

FEDERAL RESERVE SYSTEM

12 CFR Part 213

[Regulation M; Docket No. R-0892]

Consumer Leasing

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final Rule.

SUMMARY: The Board is publishing a final rule to amend Regulation M, which implements the Consumer Leasing Act. The Act requires lessors to provide uniform cost and other disclosures about consumer lease transactions. The Board has reviewed Regulation M, pursuant to its policy of periodically reviewing its regulations, and has revised the regulation to carry out more effectively the purposes of the Act. The final rule adds disclosures, primarily in connection with motor vehicle leasing, including, for example, disclosures about early termination charges and how scheduled payments are derived (which requires disclosure of such items as the gross capitalized cost of a lease, the vehicle's residual value, the rent charge, and depreciation). General changes in the format of the disclosures require that certain leasing disclosures be segregated from other information. Revisions to the advertising provisions implement a statutory amendment, allowing a toll-free number to substitute for certain disclosures in radio and television advertisements, and make other changes to the advertising rules. A lessor is not required to disclose the cost of a lease expressed as a percentage rate; however, if a rate is disclosed or advertised, a special notice must accompany the rate. Further, a rate in an advertisement cannot be more prominent than any other Regulation M disclosure.

EFFECTIVE DATE: This rule is effective October 31, 1996, but compliance is optional until October 1, 1997.

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SUPPLEMENTARY INFORMATION:

I. Background on the Consumer Leasing Act and Regulation M

The Consumer Leasing Act (CLA), 15 U.S.C. 1667-1667e, was enacted into law in 1976 as an amendment to the Truth in Lending Act (TILA), 15 U.S.C. 1601 *et seq.* The Board was given rulewriting authority, and its Regulation M (12 CFR Part 213) implements the CLA. An official staff commentary interprets the regulation. (Supplement I to 12 CFR 213).

The CLA 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 act. Leases accounted for about one-third of all passenger car deliveries to consumers in 1995. Leasing in the luxury-car market is estimated to account for more than 70 percent for some models. Used cars are also now being leased, although to date they account for a relatively small segment of the market.

Under the statute, prior to entering into a lease agreement, lessors must give consumers 15 to 20 disclosures, including the amount of initial, end-of-lease, and other charges to be paid by the consumer (such as security deposits, insurance premiums, disposition fees, and taxes); an identification of the leased property; a payment schedule; the responsibilities for maintaining the leased property; and the liability for terminating a lease early. Special provisions apply to open-end leases. These provisions regulate balloon payments by limiting liability at the end of a lease term to no more than three times the monthly payment, and also require several disclosures unique to open-end leases (in §§ 213.4(k) and (m)).

Open-end leases are a very small segment of the consumer leasing market. In open-end leases, the consumer's liability at the end of the lease term is based on the difference between the residual value of the leased property and its realized value. The consumer--not the lessor--assumes the risk that the realized value may be less than what was initially estimated. Closed-end leases are the most common type of lease covered under the CLA and Regulation M. These leases are sometimes referred to as "walk-away" leases because the consumer is not liable for the difference between the residual and the realized values at the end of the lease term.

II. The Review of Regulation M

The Board's Regulatory Planning and Review Program calls for the periodic review of a regulation with four goals in mind: to clarify and simplify regulatory language; to determine whether regulatory amendments are needed to address technological and other developments; to reduce undue regulatory burden on the industry; and to delete obsolete provisions.

Advance Notice of Proposed Rulemaking. The Board began its review of Regulation M--the first substantial review of the regulation since it was issued in 1976--by publishing an advance notice of proposed rulemaking on November 19, 1993 (58 FR 61035). Although comment was solicited generally on all provisions of the regulation, the Board specifically sought comment on three issues: disclosure of early termination charges, broadcast media advertising of leases, and segregation of leasing disclosures from other information. Most of the 70 comment letters that were received commented only on the three issues addressed in the advance notice. The comment letters were received mostly from automobile lessors or their representatives, but also from federal and state government agencies and from consumer representatives. Most of the commenters supported revisions to the disclosures about early termination charges either to better alert consumers about such charges or to address concerns about lender liability associated with providing extremely complex disclosures about these charges. Some commenters supported more flexibility in the advertising rules, while others expressed concern about the manner in which leases are advertised. Many supported segregation of leasing disclosures from other information. In addition, many commenters urged the Board to mandate the disclosure of the "capitalized cost" of a lease, meaning the value of the leased vehicle and other items that are capitalized by agreement between the lessor and lessee.

The Proposed Rule to Revise Regulation M. The Board published a proposed rule to substantially revise Regulation M on September 20, 1995 (60 FR 48752) and an extension of comment period notice was published on December 6, 1995 (60 FR 62349). The proposal offered a new disclosure format for model forms and some substantive changes to the regulation. New disclosures were proposed pursuant to the Board's authority under § 105(a) of the TILA. Section 105(a) of the TILA provides that the Board's regulations "may contain such classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of transactions, as in the judgment of the Board are necessary or proper to effectuate the purposes of [the CLA], to prevent circumvention or evasion thereof, or to facilitate compliance therewith."

The proposal contained the following proposed amendments to Regulation M:

- Segregation of certain leasing disclosures. (Leasing disclosures were dispersed throughout a leasing contract.) Additionally, a statement would remind consumers to read their contracts for other important consumer leasing disclosures not included in the segregated disclosures.
- Revision of the disclosure of upfront fees to make it easier for a consumer to understand the amounts to be paid and how they are allocated, including the amount of any trade-in allowance.
- Disclosure of the "gross cost" (the agreed upon acquisition value of leased property) and the "residual value" (the estimated value at the end of the lease term).
- Disclosure of an "estimated lease charge," a figure similar in purpose to the finance charge in a credit transaction.

- Disclosures about early termination charges--including a transaction-specific example of such a charge at an assumed termination point after one year--and about charges for excessive wear of leased property.
- Changes to the advertising rules to implement a statutory amendment, simplify disclosure requirements, and deter misleading advertising.

About 150 comment letters were received on the Board's proposed rule, from consumer representatives involved in leasing issues and a large segment of the consumer leasing industry. A majority of the commenters generally supported the requirement that certain disclosures be segregated from the remaining disclosures and other information. Major industry representatives expressed concern, however, about the overall disclosure format and offered an alternative that presented some disclosures in a mathematical progression. Commenters generally supported additional disclosures but many of them suggested modifications to the Board's proposed definition of the estimated lease charge and the gross cost. While many commenters favored an early termination warning about charges for terminating a lease early, a large majority of them opposed the requirement of a transaction-specific numerical example for early termination.

To get direct feedback from individual consumers, in January 1996 the Board conducted four focus groups, two in the Washington, D.C. area and two in Los Angeles, California. Participants gave their opinions on various disclosure formats, including the Board's proposed model form, an alternative form showing a mathematical progression of how periodic payments are derived, and a format in which a few disclosures would be highlighted in boxes. There were a total of 32 participants (evenly representing men and women), about a quarter of whom had previously leased automobiles.

While focus group participants had some concerns about the layout and language in the disclosure statements presented, they responded more favorably to the mathematical progression format than to the Board's proposal. Some participants liked the payment calculation disclosure because it "walked you through the process." Many of them were generally familiar with the highlighting of certain disclosures in credit transactions. For lease transactions, they expressed an interest in seeing the value of the car, the total due at lease signing, and the monthly payments highlighted.

The Final Rule Amending Regulation M. The final rule includes most of the disclosures to supplement the act that were contained in the proposed rule. The major changes primarily affect motor vehicle leasing. They include a mathematical progression on how the periodic payment is derived (using figures such as the gross capitalized cost, residual value, amount of depreciation and amortized amounts) and a warning statement about charges for terminating a lease early. Certain leasing disclosures must be segregated from other information.

The final rule contains revisions to the advertising provisions, including the implementation of a statutory amendment. The statute allows a toll-free number or a print

advertisement to substitute for certain lease disclosures in radio commercials, and the final rule expands the application of this provision to television.

The Board had expressly solicited comment in the proposal about whether the regulation should require the disclosure of a lease rate. Under the final rule, a lessor is not required to disclose the cost of a lease expressed as a percentage rate. If a rate is disclosed or advertised, a notice must accompany the rate stating that the percentage may not measure the overall cost of financing the lease transaction. Also, in the case of advertising, a rate cannot be more prominent than any other Regulation M disclosure.

Other changes have been made to clarify and update the regulation. Obsolete provisions have been deleted, and generally footnotes have been moved to the regulatory text or to the Official Staff Commentary to Regulation M.

The final rule contains the following major amendments to Regulation M:

- A revised disclosure format.
- A total of payments disclosure.

- An itemization that shows the mathematical progression used to derive the periodic payment.

- A strong narrative warning about the possibility of substantial charges for early termination.

- A notice to accompany any percentage rate (to indicate the limitations of rate information).

- Implementation of a statutory amendment for certain broadcast advertisements and other changes to the advertising rules.

Official Staff Commentary. When the Board published the proposed revisions to Regulation M for public comment, it also published proposed revisions to the Official Staff Commentary on September 20, 1995 (60 FR 48769). The Board will publish an updated proposal to the commentary in mid-November 1996. The proposal will include material that was published for comment in September 1995, incorporate guidance contained in the section-by-section discussion that accompanies this final rule, and address other questions that may be brought to the Board's attention following the public's review of the final rule.

III. Recommendations for Legislative Changes

In addition to seeking comment on the proposed regulatory changes, the Board's September 1995 notice solicited views on whether specific legislative revisions to the CLA may also be warranted. A few commenters suggested that CLA coverage be expanded to cover leases that exceed the current \$25,000 cap, given the higher cost of automobiles.

IV. Effective Date

This final rule is effective October 31, 1996, but compliance is optional until October 1, 1997. The mandatory effective date is designated by § 105(d) of the act, which states that any regulation promulgated by the Board is effective October 1 of a given year, provided the rule was published at least six months in advance.

V. Section-by-section discussion of the final rule

The following discussion covers the revisions section-by-section. Changes that are self-evident, and text that has been simplified or clarified without substantive change, are generally not discussed. Captions have been added to each paragraph, to conform with current Board style; the addition or wording of captions alone is not meant as a substantive change in the meaning of the paragraph itself.

SECTION 213.1 Authority, scope, purpose, and enforcement.

Former paragraph 1(d) on the issuance of staff interpretations has been moved to appendix C.

1(b) Scope and purpose.

An introductory sentence has been added to state the scope of the law. This paragraph has been revised to more closely parallel the purpose clauses in § 102 of the TILA.

SECTION 213.2 Definitions.

Certain definitions are redesignated or added as indicated below. Former section 213.2(b)--the rules of construction--has been deleted except that former paragraph 2(b)(1) has been moved to paragraph 2(e)(1) of this section. Former § 213.3--exempt transactions--has been moved to paragraph 2(e)(3) of this section.

<u>Definition</u>	<u>Final rule</u>
"Act" in former 213.2(a)(1)	213.2(a)
"Advertisement" in former 213.2(a)(2)	213.2(b); examples moved to commentary
"Agricultural purpose" in former 213.2(a)(3)	moved to commentary
"Arrange for lease of personal property" in former 213.2(a)(4)	moved to commentary
"Board" in former 213.2(a)(5)	213.2(c)
"Closed-end lease"	213.2(d) new
"Consumer lease" in former 213.2(a)(6)	213.2(e)
"Gross capitalized cost"	213.2(f) new
"Lessee" in former 213.2(a)(7)	213.2(g)
"Lessor" in former 213.2(a)(8)	213.2(h)
"Open-end lease"	213.2(i) new
"Organization" in former 213.2(a)(9)	213.2(j)

"Period" in former 213.2(a)(10)	deleted as unnecessary
"Person" in former 213.2(a)(11)	213.2(k)
"Personal property" in former 213.2(a)(12)	213.2(l)
"Real property" in former 213.2(a)(13)	deleted as unnecessary
"Realized value" in former 213.2(a)(14)	213.2(m)
"Residual value"	213.2(n) new
"Security interest" in former 213.2(a)(15)	213.2(o); examples of security interests moved to the commentary
"State" in former 213.2(a)(16)	213.2(p)
"Total lease obligation" in former 213.2(a)(17)	deleted as unnecessary; open-end and closed-end terminology conformed
"Value at consummation" in former 213.2(a)(18)	deleted as unnecessary; open-end and closed-end terminology conformed

2(b) Advertisement.

The definition of advertisement is simplified and the examples have been moved to the commentary. The definition of advertisement is broad, covering commercial messages in any medium, including electronic media such as the Internet, that directly or indirectly promote a lease transaction.

2(d) Closed-end lease.

A definition of a closed-end lease has been added, modeled after the definition of closed-end credit in Regulation Z (12 CFR § 226.2(a)(10)). The term covers any lease that does not fall within the definition of an open-end lease. Commenters generally favored having definitions of open- and closed-end leases.

2(e) Consumer lease.

The paragraph has been reorganized. The rule of construction in former § 213.2(b)(1) has been moved to paragraph (e)(1). Transactions not included in the definition of consumer lease are now in paragraph (e)(2). Former section § 213.3 on exempt transactions is now paragraph (e)(3). The term contractual obligation excludes refundable and "pass-through" amounts a lessee is obligated to pay. For example, the total contractual obligation does not include license and registration fees and taxes. It also does not include the residual value.

2(f) Gross capitalized cost.

A definition of gross capitalized cost has been added to this section. Only items capitalized or amortized by the lessor are included in this figure. The Board's proposal had contained a broader definition using the term gross cost. Commenters favored a narrower definition. Definitions of the related terms capitalized cost reduction and adjusted capitalized cost have also been added to this section. The supplementary information to § 213.4(f)(1) provides a discussion of these terms and further discussion about the gross capitalized cost, including the disclosure of the agreed upon value.

2(h) Lessor.

The definition of lessor incorporates a numerical test similar to the test in Regulation Z for defining a creditor (see footnote 3 to 12 CFR 226.2(a)(17)). Commenters generally supported the revision. The phrase "in the ordinary course of business" has been omitted as unnecessary.

2(i) Open-end lease.

A definition of an open-end lease has been added. Disclosures in §§ 213.4(k) and (m) and § 213.7(d)(2)(vi) are only relevant to open-end leases.

2(n) Residual value.

A definition of residual value has been added. Many commenters urged the Board to clarify that the residual value is the lessor's assigned value of the vehicle used to calculate the lessee's monthly payments, and not necessarily a projection of the value of the car. Several lessors noted that often a value is assigned to accommodate promotional campaigns of a manufacturer. The final rule has a revised definition in accordance with these comments.

SECTION 213.3 General disclosure requirements.

The following sections are redesignated or added as indicated below:

<u>Former</u>	<u>Final rule</u>
213.4(a)(1)	213.3(a)(1)
213.4(a)(2)	213.3(a)(1); 3(a)(3)
	213.3(a)(2) new
213.4(a)(3)	213.3(a)(1)
213.4(a)(4)	213.3(a)(4)
213.4(b)	213.3(b)
213.4(c)	213.3(c)
213.4(d)	213.3(d)
213.4(e)	213.3(e)
213.4(f)	213.3(f)

Paragraph 3(a) contains general rules about the disclosures required under § 213.4, including the form, content, and timing of disclosures. Paragraph 3(f) on minor variations includes former comment 4(a)-2. The major revision to this section, discussed under paragraph 3(a)(2), is the requirement to segregate certain disclosures from other information. Clear and conspicuous lease disclosures must be given prior to consummation of a lease on a dated written statement that identifies the lessor and lessee.

3(a) General requirements.

Based on comments and to provide a standard consistent with that of other consumer regulations, the Board has added language requiring that disclosures be given in a form the consumer may keep.

3(a)(1) Form of disclosures.

Former §§ 213.4(a)(1) and 4(a)(2) required that all disclosures be made together on a separate statement or in the lease contract "above the place for the lessee's signature." The Board has deleted this requirement along with the meaningful sequence, same-page, and type-size disclosure requirements, replacing them with the requirement that disclosures be segregated. Most commenters generally supported the proposed segregation requirement, although some commenters opposed the deletion of the other requirements. They believed that the signature requirement ensured that lessors would give disclosures before the consumer becomes obligated on the lease and discouraged lessors from putting important information on the back of a lease document. The Board believes that a segregation requirement and the clear and conspicuous standard provide the same level of protection as the previous rules.

The segregated disclosures and other CLA disclosures must be given to a consumer at the same time. Lessors must continue to ensure that the disclosures are given to lessees before the lessee becomes obligated on the lease transaction. For example, by placing disclosures that are included in the lease documents above the lessee's signature, or by including instructions alerting a lessee to read the disclosures prior to signing the lease.

Nonsegregated disclosures need not all be on the same page, but should be presented in a way that does not obscure the relationship of the terms to each other.

3(a)(2) Segregation of certain disclosures.

Most commenters--representing both the industry and consumer groups--generally supported some form of segregation of leasing disclosures. Many commenters believed that consumers would be more likely to read and understand the disclosures if key items were segregated from other disclosures and contract terms. Pursuant to its authority under § 105(a) of the TILA, the Board has adopted the requirement that certain consumer leasing disclosures be segregated from other required disclosures and from general contract terms to assure clear, conspicuous, and meaningful disclosure of lease terms.

Some commenters, including trade groups that represent a large portion of the motor vehicle leasing industry, suggested that the more important disclosures be further highlighted in a manner similar to the Board's Regulation Z. The Board believes that the segregation requirement and the requirement that disclosures be in a form substantially similar to the applicable model form in appendix A adequately focuses the consumer's attention on key information.

Lessors may provide the segregated disclosures on a separate document or may include them in their lease contracts, apart from other information. The general content, format, and headings for these disclosures should be substantially similar to those contained in the model forms in appendix A. Lessors may continue to provide the remaining disclosures required by Regulation M and the CLA in a nonsegregated format.

The model forms in Appendix A for open-end leases, closed-end leases, and furniture leases have been revised.

3(a)(4) Language of disclosures.

Under former § 213.4(a)(4), lease disclosures had to be provided in English, except in the Commonwealth of Puerto Rico, where they could be given in Spanish. The final rule revises this position. Lessors are permitted to give disclosures in another language as long as disclosures in English are given upon request. The Board believes that a more permissive rule promotes a more meaningful delivery of disclosures to consumers.

3(b) Additional information; nonsegregated disclosures.

Former § 213.4(b) permitted additional information to be included with any disclosures required by the regulation. The Board proposed to permit additional information only with the nonsegregated disclosures. Some commenters believed that the Board should permit the inclusion of state-required disclosures among the federally-required segregated disclosures. The Board believes that the purpose of segregating disclosures could be diluted if additional information is permitted among them. The final rule permits additional information only with the nonsegregated CLA leasing disclosures.

Former §§ 213.4(b)(1) and 4(b)(2) on inconsistent disclosures have been deleted. Pursuant to § 186(a) of the CLA, § 213.9 addresses the preemption of state law if information required by state law is inconsistent with the requirements of the act or regulation.

3(c) Multiple lessors or lessees.

Paragraph 3(c) provides that when a transaction involves multiple lessors, one lessor may make the disclosures on behalf of all of them. The phrase "and the one that discloses shall be the one chosen by the lessors" has been deleted as unnecessary. No substantive change is intended.

3(d) Use of estimates.

Former § 213.4(d) on the use of estimated disclosures has been redesignated and simplified as paragraph 3(d). The last sentence of the former paragraph has been deleted as unnecessary.

3(e) Effect of subsequent occurrence.

The rule in paragraph 3(e), previously stated in former § 213.4(e), has been revised to add a reference to consummation, to clarify that this rule is limited to events occurring after consummation of a lease. Footnote 1 of the former regulation, containing a specific example of a subsequent occurrence, has been moved to the commentary except for the second sentence, which has been deleted as unnecessary.

3(f) Minor variations.

Paragraph 3(f) incorporates into the regulation the rules on minor variations that may be disregarded in making disclosures, including provisions formerly contained in comment 4(a)-2 of the staff commentary.

SECTION 213.4 Content of disclosures.

Although the regulation applies to leases of all types of personal property such as furniture, much of the focus of the Board's review under the Regulatory Planning and Review Program has been on motor vehicle leasing. Because the regulatory issues have arisen in this context, the final rule limits some of the new disclosure, formatting, and advertising requirements to leases for motor vehicles. This section has been reorganized essentially to follow the progression of disclosures in the model forms as follows:

<u>Former</u>	<u>Final rule</u>
213.4(g)(1)	213.4(a)
213.4(g)(2)	213.4(b)
213.4(g)(3)	213.4(c)
213.4(g)(4)	213.4(n)
213.4(g)(5)	213.4(d)
213.4(g)(6)	213.4(o)
213.4(g)(7)	213.4(p)
213.4(g)(8)	213.4(h); 4(h)(3) new
213.4(g)(9)	213.4(r)
213.4(g)(10)	213.4(q)
213.4(g)(11)	213.4(i)
213.4(g)(12)	213.4(g); 4(g)(2) new
213.4(g)(13)	213.4(k)
213.4(g)(14)	213.4(l)
213.4(g)(15)	213.4(m)
	213.4(e) new
	213.4(f) new
	213.4(j) new
	213.4(s) new

4(b) Amount due at lease signing.

Paragraph 4(b) requires lessors to disclose to consumers the total amount of any payment due at lease signing (consummation of the lease). The Board has adopted several revisions to this paragraph. The revised language provides that the total amount of payments due at lease signing must be itemized by amount as well as by type and included among the segregated disclosures under the heading "amount due at lease signing." Previously, the lessor was required to itemize these charges by type but not by amount. Also, to enhance consumer understanding of the transaction, the lessor is required to itemize by type and amount "how the amount due at lease signing will be paid," which typically includes any net trade-in allowance, rebate, noncash credits, and payments in cash. (See the model forms in appendix A for format.) The Board believes that the standardization of terminology and the full itemization of the amounts due and means of payment provide consumer benefit without imposing substantial compliance costs on lessors.

Commenters supported the proposal in substance. Most of the commenters supporting the proposal believed that the proposed side-by-side format would discourage unscrupulous

lessors from failing to credit a lessee's downpayment or trade-in. Some industry representatives offered an alternative format using only one column to present the disclosure, in place of the "balance sheet" approach. Upon further analysis, the Board believes that the balance sheet approach, in which the two columns equal one another, is appropriate to ensure that the amounts of trade-ins, rebates, and cash payments are used to reduce the total amount due at lease signing.

Some commenters asked whether a rebate that is subtracted from the value of the vehicle in arriving at the gross capitalized cost needs to be disclosed and itemized under this paragraph. They also inquired about "negative trade-ins." A rebate would be included in the itemization under this section only when it is applied against the amount due at lease signing. Also, where the amount owed on a prior loan or lease exceeds an agreed-upon trade-in value, the difference is reflected in the gross capitalized cost, and no trade in allowance would be reflected under the column "how the amount due at lease signing is paid."

4(d) Other Charges.

In addition to the periodic payment, the regulation requires disclosure of a total of other charges and an itemization by type and amount, payable during and at the end of the lease term. The model forms include examples of such fees--for example, an annual tax and a disposition fee at the end of the lease term.

4(e) Total of payments.

The Board adopted this disclosure to serve as a tool for comparing leases that involve the same or similar types of leased properties for the same lease duration. As the disclosure includes all payments the consumer is obligated to make under the lease, it is not meant to reflect the cost of financing the lease transaction.

This disclosure, accompanied by the statement "the amount you will have paid by the end of the lease," is the net sum of the amount due at lease signing (excluding refundable amounts such as the security deposit), the total of periodic payments (excluding the first periodic payment, if paid at lease signing), and other charges are not part of the periodic payments (such as a disposition fee). An additional disclosure is required for open-end leases because, with some limitations, consumers are liable for the difference between the residual and realized values of the leased property.

4(f) Payment calculation.

Many commenters on the Board's proposed rule expressed concern that the revised format of the Board's model disclosure form did not present information in a manner that would allow consumers to understand the relationship of lease terms such as the "gross cost" and the "residual value" of a lease. Representatives of major automobile leasing companies offered an alternative format, one that shows how the periodic payments are derived. They said that such a disclosure scheme would result in better consumer understanding of a lease transaction and would enable consumers to verify their periodic payment. These commenters also noted that the disclosure would impose little additional compliance burden as lessors make this calculation in setting up a lease transaction.

The Board believes that a mathematical progression itemizing the components of the periodic payment is valuable to consumers. It enables consumers to see several of the newly required disclosures in the context of the calculation, thereby enhancing the consumer's understanding of the particular disclosures. Also, it allows consumers to verify their periodic payment amount.

The CLA does not call for a payment calculation, but based on the comments and on further analysis, the Board is exercising its rulemaking authority under § 105(a) of the TILA to require the disclosure of the amounts comprising the periodic payment, in motor vehicle leases, in a manner substantially similar to the model leasing forms in appendix A. The payment calculation utilizes several disclosures from the proposal; it requires the modification of others that were proposed, and adds new ones, as discussed below.

4(f)(1) Gross capitalized cost.

In the past, federal law has not required disclosure of information on the base price of the leased property in closed-end leases. Because this figure has not typically been given, consumers often have assumed that the lease is based on the manufacturer's suggested retail price (MSRP), or on a sales price negotiated by the consumer (who might have initially contemplated financing or paying cash for the vehicle). If the lessor uses a different starting price in the lease payment computation, one that is higher than either the MSRP or the negotiated figure, the consumer would be unaware of that fact, and thus would not be aware that perhaps the periodic payment could be lower.

The Board's proposal would have required disclosure of the "gross cost" among the segregated disclosures. This disclosure would have been applicable only to closed-end leases, given that the regulation already required the disclosure of a comparable term--the "value at consummation (the initial value)"--in open-end leases. Under the proposal, the Board would have defined the gross cost as "the total dollar amount of all items included in the value of a lease at consummation."

A large majority of the commenters supported the disclosure of the base price of the leased property in closed-end leases, in one form or another. However, many of the industry commenters strongly objected to using the term "gross cost" and objected also to the items that would be included in the definition. Most of these commenters recommended that the term be changed from "gross cost" to either "gross capitalized cost" or "capitalized cost" to conform with state law (as several states now require the disclosure of this figure) and also to conform with industry practice. Trade associations that represent a large segment of the industry have encouraged their members to voluntarily disclose the "capitalized cost," and some lessors have been doing so. Industry commenters suggested that the term "capitalized cost" has gained a certain amount of acceptance from consumers. Finally, both leasing representatives and consumer interest groups believed that the disclosed figure should reflect only the amounts that are capitalized by the lessor (such as the price of the leased property on which the lease is based); and, in particular, believed that it should not include amounts that are paid at lease signing by the consumer.

In response to the comments and upon further analysis, the Board has modified the final rule to require the disclosure of the "gross capitalized cost," using that term, in both closed-end and open-end motor vehicle leases. Only items capitalized or amortized by the lessor are to be included. The gross capitalized cost is readily available to lessors from worksheets they use in setting the terms and conditions of the lease, and hence the Board believes that this disclosure requirement will not be unduly burdensome for lessors.

Some commenters representing consumer interests asked that the capitalized cost figure be itemized to give the consumer a clear picture of the base price of the leased automobile and other amounts being financed, such as an outstanding balance from a prior loan or lease. They suggested that without a breakdown, consumers could easily misunderstand what is included or excluded from the capitalized cost disclosure. A few industry commenters believed that disclosing an itemization would be burdensome for lessors; they also believed an itemization would have to be quite detailed to provide adequate guidance to lessees concerning the treatment of specific costs.

The final rule requires a disclosure of the gross capitalized cost with a description such as "the agreed upon value of the vehicle [state the amount] and any items you pay over the lease term (such as service contracts, insurance, and any outstanding prior loan or lease balance)." The "agreed upon value" of the motor vehicle means the amount for the vehicle agreed upon by the lessor and the lessee for purposes of the lease. This would include capitalized items such as the following: charges for vehicle accessories and options, delivery or destination charges, and rustproofing. The lessor could also include taxes and fees for license, title, and registration. The "value" would not include charges for service or maintenance contracts, insurance products, gap waivers, or an outstanding balance on a prior lease or loan.

Based on comments and upon further analysis, the Board believes that disclosure of the gross capitalized cost (including the agreed upon value) may aid consumers in better understanding lease pricing. The final rule also allows the consumer to obtain an itemization of the gross capitalized cost upon request. (See the model form in appendix A.) As in the case of Regulation Z, the itemization must be given separately, not within the segregated disclosures.

The Board solicited comment on whether the gross cost--the first item on the proposed model form--should be de-emphasized or removed from the required disclosures to avoid potential manipulation of the figure by lessors to mislead consumers. The few commenters that addressed the issue thought that the potential risk is negligible.

4(f)(2) Capitalized cost reduction.

The Board's proposed rule required the disclosure of any "capitalized cost reduction" in the disclosure of the total amount due at lease signing. Like a downpayment in the case of a credit transaction, the capitalized cost reduction reduces the capitalized cost and thus the periodic payments. In response to comments, the final rule requires that any capitalized cost reduction be reflected both in the disclosure of the amount due at lease signing and in the mathematical progression of the periodic payment amount.

4(f)(3) Adjusted capitalized cost.

In response to the comments, the final rule requires the disclosure of the "adjusted capitalized cost," which equals the gross capitalized cost less any capitalized cost reduction. This net figure is the starting point for determining the periodic payment of the lease.

4(f)(4) Residual value.

The Board proposed to make the residual value of the leased property a required disclosure in closed-end leases. (A disclosure called the "estimated value of the vehicle at the end of the lease" was already required by Regulation M in an open-end lease.) Many commenters, including both industry and consumer representatives, favored the disclosure of this term. The residual value is the amount estimated or assigned at consummation as the value of the lease property at the end of the lease term. In motor vehicle leases, this figure is frequently but not always obtained by reference to accepted guides used by lessors, such as the "ALG Residual Percentage Guide." In the payment calculation, the residual value is accompanied by the statement: "the value of the vehicle at the end of the lease used in calculating your base [periodic] payment."

4(f)(5) Depreciation and any amortized amounts.

The disclosure of the "depreciation and any amortized amounts" was not included in the Board's proposed rule but is a necessary part of the payment calculation. The depreciation represents the difference between the adjusted capitalized cost and the residual value. This is the amount that the lessee pays for the vehicle's decline in value attributable to normal use and for other items paid over the lease term.

4(f)(6) Rent charge.

This figure, added in the final rule in response to comments, represents the lessor's "rent" or "interest." The rent charge is an essential component in the payment calculation.

4(f)(7)-(10) Total of base periodic payments, lease term, base periodic payment, itemization of other charges, and total periodic payment.

Several other items are used in the payment calculation. The "lease term" and the "total periodic payment" are already required disclosures under the CLA, and appear both in the payment calculation and in the payment schedule disclosures. The "total of base periodic payments" is not required by the CLA, but was used in open-end lease disclosures and is necessary in the payment calculation. Itemization of the periodic payment (the base monthly payment and other charges that are part of the periodic payment) is also not currently required, although over the years many lessors have routinely provided an itemization. The periodic payment typically consists of an amount for depreciation and a rent charge; there may also be state tax and other fees.

4(g) Early termination.

The CLA requires lessors to disclose the conditions under which the lessee or lessor may terminate the lease before the end of the lease term and the amount or method of determining a penalty or other charge for early termination. Lessors typically disclose the method of determining an early termination charge, a disclosure which is often complex.

The proposed rule noted that a U.S. Court of Appeals case, Lundquist v. Security Pacific Automotive Financial Services Corp., 993 F.2d 11 (2d Cir.), cert. denied, 510 U.S. 959 (1993), caused lessors concern in determining the requirements for disclosing their early termination provisions. In that case, the court held a lessor liable for violating the "reasonably understandable" standard for disclosure under Regulation M; the lessor had an early termination formula that the court found to be overly complex and beyond the understanding of the average consumer. Many lessors believe that, given the complexity of modern automobile lease transactions, it is difficult to describe every part of an early termination formula in terms clearly understandable to consumers. In particular, lessors believe that the various methods used to determine the "unamortized capitalized cost" portion of their early termination formulas are inherently complex and cannot be reduced to a disclosure that is easily understandable.

In response to the Board's proposal, many commenters (mostly those representing the leasing industry) favored allowing a reference to the name of the method employed to determine the unamortized capitalized cost portion of the early termination formula instead of requiring a detailed description of that method. Opponents believed that merely providing the name of the method would not be useful and would make it difficult or impossible for consumers to compute the amount of an early termination charge. Some consumer advocates believed that in using complex methods and highly complicated descriptions for determining early termination charges, lessors preclude consumers from determining whether the charges themselves are reasonable. (The CLA specifies that charges for early termination must be "reasonable.") Other commenters, including some lessors and many consumer representatives, favored a full description of all aspects of a lessor's early termination method, along with an example of how that method would work.

Based on the comments and upon further analysis, the Board continues to believe that the CLA mandates full disclosure of a lessor's method of determining an early termination charge, even if it is complex. Therefore, a full description of the complete early termination method must be disclosed. Given the complexity of the methods involved, however, a lessor is permitted--in giving the full description of its early termination method--to refer by name to a generally accepted method of computing the adjusted lease balance (also known as the unamortized capitalized cost) for purposes of the early termination charge. For example, a lessor may state that the "constant yield" method will be utilized in determining the unamortized portion of the gross capitalized cost, but the lessor would have to specify how that figure--and any other term or figure--is used in computing the total early termination charge that would be imposed upon the consumer. Additionally, if a lessor refers to a named method in this manner, the lessor will have to provide a written explanation of that method if requested by the consumer. Lessors should provide clear and understandable explanations of their early termination provisions to consumers. Explanations that are full, accurate, and not intended to be misleading are in compliance with CLA and Regulation M disclosure requirements even if such explanations are complex.

The Board proposed new disclosure requirements in addition to requiring this basic statutory information about charges for terminating a lease early. The proposed rule added a statement alerting consumers about charges for terminating a lease early, and also would have required an example of an early termination charge based on an assumed termination of the lease at the end of the first year. In general, most commenters supported the Board's requiring a general statement warning the consumer of the possibility of substantial charges for early termination.

Many of the commenters representing the leasing industry objected to the Board's proposed requirement of an early termination example. They believed that a transaction-specific example would substantially increase compliance burdens. They said the figure would be difficult to calculate because published residual values at the end of one year are not available; the tables typically start at 24 months. Also, the figure would be imprecise, since charges for early termination are typically determined based on the realized, not the residual, value of the leased property at the time of early termination. The realized value, these commenters pointed out, can vary widely from the residual value based on factors such as the demand for a particular model and the condition of the vehicle at the time of early termination. Moreover, the example would not be representative of an actual charge because few leases terminate at the end of the first year. It is more typical for termination to occur nearer to the end of the lease.

Industry commenters expressed concern about the compliance burden attached to a transaction-specific mathematical calculation, as well as concern about possible consumer misunderstanding of a numerical example that might be out of line with the amount a consumer would have to pay if, in fact, the lease is terminated early. Some commenters suggested, as an alternative, an enhanced general warning to the effect that charges for early termination could be substantial and "may be several thousand dollars." They also suggested adding a statement that the actual charge will depend on when the lease is terminated, and the earlier the consumer ends the lease, the greater this amount is likely to be.

Commenters representing consumer interests believed that an example is needed to give consumers a concrete idea of just how substantial an early termination charge could be. Some of these commenters suggested that the early termination example could be rephrased to make clear that the early termination charge shown in any example is contingent upon the realized value of the property at the time of termination. They suggested using language such as "if you terminate this lease at the end of the first year, you may owe the lessor the difference between your adjusted lease balance of [stated amount] and the realized value at that time."

While there have been very few consumer complaints about consumer leasing at the federal level, one of the more frequent issues raised involves early termination charges. At the state level, authorities report that early terminations are a major source of consumer complaints about leasing. Lessees often are surprised that an early termination charge can be several thousand dollars. Many consumers apparently think that as long as they are current in

their monthly payments, upon early termination they can merely return the car owing nothing more or at most a nominal termination fee. The transaction-specific example proposed by the Board was intended to show just how substantial a charge could be. Based on the comments and further analysis, the Board has dropped the requirement of an example and has instead strengthened the warning to consumers. The final rule requires the following revised statement among the segregated disclosures:

Early Termination. You may have to pay a substantial charge if you end this lease early. The charge may be up to several thousand dollars. The actual charge will depend on when the lease is terminated. The earlier you end the lease, the greater this charge is likely to be.

The Board believes that a strong narrative statement, even without the proposed example, will serve to apprise consumers that charges for early termination may indeed be quite substantial.

4(h) Maintenance responsibilities.

To heighten a consumer's awareness about maintenance responsibilities without imposing substantial compliance costs on lessors, the Board proposed to add a disclosure requirement, among the segregated disclosures, that "you may be charged for excessive wear and use based on the lessor's standard for normal use." Any applicable charge for excessive mileage must also be included. In the final rule, this requirement is limited to motor vehicle leases.

Several commenters requested guidance on disclosing the notice in paragraph 4(h)(3) when a specific figure for excess mileage is not available. They suggested that a description of the method for assessing charges for excess mileage should be allowed in place of a specific amount. The final rule allows a lessor to disclose a description of the method used for calculating excess mileage charges in place of a specific amount, when disclosing an amount is not feasible.

4(i) Purchase option.

An association representing automobile lessors sought clarification on whether reference to the fair market value based on an automobile publication such as N.A.D.A. (published by the National Automobile Dealers Association) could be disclosed in place of a sum certain, as the purchase-option price. The Board clarifies that lessors may commit to a sum certain as the purchase-option price at a future date by reference to an independent source. The reference should provide sufficient information so that the lessee will be able to determine the actual price at the time the option becomes available. Statements of a lease end price such as "negotiated price" or "fair market value" do not comply with the requirement of this paragraph. For a purchase option during the lease term, the Board recognizes that the

price may vary depending on when the lessee exercises this option, and therefore under the final rule, lessors are allowed to describe a method for determining the price as an alternative to providing the price.

4(j) Statement referencing nonsegregated disclosures.

To alert consumers to the nonsegregated CLA disclosures, the final rule requires a statement among the segregated disclosures to direct consumers to other CLA-required disclosures in the lease documents. The nonsegregated disclosures include information on early termination, purchase options and maintenance responsibilities, warranties, late and default charges, insurance, and any security interest.

4(k) Liability between residual and realized values.

This provision is substantially unchanged from the provision found under former § 213.5(g)(13); minor edits have been made.

4(l) Right of appraisal.

Paragraph 4(l) requires disclosure of the right to an appraisal of leased property. This language has been adopted as proposed, with a few changes for clarity and accuracy; for example, the term "realized value" replaces "estimated value." No substantive change is intended. This provision is applicable both to open-end and to closed-end leases.

4(m) Liability at end of lease term based on residual value.

Except as discussed below, editorial changes have been made to this section without substantive change.

4(m)(1) Rent and other charges.

Former §§ 213.2(a)(17) and 2(a)(18) defined the terms "total lease obligation" and "value at consummation," that were applicable to open-end leases. The Congressional intent regarding these definitions, as set forth in a committee report, was that the lessee would have a readily understandable method for comparing the cost of one lease with another or with the cost of buying the same property for cash or on credit (Senate Committee on Banking, Housing and Urban Affairs, Consumer Leasing Act of 1976, S. Rep. No. 94-590 (1976)). The report stated, in pertinent part:

Under subsection 182[(10)][of the CLA], in addition the lessor must calculate and disclose the difference between the total lease obligation and the market value of the goods at the inception of the lease. These figures then will provide an easy comparison between the cost of the lease and the cost of an outright cash purchase, and the differential figure provides a rough comparison to the amount of finance charge which would be involved in a credit purchase. The consumer lessee therefore will have at hand the essential data to compare leases, and to evaluate alternatives to leasing.

Commenters noted that the value at consummation, defined as "the cost to the lessor of the leased property including, if applicable, any increase or markup by the lessor prior to consummation," is essentially the same as the capitalized cost.

The Board believes that the purpose of the disclosure of the total lease obligation, the value at consummation, and the differential between these two figures is served by requiring lessors in open-end leases to disclose the "rent and other charges" described as "the total amount of rent and other charges imposed in connection with your lease [state the amount]." Because of the new comprehensive disclosure scheme, including a required disclosure of the gross capitalized cost (including the agreed upon value) of leased property, the "total lease obligation" disclosure (as defined in former § 213.2(a)(17)), and the "value at consummation" disclosure (as defined in former § 213.2(a)(18)) have been deleted as unnecessary. The final rule has been revised accordingly.

4(o) Insurance.

Along with the amount paid to the lessor, this disclosure provides information on the type and amount of coverage of insurance, whether voluntary or required, as well as the cost. Several commenters pointed out that unlike collision and comprehensive liability policies, the lessor could not furnish the amount of coverage for mechanical breakdown protection contracts (in states where these contracts are treated as insurance). For mechanical breakdown protection insurance contracts not capped by a dollar amount, lessors may describe coverage by referring to a limitation by mileage or time period. For example, the mechanical breakdown contract insures parts of the automobile for up to 100,000 miles.

4(p) Warranties or guarantees.

The Board was asked to clarify whether warranties were limited to maintenance warranties, or included UCC warranties such as warranty of title, and whether disclosure is required if certain warranties do not apply to the lessee. Whether warranties under the UCC should be treated as warranties under this section is to be determined by state or other applicable law. If a lessor provides a comprehensive list of warranties to a consumer, the lessor must indicate which warranties apply or, alternatively, which do not apply.

4(q) Penalties and other charges for delinquency.

As proposed, the final rule adds that any penalty or charge shall be reasonable, to reflect the requirement found in § 183(b) of the CLA. No substantive change is intended.

4(r) Security interest.

This section has been adopted as proposed without substantive change. The phrase "in connection with the lease" has been deleted as unnecessary.

4(s) Limitation on rate information.

Until recently, lessors did not disclose rate information to consumers, although they have commonly used an implicit interest rate for internal purposes. Now some automobile lessors disclose rate information in contracts, or advertise lease rates, or orally provide rate

information to consumers who lease or express an interest in leasing. Typically these rates are based on the lessor's "money factor"--representing only the "rent" or the "interest" charge--and are sometimes labelled as an "annual percentage rate."

In the proposed rule, the Board solicited comment on whether Regulation M should require a rate disclosure, and whether (and how) the rate should be made comparable to the annual percentage rate (APR) in a credit transaction. Many commenters addressed this issue. For the most part, commenters representing consumer constituencies advocated the disclosure of a uniformly calculated lease rate. Those representing industry interests generally opposed a lease rate disclosure, although some supported further consideration of the issue.

Those commenters who supported a rate disclosure believed that a federally-mandated annual lease rate is needed to assure uniform disclosure of lease-cost information. They expressed particular concern that rates currently disclosed by some lessors in advertisements and in contracts may mislead consumers about lease costs, given the lack of any calculation standards. Commenters also argued that if the capitalized cost, the residual value of leased property, and other lease terms are disclosed to a consumer, the lease rate is the only missing component necessary to fully demonstrate the cost of the lease. They generally believed that a rate disclosure would be an effective tool for comparison shopping.

Those commenters opposed to a rate disclosure requirement believed that such a disclosure would be meaningless and perhaps even misleading to consumers. They argued that there is no effective way to calculate a lease rate that will be meaningful to consumers, absent rules constraining lease terms. Many expressed concern that consumers would inappropriately compare credit and lease transactions by comparing the APR with the lease rate. A few commenters, mostly representing independent lessors, suggested that the Board would be exceeding its rulemaking authority under the CLA if it were to mandate a rate disclosure, given that the statute does not impose this requirement. Commenters also suggested that a rate disclosure presents the opportunity for unscrupulous lessors to purposely manipulate the lease rate (to make it look more attractive) by adjusting the residual value. These commenters suggested that, to quote a low lease rate, such lessors might use a residual value lower than the figure the lessor actually expects to realize from the sale of the vehicle at the scheduled termination of the lease. Reducing the residual value increases the portion of the periodic payment attributable to depreciation, thus lowering the amount imputed to the rent charge in each payment. Indeed, for lease transactions in which the adjusted capitalized cost, lease term, and periodic payments remain constant, adjustments in the residual value can produce significantly different lease rates.

Consideration of alternative approaches. The Board considered several approaches to address the lease rate issue: it considered requiring, permitting, or prohibiting a disclosure. In principle, the disclosure of a lease cost expressed as an annual rate, rather than solely as a dollar amount, could have value to consumers in negotiating lease terms and in comparing one lease to another. In practice, however, there are problems associated both with the computation of the lease rate and with what the figure represents.

The major problem with a rate computation is that it is subject to variations in the residual value, whether the variation is narrow or wide and whether it results from unscrupulous manipulation or from legitimate, good-faith differences about estimates of value. As to some of the comparisons that consumers might attempt to make, it is arguable that comparing the costs incurred in leasing and in financing based primarily on rate information may never be totally appropriate because the comparison overlooks legal and economic distinctions between the two transactions--in a lease the consumer accumulates no equity in the property. Given these limitations, and the fact that the legislative history provides little support for requiring a lease rate disclosure, the Board decided not to mandate a lease rate disclosure.

The Board considered prescribing a method for calculating a rate so that consumers could be assured of uniformity in any rate disclosures they received. The calculation could use an "actuarial method" formula similar to that used for the APR under the Board's Regulation Z. This formula would analyze the present value of all advances made to the lessee or on the lessee's behalf against the present value of all payments received by the lessor.

To address rate manipulation, the Board considered placing certain general constraints on the use of the residual value, such as requiring that the residual value used to calculate the rate be the same one on which the periodic payments are based, and requiring also that the residual value be a reasonable approximation of the value of the leased property at the end of the lease term. While this approach would promote more uniformity in rate disclosure than currently exists, it would not make the rates quoted to a consumer completely reliable given the legitimate range of residual values. Alternatively, the Board considered requiring that lessors use the purchase-option price instead of the residual value in calculating a rate when the option price is higher. However, basing a lease rate on a purchase-option price assumes, often incorrectly, that the consumer will purchase the leased property at the end of the lease term. Moreover, because only about 60 percent of leases have an option price, this restraint on possible manipulation would not be available in all instances.

Given the limitations under any of these approaches, the Board believes that in specifying a rate calculation method, it would be endorsing the use of an imperfect tool--one whose accurate use for comparison shopping is questionable in many cases.

As an alternative, the Board considered whether to prohibit the disclosure of lease rates. However, a regulatory prohibition would essentially require a determination by the Board that a rate disclosure is inherently deceptive or misleading to consumers. In light of the wide support for a uniform lease rate disclosure among consumer advocates and others, the Board believes it would be difficult to support such a determination in all cases.

Still, the Board believes that the concerns about variations in lease rates cannot be ignored. These concerns exist whether variations result from a lessor's manipulation of the residual value to show a lower lease rate, or occur despite a lessor's use of different good-

faith estimates of the residual value. Accordingly, the final rule imposes constraints on the disclosure of rate information to deter--as much as possible--inappropriate comparisons of leases by consumers based on rate information offered by different lessors, and mistaken comparisons between the distinct transactions of financing and leasing. The final rule requires that where rate information is provided in an advertisement or in lease documents, a notice must accompany the rate disclosure stating that "this percentage may not measure the overall cost of financing this lease."

Under the final rule, a lessor advertising or disclosing a lease rate is also precluded from calling the rate an "annual percentage rate" or any equivalent term to avoid the inference that the rate is directly comparable to the APR. Moreover, the rate may not be placed among Regulation M's segregated disclosures. The final rule in § 213.7(b)(2) also provides that the disclosure of a lease rate in an advertisement cannot be more prominent than disclosures in the advertisement required by Regulation M, except for the disclosure that must accompany the rate.

The estimated lease charge. In its proposed rule, the Board solicited comment on a new disclosure, called the estimated lease charge, to show the total "financing" costs that would be charged to the consumer over the lease term, including "rent" or "interest." In name, the proposed figure was similar to the finance charge disclosed in credit transactions subject to the TILA. In concept, however, it was quite different in that it included fees that the consumer would pay in a comparable cash transaction and fees paid to third parties (such as automobile registration fees, insurance premiums, and state taxes). These are items that in the credit context would be excluded from the finance charge in most cases.

Commenters representing consumer interests, who generally supported the proposed "all-inclusive" definition of the estimated lease charge, believed that such a disclosure meets the goal of the CLA to provide meaningful and full disclosure to consumers of the "true" cost of leasing. They thought it could facilitate shopping among comparable lease transactions, and would not be burdensome for lessors to disclose. A majority of commenters--all representing the leasing industry--either opposed the estimated lease charge disclosure in general or as it was defined in the proposal. They believed that any lease charge should ideally reflect only that portion of each lease payment representing the "rent" or "interest" charged by the lessor. Also, they believed an all-inclusive lease charge disclosure could mislead consumers to view leasing as more expensive in comparison with financing, when that may not be the case. Most of these commenters believed that if a lease charge were to be disclosed, the rules should at least be more comparable to Regulation Z regarding the type of fees included, based on their concern that consumers might attempt to compare a lease charge to the finance charge in a credit transaction.

Although virtually all costs associated with a lease transaction are itemized and disclosed under the final rule, there could be some value in bringing together in one figure the various interest and noninterest charges that may be split among those due at lease signing, in the periodic payments, and at lease end. The Board considered that a lease charge, redefined

to more closely parallel the finance charge disclosed in a credit transaction, could have utility in some instances. For example, it might assist a consumer in comparing the cost of leasing a vehicle offered by different lessors, such as when shopping to lease a particular make and model with the same lease duration. It would not be very useful in comparing the leasing of cars with different values or different lease durations, or in comparing a lease transaction to a credit transaction. For purposes of Regulation M, a lease charge disclosure is related primarily to the calculation of a lease rate (as lessors would need to know what fees to include in the calculation) and to verify compliance with the prescribed formula. Given that there is no federally-mandated lease rate disclosure, there is little need for a lease charge disclosure (in a closed-end lease). Based on the comments and upon further analysis, the final rule does not require the disclosure of a lease charge.

SECTION 213.5 Renegotiations, extensions, and assumptions.

Section 213.5 is adopted as proposed with some editorial changes. No substantive change is intended. This section contains all the redisclosure rules governing leases that are renegotiated, extended, or assumed, which were generally contained in former § 213.4(h). Paragraphs have been rearranged and revised for clarity. Rules on assumptions have been moved from the commentary. Section 213.5(d) retains the substance of the exceptions found in the former regulation as well as the exceptions previously located in the commentary for renegotiations, court proceedings, and deferrals under former comments 4(h)-3, 7, and 8, respectively.

SECTION 213.6 [Reserved]

SECTION 213.7 Advertising.

Former § 213.5 is redesignated as indicated below:

<u>Former</u>	<u>Final rule</u>
213.5(a)	213.7(a)
	213.7(b) new, incorporating standard in one place
	213.7(b)(1) new
	213.7(b)(2) new
213.5(b)	213.7(c)
213.5(c)	213.7(d)
213.5(d)	213.7(e)
	213.7(f) new

The final rule contains several substantive additions to the advertising rules as discussed below. Some of the language of existing provisions has been revised for simplicity.

7(b) Clear and conspicuous standard.

In response to commenters' request for guidance on the clear and conspicuous standard for advertisements, the Board clarifies that an advertisement must be understandable and readable. For example, very fine print in a television advertisement or detailed and rapidly stated information in a radio advertisement does not meet the clear and conspicuous requirement if consumers cannot see and read or comprehend all of the information required to be disclosed. Further, in the official commentary, the Board proposed to require that lease disclosures appear on a television screen at a minimum of five seconds to meet the clear and conspicuous standard. Upon further analysis, the Board believes that this "five second" rule, which was referred to in a case by the Federal Trade Commission, is inadequate as a test for the clear and conspicuous standard. Therefore, the Board is withdrawing the "five second" rule as a standard to be used for television advertisements.

7(b)(1) Amount due at lease signing.

The proposal sought to address misleading advertisements primarily in which a lessor refers to a low or no capitalized cost reduction (downpayment) and, in small print lists other upfront charges such as an acquisition fee, a security deposit, the first monthly lease payment. The Board proposed that a reference in an advertisement to any component of the total amount due at lease signing may not be more prominently displayed than the required disclosure of the total amount of payments due at lease signing.

The majority of commenters supported the proposed requirement, stating that it would minimize deceptive practices and that it provided clarity to the clear and conspicuous standard. However, a number of commenters opposed the adoption of an equal prominence rule. They believed the proposed rule was overbroad, and suggested that the final rule should ensure that the prominence rule is not triggered when the only payment due at lease inception is the first scheduled periodic payment. Several commenters sought further clarification on the clear and conspicuous standard.

The final rule provides an exception to the prominence test for the periodic payment. Stating the amount of any periodic payment will not trigger the prominence rule. The rule is triggered by oral or written references (which includes electronic media such as the Internet) to any other component of the total amount due at lease signing. The Board believes the final rule addresses some of the concerns about lease advertisements without adding significant burden on lessors or interfering with the effective marketing of their products. The final rule does not specify what terms are to be advertised, but only that components of the total amount due at lease signing cannot be emphasized without giving equal prominence to the disclosure of the total amount due itself. Lessors can advertise lease transactions without including any CLA disclosures. Disclosures are only required when certain "trigger" terms are included in the advertisement. The CLA requires only disclosure of the total due, not an itemization of its component parts, in advertisements. Such an itemization is provided in the transaction-specific disclosures.

7(b)(2) Advertisement of a lease rate.

As discussed in the supplementary information to § 213.4(s), if a percentage rate is stated in an advertisement, a notice must accompany the rate. The notice must be placed next to the rate without any other intervening language or symbols. For example, a lessor may not state a rate with an asterisk and make the disclosure in a different location in the advertisement or lease document. The notice states that this percentage may not measure the overall cost of financing the lease. In addition, with the exception of the notice required by § 213.4(s), the rate cannot be more prominent than the disclosures in the advertisement required by § 213.4.

7(c) Catalogs and multi-page advertisements.

Section 7(c) is adopted as substantially proposed, with no substantive change from the former rule.

7(d) Advertisement of terms that require additional disclosure.

In paragraph 7(d)(2)(iii), the word "such" prior to "payments under the lease," inadvertently omitted in the proposal, is inserted back in the paragraph.

In complying with paragraph 7(d)(2)(iv), lessors are required to provide a sum certain if the purchase option is available at the end of the term. Referring to a source for determining a sum certain in the future complies with this requirement. Statements of a lease-end price such as "negotiated price" or "fair market value" do not comply with the requirement of this paragraph.

7(e) Alternative disclosures--merchandise tags.

The substance of this section is unchanged from the former provision in § 213.5(d); editorial changes have been made.

7(f) Alternative disclosures--telephone or radio advertisements.

Section 336 of the Riegle Community Development and Regulatory Improvement Act of 1994 (Pub. L. 103-325, 108 Stat. 2160) amends § 184 of the CLA to provide an alternative disclosure scheme for radio lease advertisements. In radio advertisements, lessors are permitted to substitute a reference to a toll-free telephone number or to a print advertisement for the disclosures about the purchase option and the end-of-term liability. When calling an advertised toll-free number, if a consumer obtains a recording that provides several dialing options--such as providing directions to the lessor's place of business--the option allowing the consumer to request lease disclosures should be provided early in the phone message to ensure that disclosure information is not obscured by other information.

In keeping with the purpose of the statutory amendment, the final rule requires language to accompany the telephone number indicating that all required disclosures are available by calling the toll-free number. Without language such as, "call 1-800-000-0000 for details about costs and terms," consumers are not put on notice that disclosures may be obtained by calling the toll-free number. A specific reference to disclosures in print advertisements is also required.

The Board proposed to extend the alternate disclosure provision to television advertisements. The majority of commenters supported this proposal. They agreed that television has the same time and space constraints as radio and that the alternate disclosure provision allows consumers the opportunity to obtain lease information in a format that can be retained and studied at a convenient time.

The Board also solicited comment on whether constraints similar to those for television and radio advertisements exist for print advertisements. Although some commenters encouraged imposing the same standard for both broadcast and print media, the majority of commenters did not support the application of the alternative disclosure rules to print media. Much of the oral and written disclosure information in a broadcast is difficult for lessors to provide and for consumers to comprehend or retain. The Board believes that lessors have the ability to more efficiently provide the required disclosures in print format. And generally, print advertisements are easier to retain for use by consumers who are shopping for a lease. Therefore, the Board has extended the alternate disclosure provision to television but not to print media.

Appendices

To simplify the regulation, the written information contained in former appendices A and B about the procedures and criteria for preemption and exemption determinations have been removed. Such information is available from the Board upon request. The model forms are in appendix A. The list of federal agencies that enforce the CLA for particular classes of businesses is moved from former appendix D to appendix B. Appendix C incorporates former § 213.1(d).

Appendix A--Model Forms

The model forms illustrate the new segregated disclosure scheme required by § 213.3(a)(2). Instructions have been deleted as unnecessary.

A-1--Model Open-End or Finance Vehicle Lease Disclosures

A-2--Model Closed-End or Net Vehicle Lease Disclosures

A-3--Model Furniture Lease Disclosures

VI. Regulatory Flexibility Analysis

In accordance with section 3(a) of the Regulatory Flexibility Act (5 U.S.C § 603), the Board's Office of the Secretary has reviewed the amendments to Regulation M. The changes to Regulation M will require a substantial revision to the disclosure format currently required of lessors. In issuing the final rule, the Board has attempted to minimize the burden of changing to the new disclosure format by requiring, wherever possible, disclosures that can be preprinted. Further, the Board has provided model disclosure forms to facilitate compliance. Section 105 of the Truth in Lending Act provides that a lessor that uses the appropriate model

forms published by the Board "shall be deemed to be in compliance with the disclosure provisions of this title with respect to other than numerical disclosures...." Thus, using the model forms properly provides lessors with a safe harbor from civil liability. Required disclosures will be the same for large and small lessors, but the Board does not expect that the changes to Regulation M will have a substantial adverse economic impact on a large number of small entities. The automobile leasing industry, at which most of the changes are directed, is highly concentrated in a small number of large firms. Actual preparation of lease documents will typically take place in the offices of numerous automobile dealers, many of which are small entities. However, preparation will take place through computer terminals and computer programs provided by the lessors. Because the new forms are provided through the lessors' computer systems, they will be clearer and easier for dealer personnel to understand. Explanations and necessary training of personnel should actually be enhanced and made easier for dealers.

VII. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Ch. 3506; 5 CFR 1320 Appendix A.1), the Board reviewed the final rule under the authority delegated to the Board by the Office of Management and Budget.

The respondents are individuals or businesses that regularly lease, offer to lease, or arrange for the lease of personal property under a consumer lease. The purpose of the disclosures associated with Regulation M is to ensure that lessees of personal property receive meaningful information that enables them to compare lease terms with other leases and, where appropriate, with credit transactions. Records, required in order to evidence compliance with the regulation, must be retained for twenty-four months. The revisions to the disclosure requirements in this regulation are found in §§ 213.3, 213.4, and 213.7.

Regulation M applies to all types of financial institutions, not just state member banks. Under the Paperwork Reduction Act, however, the Federal Reserve accounts for the paperwork burden associated with Regulation M only for state member banks. Any estimate of paperwork burden for institutions other than state member banks affected by the amendments is provided by the federal agency or agencies that supervise those lessors. The Federal Reserve has found that few state member banks engage in consumer leasing and that while the prevalence of leasing has increased in recent years, it has not increased substantially among state member banks. It also has found that among state member banks that engage in consumer leasing, only a very few advertise consumer leases.

The estimated burden per response for the disclosures is eighteen minutes, three minutes more than the estimate of the burden for the disclosures under the former rule. Under the Board's September 1995 proposal, the estimate was seventeen minutes. The final rule adds two particular items: an itemized mathematical progression of the periodic payment and, if an annual lease rate is included, a statement that the rate may not measure the overall cost of financing the lease. The estimated burden for advertisement disclosures, twenty-five

minutes (a decrease of five minutes from the former rule), is unchanged since the proposal. It is estimated that there will be 310 respondents and an average frequency of 120 responses per respondent each year. The combined amount of annual burden is estimated to increase from 9,322 hours to 11,179 hours. In addition, start-up costs are estimated to be \$12,000 per respondent, amounting to a total of \$3,720,000 for state member banks.

The Board received no comments that specifically addressed the burden estimate.

The disclosures made by lessors to consumers under Regulation M are mandatory (15 USC 1667 et seq.). Because the Federal Reserve does not collect any information, no issue of confidentiality under the Freedom of Information Act arises. Consumer lease information in advertisements is available to the public. Disclosures of the costs, liabilities, and terms of consumer lease transactions relating to specific leases are not publicly available.

An agency may not conduct or sponsor, and an organization or individual is not required to respond to, an information collection unless it displays a currently valid OMB control number. The OMB control number for Regulation M is 7100-0202.

Comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, may be sent to: Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, DC 20551; and to the Office of Management and Budget, Paperwork Reduction Project (7100-0202), Washington, DC 20503.

List of Subjects in 12 CFR Part 213

Advertising, Federal Reserve System, Reporting and recordkeeping requirements, Truth in Lending.

For the reasons set forth in the preamble, the Board amends 12 CFR Part 213 as follows:

PART 213 -- CONSUMER LEASING (REGULATION M)

1. The authority citation for part 213 continues to read as follows:
Authority: 15 U.S.C. 1604.

2. The table of contents to part 213 is revised to read as follows:

Sec.

- 213.1 Authority, scope, purpose, and enforcement.
- 213.2 Definitions.
- 213.3 General disclosure requirements.
- 213.4 Content of disclosures.
- 213.5 Renegotiations, extensions, and assumptions.
- 213.6 [Reserved].
- 213.7 Advertising.
- 213.8 Record retention.
- 213.9 Relation to state laws.

Appendix A to Part 213 -- Model Forms

Appendix B to Part 213 -- Federal Enforcement Agencies

Appendix C to Part 213 -- Issuance of Staff Interpretations

Supplement I to Part 213 -- Official Staff Commentary to Regulation M

3. Part 213 is amended as follows:

- a. Sections 213.1 through 213.5 are revised;
- b. Section 213.6 is removed and reserved;
- c. Sections 213.7 and 213.8 are revised;
- d. Section 213.9 is added; and
- e. Appendices A through C are revised.

The revisions and additions read as follows:

§ 213.1 Authority, scope, purpose, and enforcement.

(a) Authority. The regulation in this part, known as Regulation M, is issued by the Board of Governors of the Federal Reserve System to implement the consumer leasing provisions of the Truth in Lending Act, which is Title I of the Consumer Credit Protection Act, as amended (15 U.S.C. 1601 et seq.).

(b) Scope and purpose. This part applies to all persons that are lessors of personal property under consumer leases as those terms are defined in § 213.2(e)(1) and (h). The purpose of this part is:

(1) To ensure that lessees of personal property receive meaningful disclosures that enable them to compare lease terms with other leases and, where appropriate, with credit transactions.

(2) To limit the amount of balloon payments in consumer lease transactions; and

(3) To provide for the accurate disclosure of lease terms in advertising.

(c) Enforcement and liability. Section 108 of the act contains the administrative enforcement provisions. Sections 112, 130, 131, and 185 of the act contain the liability provisions for failing to comply with the requirements of the act and this part.

§ 213.2 Definitions.

For the purposes of this part the following definitions apply:

(a) Act means the Truth in Lending Act (15 U.S.C. 1601 et seq.) and the Consumer Leasing Act is chapter 5.

(b) Advertisement means a commercial message in any medium that directly or indirectly promotes a consumer lease transaction.

(c) Board refers to the Board of Governors of the Federal Reserve System.

(d) Closed-end lease means a consumer lease other than an open-end lease as defined in this section.

(e)(1) Consumer lease means a contract in the form of a bailment or lease for the use of personal property by a natural person primarily for personal, family, or household purposes, for a period exceeding four months and for a total contractual obligation not exceeding \$25,000, whether or not the lessee has the option to purchase or otherwise become the owner of the property at the expiration of the lease. Unless the context indicates otherwise, in this part "lease" means "consumer lease."

(2) The term does not include a lease that meets the definition of a credit sale in Regulation Z (12 CFR 226.2(a)). It also does not include a lease for agricultural, business, or commercial purposes or a lease made to an organization.

(3) This part does not apply to a lease transaction of personal property which is incident to the lease of real property and which provides that:

(i) the lessee has no liability for the value of the personal property at the end of the lease term except for abnormal wear and tear, and

(ii) the lessee has no option to purchase the leased property.

(f) Gross capitalized cost means the amount agreed upon by the lessor and the lessee as the value of the leased property and any items that are capitalized or amortized during the lease term, including but not limited to taxes, insurance, service agreements, and any outstanding balance from a prior loan or lease. Capitalized cost reduction means the total amount of any rebate, cash payment, net trade-in allowance, and noncash credit that reduces the gross capitalized cost. The adjusted capitalized cost equals the gross capitalized cost less

the capitalized cost reduction, and is the amount used by the lessor in calculating the base periodic payment.

(g) Lessee means a natural person who enters into or is offered a consumer lease.

(h) Lessor means a person who regularly leases, offers to lease, or arranges for the lease of personal property under a consumer lease. A person who has leased, offered, or arranged to lease personal property more than five times in the preceding calendar year or more than five times in the current calendar year is subject to the act and this part.

(i) Open-end lease means a consumer lease in which the lessee's liability at the end of the lease term is based on the difference between the residual value of the leased property and its realized value.

(j) Organization means a corporation, trust, estate, partnership, cooperative, association, or government entity or instrumentality.

(k) Person means a natural person or an organization.

(l) Personal property means any property that is not real property under the law of the state where the property is located at the time it is offered or made available for lease.

(m) Realized value means:

(1) The price received by the lessor for the leased property at disposition;

(2) The highest offer for disposition of the leased property; or

(3) The fair market value of the leased property at the end of the lease term.

(n) Residual value means the value of the leased property at the end of the lease term, as estimated or assigned at consummation by the lessor, used in calculating the base periodic payment.

(o) Security interest and security mean any interest in property that secures the payment or performance of an obligation.

(p) State means any state, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

§ 213.3 General disclosure requirements.

(a) General requirements. A lessor shall make the disclosures required by § 213.4, as applicable. The disclosures shall be made clearly and conspicuously in writing in a form the consumer may keep, in accordance with this section.

(1) Form of disclosures. The disclosures required by § 213.4 shall be given to the lessee together in a dated statement that identifies the lessor and the lessee; the disclosures may be made either in a separate statement that identifies the consumer lease transaction or in the contract or other document evidencing the lease. Alternatively, the disclosures required to be segregated from other information under paragraph (a)(2) of this section may be provided in a separate dated statement that identifies the lease, and the other required disclosures may be provided in the lease contract or other document evidencing the lease. In a lease of multiple items, the property description required by § 213.4(a) may be given in a separate statement that is incorporated by reference in the disclosure statement required by this paragraph.

(2) Segregation of certain disclosures. The following disclosures shall be segregated from other information and shall contain only directly related information: §§ 213.4(b) through (f), (g)(2), (h)(3), (i)(1), (j), and (m)(1). The headings, content, and format for the disclosures referred to in this paragraph shall be provided in a manner substantially similar to the applicable model form in appendix A of this part.

(3) Timing of disclosures. A lessor shall provide the disclosures to the lessee prior to the consummation of a consumer lease.

(4) Language of disclosures. The disclosures required by § 213.4 may be made in a language other than English provided that they are made available in English upon the lessee's request.

(b) Additional information; nonsegregated disclosures. Additional information may be provided with any disclosure not listed in paragraph (a)(2) of this section, but it shall not be stated, used, or placed so as to mislead or confuse the lessee or contradict, obscure, or detract attention from any disclosure required by this part.

(c) Multiple lessors or lessees. When a transaction involves more than one lessor, the disclosures required by this part may be made by one lessor on behalf of all the lessors. When a lease involves more than one lessee, the lessor may provide the disclosures to any lessee who is primarily liable on the lease.

(d) Use of estimates. If an amount or other item needed to comply with a required disclosure is unknown or unavailable after reasonable efforts have been made to ascertain the information, the lessor may use a reasonable estimate that is based on the best information

available to the lessor, is clearly identified as an estimate, and is not used to circumvent or evade any disclosures required by this part.

(e) Effect of subsequent occurrence. If a required disclosure becomes inaccurate because of an event occurring after consummation, the inaccuracy is not a violation of this part.

(f) Minor variations. A lessor may disregard the effects of the following in making disclosures:

(1) That payments must be collected in whole cents;

(2) That dates of scheduled payments may be different because a scheduled date is not a business day;

(3) That months have different numbers of days; and

(4) That February 29 occurs in a leap year.

§ 213.4 Content of disclosures.

For any consumer lease subject to this part, the lessor shall disclose the following information, as applicable:

(a) Description of property. A brief description of the leased property sufficient to identify the property to the lessee and lessor.

(b) Amount due at lease signing. The total amount to be paid prior to or at consummation, using the term "amount due at lease signing." The lessor shall itemize each component by type and amount, including any refundable security deposit, advance monthly or other periodic payment, and capitalized cost reduction; and in motor-vehicle leases, shall itemize how the amount due will be paid, by type and amount, including any net trade-in allowance, rebates, noncash credits, and cash payments in a format substantially similar to the model forms in appendix A of this part.

(c) Payment schedule and total amount of periodic payments. The number, amount, and due dates or periods of payments scheduled under the lease, and the total amount of the periodic payments.

(d) Other charges. The total amount of other charges payable to the lessor, itemized by type and amount, that are not included in the periodic payments. Such charges include the amount of any liability the lease imposes upon the lessee at the end of the lease term; the potential difference between the residual and realized values referred to in paragraph (k) of this section is excluded.

(e) Total of payments. The total of payments, with a description such as "the amount you will have paid by the end of the lease." This amount is the sum of the amount due at lease signing (less any refundable amounts), the total amount of periodic payments (less any portion of the periodic payment paid at lease signing), and other charges under paragraphs (b), (c), and (d) of this section. In an open-end lease, a description such as "you will owe an additional amount if the actual value of the vehicle is less than the residual value" shall accompany the disclosure.

(f) Payment calculation. In a motor-vehicle lease, a mathematical progression of how the scheduled periodic payment is derived, in a format substantially similar to the applicable model form in appendix A of this part, which shall contain the following:

(1) Gross capitalized cost. The gross capitalized cost, including a disclosure of the agreed upon value of the vehicle, a description such as "the agreed upon value of the vehicle [state the amount] and any items you pay for over the lease term (such as service contracts, insurance, and any outstanding prior loan or lease balance)," and a statement of the lessee's option to receive a separate written itemization of the gross capitalized cost. If requested by the lessee, the itemization shall be provided before consummation.

(2) Capitalized cost reduction. The capitalized cost reduction, with a description such as "the amount of any net trade-in allowance, rebate, noncash credit, or cash you pay that reduces the gross capitalized cost."

(3) Adjusted capitalized cost. The adjusted capitalized cost, with a description such as "the amount used in calculating your base [periodic] payment."

(4) Residual value. The residual value, with a description such as "the value of the vehicle at the end of the lease used in calculating your base [periodic] payment."

(5) Depreciation and any amortized amounts. The depreciation and any amortized amounts, which is the difference between the adjusted capitalized cost and the residual value, with a description such as "the amount charged for the vehicle's decline in value through normal use and for any other items paid over the lease term."

(6) Rent charge. The rent charge, with a description such as "the amount charged in addition to the depreciation and any amortized amounts." This amount is the difference between the total of the base periodic payments over the lease term minus the depreciation and any amortized amounts.

(7) Total of base periodic payments. The total of base periodic payments with a description such as "depreciation and any amortized amounts plus the rent charge."

(8) Lease term. The lease term with a description such as "the number of [periods of repayment] in your lease."

(9) Base periodic payment. The total of the base periodic payments divided by the number of payment periods in the lease.

(10) Itemization of other charges. An itemization of any other charges that are part of the periodic payment.

(11) Total periodic payment. The sum of the base periodic payment and any other charges that are part of the periodic payment.

(g) Early termination. (1) Conditions and disclosure of charges. A statement of the conditions under which the lessee or lessor may terminate the lease prior to the end of the lease term; and the amount or a description of the method for determining the amount of any penalty or other charge for early termination, which must be reasonable.

(2) Early-termination notice. In a motor-vehicle lease, a notice substantially similar to the following: "Early Termination. You may have to pay a substantial charge if you end this lease early. The charge may be up to several thousand dollars. The actual charge will depend on when the lease is terminated. The earlier you end the lease, the greater this charge is likely to be."

(h) Maintenance responsibilities. (1) Statement of responsibilities. A statement specifying whether the lessor or the lessee is responsible for maintaining or servicing the leased property, together with a brief description of the responsibility;

(2) Wear and use standard. A statement of the lessor's standards for wear and use (if any), which must be reasonable; and

(3) Notice of wear and use standard. In a motor-vehicle lease, a notice regarding wear and use substantially similar to the following: "Excessive Wear and Use. You may be charged for excessive wear based on our standards for normal use." The notice shall also specify the amount or method for determining any charge for excess mileage.

(i) Purchase option. A statement of whether or not the lessee has the option to purchase the leased property, and:

(1) End of lease term. If at the end of the lease term, the purchase price; and

(2) During lease term. If prior to the end of the lease term, the purchase price or the method for determining the price and when the lessee may exercise this option.

(j) Statement referencing nonsegregated disclosures. A statement that the lessee should refer to the lease documents for additional information on early termination, purchase options and maintenance responsibilities, warranties, late and default charges, insurance, and any security interests, if applicable.

(k) Liability between residual and realized values. A statement of the lessee's liability, if any, at early termination or at the end of the lease term for the difference between the residual value of the leased property and its realized value.

(l) Right of appraisal. If the lessee's liability at early termination or at the end of the lease term is based on the realized value of the leased property, a statement that the lessee may obtain, at the lessee's expense, a professional appraisal by an independent third party (agreed to by the lessee and the lessor) of the value that could be realized at sale of the leased property. The appraisal shall be final and binding on the parties.

(m) Liability at end of lease term based on residual value. If the lessee is liable at the end of the lease term for the difference between the residual value of the leased property and its realized value:

(1) Rent and other charges. The rent and other charges, paid by the lessee and required by the lessor as an incident to the lease transaction, with a description such as "the total amount of rent and other charges imposed in connection with your lease [state the amount]."

(2) Excess liability. A statement about a rebuttable presumption that, at the end of the lease term, the residual value of the leased property is unreasonable and not in good faith to the extent that the residual value exceeds the realized value by more than three times the base monthly payment (or more than three times the average payment allocable to a monthly period, if the lease calls for periodic payments other than monthly); and that the lessor cannot collect the excess amount unless the lessor brings a successful court action and pays the lessee's reasonable attorney's fees, or unless the excess of the residual value over the realized value is due to unreasonable or excessive wear or use of the leased property (in which case the rebuttable presumption does not apply).

(3) Mutually agreeable final adjustment. A statement that the lessee and lessor are permitted, after termination of the lease, to make any mutually agreeable final adjustment regarding excess liability.

(n) Fees and taxes. The total dollar amount for all official and license fees, registration, title, or taxes required to be paid to the lessor in connection with the lease.

(o) Insurance. A brief identification of insurance in connection with the lease including:

(1) Voluntary insurance. If the insurance is provided by or paid through the lessor, the types and amounts of coverage and the cost to the lessee; or

(2) Required insurance. If the lessee must obtain the insurance, the types and amounts of coverage required of the lessee.

(p) Warranties or guarantees. A statement identifying all express warranties and guarantees from the manufacturer or lessor with respect to the leased property that apply to the lessee.

(q) Penalties and other charges for delinquency. The amount or the method of determining the amount of any penalty or other charge for delinquency, default, or late payments, which must be reasonable.

(r) Security interest. A description of any security interest, other than a security deposit disclosed under paragraph (b) of this section, held or to be retained by the lessor; and a clear identification of the property to which the security interest relates.

(s) Limitations on rate information. If a lessor provides a percentage rate in an advertisement or in documents evidencing the lease transaction, a notice stating that "this percentage may not measure the overall cost of financing this lease" shall accompany the rate disclosure. The lessor shall not use the term "annual percentage rate," "annual lease rate," or any equivalent term.

§ 213.5 Renegotiations, extensions, and assumptions.

(a) Renegotiation. A renegotiation occurs when a consumer lease subject to this part is satisfied and replaced by a new lease undertaken by the same consumer. A renegotiation requires new disclosures, except as provided in paragraph (d) of this section.

(b) Extension. An extension is a continuation, agreed to by the lessor and the lessee, of an existing consumer lease beyond the originally scheduled end of the lease term, except when the continuation is the result of a renegotiation. An extension that exceeds six months requires new disclosures, except as provided in paragraph (d) of this section.

(c) Assumption. New disclosures are not required when a consumer lease is assumed by another person, whether or not the lessor charges an assumption fee.

(d) Exceptions. New disclosures are not required for the following, even if they meet the definition of a renegotiation or an extension:

- (1) A reduction in the lease charge;
- (2) The deferment of one or more payments, whether or not a fee is charged;
- (3) The extension of a lease for not more than six months on a month-to-month basis or otherwise;
- (4) A substitution of leased property with property that has a substantially equivalent or greater economic value, provided no other lease terms are changed;

(5) The addition, deletion, or substitution of leased property in a multiple-item lease, provided the average periodic payment does not change by more than 25 percent; or

(6) An agreement resulting from a court proceeding.

§ 213.6 [Reserved]

§ 213.7 Advertising.

(a) General rule. An advertisement for a consumer lease may state that a specific lease of property at specific amounts or terms is available only if the lessor usually and customarily leases or will lease the property at those amounts or terms.

(b) Clear and conspicuous standard. Disclosures required by this section shall be made clearly and conspicuously.

(1) Amount due at lease signing. Except for the statement of a periodic payment, any affirmative or negative reference to a charge that is a part of the total amount due at lease signing under § 213.7(d)(2)(ii), such as the amount of any capitalized cost reduction (or no capitalized cost reduction is required), shall not be more prominent than the disclosure of the total amount due at lease signing.

(2) Advertisement of a lease rate. If a lessor provides a percentage rate in an advertisement, the rate shall not be more prominent than any of the disclosures in § 213.4, with the exception of the notice in § 213.4(s) required to accompany the rate; and the lessor shall not use the term "annual percentage rate," "annual lease rate," or equivalent term.

(c) Catalogs and multipage advertisements. A catalog or other multipage advertisement that provides a table or schedule of the required disclosures shall be considered a single advertisement if, for lease terms that appear without all the required disclosures, the advertisement refers to the page or pages on which the table or schedule appears.

(d) Advertisement of terms that require additional disclosure. (1) Triggering terms. An advertisement that states any of the following items shall contain the disclosures required by paragraph (d)(2), except as provided in paragraphs (e) and (f) of this section:

(i) The amount of any payment;

(ii) The number of required payments; or

(iii) A statement of any capitalized cost reduction or other payment required prior to or at consummation, or that no payment is required.

(2) Additional terms. An advertisement stating any item listed in paragraph (d)(1) of this section shall also state the following items:

(i) That the transaction advertised is a lease;

(ii) The total amount due at lease signing, or that no payment is required;

(iii) The number, amounts, due dates or periods of scheduled payments, and total of such payments under the lease;

(iv) A statement of whether or not the lessee has the option to purchase the leased property, and where the lessee has the option to purchase at the end of the lease term, the purchase-option price. The method of determining the purchase-option price may be substituted in disclosing the lessee's option to purchase the leased property prior to the end of the lease term;

(v) A statement of the amount, or the method for determining the amount, of the lessee's liability (if any) at the end of the lease term; and

(vi) A statement of the lessee's liability (if any) for the difference between the residual value of the leased property and its realized value at the end of the lease term.

(e) Alternative disclosures--merchandise tags. A merchandise tag stating any item listed in paragraph (d)(1) may comply with paragraph (d)(2) by referring to a sign or display prominently posted in the lessor's place of business that contains a table or schedule of the required disclosures.

(f) Alternative disclosures--television or radio advertisements. (1) Toll-free number or print advertisement. An advertisement made through television or radio stating any item listed in paragraph (d)(1) complies with paragraph (d)(2) if the advertisement states the items listed in paragraphs (d)(2)(i)-(iii) of this section, and:

(i) Lists a toll-free telephone number along with a reference that such number may be used by consumers to obtain the information required by paragraph (d)(2) of this section; or

(ii) Directs the consumer to a written advertisement in a publication of general circulation in the community served by the media station, including the name and the date of the publication, with a statement that information required by paragraph (d)(2) of this section is included in the advertisement. The written advertisement shall be published beginning at least three days before and ending at least ten days after the broadcast.

(2) Establishment of toll-free number. (i) The toll-free telephone number shall be available for no fewer than ten days, beginning on the date of the broadcast.

(ii) The lessor shall provide the information required by paragraph (d)(2) of this section orally, or in writing upon request.

§ 213.8 Record Retention.

A lessor shall retain evidence of compliance with the requirements imposed by this part, other than the advertising requirements under § 213.7, for a period of not less than two years after the date the disclosures are required to be made or an action is required to be taken.

§ 213.9 Relation to state laws.

(a) Inconsistent state law. A state law that is inconsistent with the requirements of the act and this part is preempted to the extent of the inconsistency. If a lessor cannot comply with a state law without violating a provision of this part, the state law is inconsistent within the meaning of section 186(a) of the act and is preempted, unless the state law gives greater protection and benefit to the consumer. A state, through an official having primary enforcement or interpretative responsibilities for the state consumer leasing law, may apply to the Board for a preemption determination.

(b) Exemptions. (1) Application. A state may apply to the Board for an exemption from the requirements of the act and this part for any class of lease transactions within the state. The Board will grant such an exemption if the Board determines that:

(i) The class of leasing transactions is subject to state law requirements substantially similar to the act and this part or that lessees are afforded greater protection under state law; and

(ii) There is adequate provision for state enforcement.

(2) Enforcement and liability. After an exemption has been granted, the requirements of the applicable state law (except for additional requirements not imposed by federal law) will constitute the requirements of the act and this part. No exemption will extend to the civil liability provisions of sections 130, 131, and 185 of the act.

Appendix A to Part 213--Model Forms

A-1 Model Open-End or Finance Vehicle Lease Disclosures

A-2 Model Closed-End or Net Vehicle Lease Disclosures

A-3 Model Furniture Lease Disclosures

Federal Consumer Leasing Act Disclosures

Date _____

Lessor(s) _____

Lessee(s) _____

Amount Due at Lease Signing	Monthly Payments	Other Charges (not part of your monthly payment)	Total of Payments
(Itemized below)* \$ _____	Your first monthly payment of \$ _____ is due on _____, followed by _____ payments of \$ _____ due on the _____ of each month. The total of your monthly payments is \$ _____.	Disposition fee (if you do not purchase the vehicle) \$ _____ [Annual tax] _____ _____ Total \$ _____	(The amount you will have paid by the end of the lease) \$ _____ You will owe an additional amount if the actual value of the vehicle is less than the residual value.

*** Itemization of Amount Due at Lease Signing**

Amount Due At Lease Signing:	How the Amount Due at Lease Signing will be paid:
Capitalized cost reduction \$ _____	Net trade-in allowance \$ _____
First monthly payment _____	Rebates and noncash credits _____
Refundable security deposit _____	Amount to be paid in cash _____
Title fees _____	
Registration fees _____	

Total \$ _____	Total \$ _____

Your monthly payment is determined as shown below:

Gross capitalized cost. The agreed upon value of the vehicle (\$ _____) and any items you pay over the lease term (such as service contracts, insurance, and any outstanding prior loan or lease balance)	\$ _____
If you want an itemization of this amount, please check this box. <input type="checkbox"/>	
Capitalized cost reduction. The amount of any net trade-in allowance, rebate, noncash credit, or cash you pay that reduces the gross capitalized cost	-
Adjusted capitalized cost. The amount used in calculating your base monthly payment	=
Residual value. The value of the vehicle at the end of the lease used in calculating your base monthly payment	-
Depreciation and any amortized amounts. The amount charged for the vehicle's decline in value through normal use and for other items paid over the lease term	=
Rent charge. The amount charged in addition to the depreciation and any amortized amounts	+
Total of base monthly payments. The depreciation and any amortized amounts plus the rent charge	=
Lease term. The number of months in your lease	÷
Base monthly payment	=
Monthly sales/use tax	+
_____	+
Total monthly payment	=\$ _____

Rent and other charges. The total amount of rent and other charges imposed in connection with your lease \$ _____.

Early Termination. You may have to pay a substantial charge if you end this lease early. The charge may be up to several thousand dollars. The actual charge will depend on when the lease is terminated. The earlier you end the lease, the greater this charge is likely to be.

Excessive Wear and Use. You may be charged for excessive wear based on our standards for normal use [and for mileage in excess of _____ miles per year at the rate of _____ per mile].

Purchase Option at End of Lease Term. [You have an option to purchase the vehicle at the end of the lease term for \$ _____ [and a purchase option fee of \$ _____ .] [You do not have an option to purchase the vehicle at the end of the lease term.]

Other Important Terms. See your lease documents for additional information on early termination, purchase options and maintenance responsibilities, warranties, late and default charges, insurance, and any security interest, if applicable.

[The following provisions are the nonsegregated disclosures required under Regulation M.]

Official Fees and Taxes. The total amount you will pay for official and license fees, registration, title, and taxes over the term of your lease, whether included with your monthly payments or assessed otherwise: \$ _____.

Insurance. The following types and amounts of insurance will be acquired in connection with this lease:

_____ We (lessor) will provide the insurance coverage quoted above for a total premium cost of \$ _____.

_____ You (lessee) agree to provide insurance coverage in the amount and types indicated above.

End of Term Liability. (a) The residual value (\$ _____) of the vehicle is based on a reasonable, good faith estimate of the value of the vehicle at the end of the lease term. If the actual value of the vehicle at that time is greater than the residual value, you will have no further liability under this lease, except for other charges already incurred [and are entitled to a credit or refund of any surplus.] If the actual value of the vehicle is less than the residual value, you will be liable for any difference up to \$ _____ (3 times the monthly payment). For any difference in excess of that amount, you will be liable only if:

1. Excessive use or damage [as described in paragraph ____] [representing more than normal wear and use] resulted in an unusually low value at the end of the term.

2. The matter is not otherwise resolved and we win a lawsuit against you seeking a higher payment.

3. You voluntarily agree with us after the end of the lease term to make a higher payment.

Should we bring a lawsuit against you, we must prove that our original estimate of the value of the leased property at the end of the lease term was reasonable and was made in good faith. For example, we might prove that the actual was less than the original estimated value, although the original estimate was reasonable, because of an unanticipated decline in value for that type of vehicle. We must also pay your attorney's fees.

(b) If you disagree with the value we assign to the vehicle, you may obtain, at your own expense, from an independent third party agreeable to both of us, a professional appraisal of the _____ value of the leased vehicle which could be realized at sale. The appraised value shall then be used as the actual value.

Standards for Wear and Use. The following standards are applicable for determining unreasonable or excess wear and use of the leased vehicle:

Maintenance.

[You are responsible for the following maintenance and servicing of the leased vehicle:

[We are responsible for the following maintenance and servicing of the leased vehicle:

Warranties. The leased vehicle is subject to the following express warranties:

Early Termination and Default. (a) You may terminate this lease before the end of the lease term under the following conditions:

The charge for such early termination is:

(b) We may terminate this lease before the end of the lease term under the following conditions:

Upon such termination we shall be entitled to the following charge(s) for:

(c) To the extent these charges take into account the value of the vehicle at termination, if you disagree with the value we assign to the vehicle, you may obtain, at your own expense, from an independent third party agreeable to both of us, a professional appraisal of the _____ value of the leased vehicle which could be realized at sale. The appraised value shall then be used as the actual value.

Security Interest. We reserve a security interest of the following type in the property listed below to secure performance of your obligations under this lease:

Late Payments. The charge for late payments is: _____.

Option to Purchase Leased Property Prior to the End of the Lease. [You have an option to purchase the leased vehicle prior to the end of the term. The price will be \$ _____ / [the method of determining the price].] [You do not have an option to purchase the leased vehicle.]

Federal Consumer Leasing Act Disclosures

Date _____

Lessor(s) _____

Lessee(s) _____

Amount Due at Lease Signing	Monthly Payments	Other Charges (not part of your monthly payment)	Total of Payments
(Itemized below)* \$ _____	Your first monthly payment of \$ _____ is due on _____, followed by _____ payments of \$ _____ due on the _____ of each month. The total of your monthly payments is \$ _____.	Disposition fee (if you do not purchase the vehicle) \$ _____ [Annual tax] _____ _____ Total \$ _____	(The amount you will have paid by the end of the lease) \$ _____

*** Itemization of Amount Due at Lease Signing**

Amount Due At Lease Signing:	How the Amount Due at Lease Signing will be paid:
Capitalized cost reduction \$ _____	Net trade-in allowance \$ _____
First monthly payment _____	Rebates and noncash credits _____
Refundable security deposit _____	Amount to be paid in cash _____
Title fees _____	
Registration fees _____	
Total \$ _____	Total \$ _____

Your monthly payment is determined as shown below:

Gross capitalized cost. The agreed upon value of the vehicle (\$ _____) and any items you pay over the lease term (such as service contracts, insurance, and any outstanding prior loan or lease balance)	\$ _____
If you want an itemization of this amount, please check this box. <input type="checkbox"/>	
Capitalized cost reduction. The amount of any net trade-in allowance, rebate, noncash credit, or cash you pay that reduces the gross capitalized cost	-
Adjusted capitalized cost. The amount used in calculating your base monthly payment	=
Residual value. The value of the vehicle at the end of the lease used in calculating your base monthly payment	-
Depreciation and any amortized amounts. The amount charged for the vehicle's decline in value through normal use and for other items paid over the lease term	=
Rent charge. The amount charged in addition to the depreciation and any amortized amounts	+
Total of base monthly payments. The depreciation and any amortized amounts plus the rent charge	=
Lease term. The number of months in your lease	÷
Base monthly payment	=
Monthly sales/use tax	+
_____	+
Total monthly payment	=\$ _____

Early Termination. You may have to pay a substantial charge if you end this lease early. The charge may be up to several thousand dollars. The actual charge will depend on when the lease is terminated. The earlier you end the lease, the greater this charge is likely to be.

Excessive Wear and Use. You may be charged for excessive wear based on our standards for normal use [and for mileage in excess of _____ miles per year at the rate of _____ per mile].

Purchase Option at End of Lease Term. [You have an option to purchase the vehicle at the end of the lease term for \$ _____ [and a purchase option fee of \$ _____ .] [You do not have an option to purchase the vehicle at the end of the lease term.]

Other Important Terms. See your lease documents for additional information on early termination, purchase options and maintenance responsibilities, warranties, late and default charges, insurance, and any security interest, if applicable.

[The following provisions are the nonsegregated disclosures required under Regulation M.]

Official Fees and Taxes. The total amount you will pay for official and license fees, registration, title, and taxes over the term of your lease, whether included with your monthly payments or assessed otherwise: \$ _____ .

Insurance. The following types and amounts of insurance will be acquired in connection with this lease:

_____ We (lessor) will provide the insurance coverage quoted above for a total premium cost of \$ _____ .

_____ You (lessee) agree to provide insurance coverage in the amount and types indicated above.

Standards for Wear and Use. The following standards are applicable for determining unreasonable or excess wear and use of the leased vehicle:

Maintenance.

[You are responsible for the following maintenance and servicing of the leased vehicle:

[We are responsible for the following maintenance and servicing of the leased vehicle:

Warranties. The leased vehicle is subject to the following express warranties:

Early Termination and Default. (a) You may terminate this lease before the end of the lease term under the following conditions:

The charge for such early termination is:

(b) We may terminate this lease before the end of the lease term under the following conditions:

Upon such termination we shall be entitled to the following charge(s) for:

(c) To the extent these charges take into account the value of the vehicle at termination, if you disagree with the value we assign to the vehicle, you may obtain, at your own expense, from an independent third party agreeable to both of us, a professional appraisal of the _____ value of the leased vehicle which could be realized at sale. The appraised value shall then be used as the actual value.

Security Interest. We reserve a security interest of the following type in the property listed below to secure performance of your obligations under this lease:

Late Payments. The charge for late payments is: _____

Option to Purchase Leased Property Prior to the End of the Lease. [You have an option to purchase the leased vehicle prior to the end of the term. The price will be [\$ _____ / [the method of determining the price].] [You do not have an option to purchase the leased vehicle.]

Federal Consumer Leasing Act Disclosures

Date _____

Lessor(s) _____

Lessee(s) _____

Description of Leased Property				
Item	Color	Stock #	Mfg.	Quantity

Amount Due at Lease Signing	Monthly Payments	Other Charges (not part of	Total of Payments (The amount you will have paid by the end of the lease)
First monthly payment \$ _____	Your first monthly payment of \$ _____	Pick-up fee \$ _____	\$ _____
Refundable security deposit \$ _____	is due on _____, followed by	_____ \$ _____	
Delivery/Installation fee \$ _____	_____ payments of \$ _____ due on	Total \$ _____	
_____ \$ _____	the _____ of each month. The total of your		
Total \$ _____	monthly payments is \$ _____.		

Purchase Option at End of Lease Term. [You have an option to purchase the leased property at the end of the lease term for \$ _____ [and a purchase option fee of \$ _____].] [You do not have an option to purchase the leased property at the end of the lease term.]

Other Important Terms. See your lease documents for additional information on early termination, purchase options and maintenance responsibilities, warranties, late and default charges, insurance, and any security interest, if applicable.

[The following provisions are the nonsegregated disclosures required under Regulation M.]

Official Fees and Taxes. The total amount you will pay for official fees, and taxes over the term of your lease, whether included with your monthly payments or assessed otherwise: \$ _____.

Insurance. The following types and amounts of insurance will be acquired in connection with this lease: _____

_____ We (lessor) will provide the insurance coverage quoted above for a total premium cost of \$ _____.

_____ You (lessee) agree to provide insurance coverage in the amount and types indicated above.

Standards for Wear and Use. The following standards are applicable for determining unreasonable or excess wear and use of the leased property: _____

Maintenance.

[You are responsible for the following maintenance and servicing of the leased property: _____.]

[We are responsible for the following maintenance and servicing of the leased property: _____.]

Warranties. The leased property is subject to the following express warranties: _____

Early Termination and Default. (a) You may terminate this lease before the end of the lease term under the following conditions: _____

The charge for such early termination is: _____.

(b) We may terminate this lease before the end of the lease term under the following conditions: _____.

Upon such termination we shall be entitled to the following charge(s) for: _____.

Early Termination and Default. (continued)

(c) To the extent these charges take into account the value of the leased property at termination, if you disagree with the value we assign to the property, you may obtain, at your own expense, from an independent third party agreeable to both of us, a professional appraisal of the _____ value of the property which could be realized at sale. The appraised value shall then be used as the actual value.

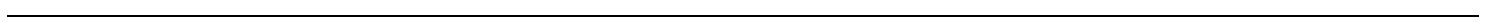
Security Interest. We reserve a security interest of the following type in the property listed below to secure performance of your obligations under this lease:
_____.

Late Payments. The charge for late payments is: _____.

Purchase Option Prior to the End of the Lease Term.

[You have an option to purchase the leased property prior to the end of the term. The price will be [\$ _____]/the method of determining the price].]

[You do not have an option to purchase the leased property.]



Appendix B to Part 213--Federal Enforcement Agencies

The following list indicates which federal agency enforces Regulation M (12 CFR Part 213) for particular classes of business. Any questions concerning compliance by a particular business should be directed to the appropriate enforcement agency. Terms that are not defined in the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in the International Banking Act of 1978 (12 U.S.C. 3101).

1. National banks and federal branches and federal agencies of foreign banks

District office of the Office of the Comptroller of the Currency for the district in which the institution is located.

2. 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

Federal Reserve Bank serving the District in which the institution is located.

3. Nonmember insured banks and insured state branches of foreign banks

Federal Deposit Insurance Corporation Regional Director for the region in which the institution is located.

4. Savings institutions insured under the Savings Association Insurance Fund of the FDIC and federally chartered savings banks insured under the Bank Insurance Fund of the FDIC (but not including state-chartered savings banks insured under the Bank Insurance Fund)

Office of Thrift Supervision regional director for the region in which the institution is located.

5. Federal credit unions

Regional office of the National Credit Union Administration serving the area in which the federal credit union is located.

6. Air carriers

Assistant General Counsel for Aviation Enforcement and Proceedings, Department of Transportation, 400 Seventh Street, S.W., Washington, DC 20590.

7. Those subject to Packers and Stockyards Act

Nearest Packers and Stockyards Administration area supervisor.

8. Federal Land Banks, Federal Land Bank Associations, Federal Intermediate Credit Banks, and Production Credit Associations.

Farm Credit Administration, 490 L'Enfant Plaza, S.W., Washington, DC 20578.

9. All other lessors (lessors operating on a local or regional basis should use the address of the FTC regional office in which they operate)

Division of Credit Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580.

Appendix C to Part 213--Issuance of Staff interpretations

Officials in the Board's Division of Consumer and Community Affairs are authorized to issue official staff interpretations of this Regulation M (12 CFR Part 213). These interpretations provide the formal protection afforded under section 130(f) of the act. Except in unusual circumstances, interpretations will not be issued separately but will be incorporated in an official commentary to Regulation M, which will be amended periodically. No staff interpretations will be issued approving lessor's forms, statements, or calculation tools or methods.

By order of the Board of Governors of the Federal Reserve System, September , 1996.

William W. Wiles

Secretary of the Board.

[FR Doc. 96-00000 Filed 00-00-96; 8:45 am]

BILLING CODE 6210-01-P