle Materials Burden</i>					
<i>Regulation</i>	<i>Type</i>	<i>Responses per Respondents</i>	<i>Responses per Respondent</i>	<i>Cost per Response</i>	<i>Total</i>
1013.3	Requires Disclosures described in 1013.4	13,718	12	\$0.00	\$0.00
1013.4(a) through (e), g(1), h(1)(2),(i) through (t)	Content of disclosures required by 1013.3 for any "consumer lease"	13,718	12	\$0.08	\$13,052.16
1013.5 (a) through (c)	Extends disclosure requirements of 1013.3 to lease renegotiation and extension	13,718	12	\$0.08	\$13,052.16
1013.7(a) through (e)	Advertising disclosures	0			\$0.00
1013.7(f)	Advertising disclosures on TV/Radio alternative requirements	0			\$0.00
1013.8	Recordkeeping	13,718	12	\$0.01	\$2,170.13
Other Lessors Total					\$28,274.45
CFPB portion					\$14,137.23

² These hourly estimates were based on previous PRA estimates compiled by the FTC; see OMB 3084-0086 (2012).

³ Wage burden was calculated as a composite wage, with weighting based on previous estimates and information provided by various industry professionals. Median values from the BLS Occupational Employment and Wages data were used to estimate a composite wage as 5% Compliance Officer (occupation code 13-1041) at \$30.93/hour, 5% Sales Manager (occupation code 11-2022) at \$52.18/hour, 45% Lawyer at \$54.95/hour (occupation code 23-1011), and 45% administrative assistant (occupation code 43-6014) at \$15.79/hour, for a composite wage of \$35.99.

The CFPB claims responsibility for an additional \$14,137.23 in non-motor-vehicle lessor’s burden resulting from material costs directly related to the information collections in Exhibit 2. The material costs of disclosures were estimated based on industry and supervisory estimates as well as previous FTC estimates of per-transaction burden.⁴ The number of respondents and market sizes were estimated from proprietary and public data sources available to the CFPB.⁵ As discussed in section 12, while we include section 1013.3 in the table above, we attribute it no cost, as it just refers to other provisions in the regulation, where we do estimate cost.

14. Estimated Cost to the Federal Government

As the CFPB does not collect any information, there are no additional costs to the Federal Government.

15. Program Changes or Adjustments

Exhibit 3: Summary of Burden Changes

	Total Respondents	Annual Responses	Burden Hours	Materials Cost
Total Requested	13,718	164,616	5,018	\$14,137
Current OMB Inventory	67,858	67,858	100,058	\$0
Difference	-54,140	96,758	-95,040	\$14,137
Program Change	0	0	0	\$0
Discretionary	0	0	0	\$0
New Statue	0	0	0	\$0
Violation	0	0	0	\$0
Adjustment	-54,140	96,758	-95,040	\$14,137

The new estimates calculated by the CFPB reflect a decrease of -95,040 burden hours and an increase of \$14,137of material cost burden. The estimated burden hours are lower than CFPB and FTC’s previous estimates for several reasons. First and foremost, the decrease in burden hours represents a significant drop in the estimated number of non-motor-vehicle lessors in the past 3 years. Secondly, the CFPB estimate excludes one-time costs that were associated with rule changes in previous estimates, and also excludes previously reported burden associated with motor-vehicle enforcement (the FTC assumes all burden related to motor vehicle leasing). The increase in material cost arises because we provide an estimate for the small material burden associated with each lease transaction. The decision to estimate per-transaction costs as material burden reflects the CFPB’s belief that the process of providing disclosures and recordkeeping has become almost entirely automated, but that there is a small cost of printing and technology costs associated with each additional lease.

⁴ See ² above.

⁵ Market size sources include internal CFPB automobile markets data, Mintel® auto advertising data, publicly available Census data on County Business Patterns (2013-2014), and previous FTC estimates (see ⁴ above).

16. Plans for Tabulation, Statistical Analysis, and Publication

There are no plans to provide any publications based on the information collection of this regulation.

17. Display of Expiration Date

The OMB control number and expiration date associated with this PRA submission will be displayed on the Federal government's electronic PRA docket at www.reginfo.gov. Inasmuch as all forms associated with this collection are model forms and therefore their use is voluntary, the display of the OMB control number would not be appropriate on them.

18. Exceptions to the Certification Requirement

The Bureau certifies that this collection of information is consistent with the requirements of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8(b)(3) and is not seeking an exemption to these certification requirements.