

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

Summary

The Board of Governors of the Federal Reserve System, under delegated authority from the Office of Management and Budget (OMB), proposes to extend for three years, without revision, the recordkeeping and disclosure requirements of Regulation M, which implements the Consumer Leasing Act (CLA).¹ No amendments to the regulation are being proposed at this time. The Federal Reserve is required to renew these requirements every three years pursuant to the Paperwork Reduction Act of 1995 (PRA), which classifies regulations such as Regulation M as “required information collections.”²

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

The information collection pursuant to Regulation M is triggered by specific events. All disclosures must be provided to the lessee prior to the consummation of the lease and when the availability of consumer leases on particular terms is advertised. There are no required reporting forms associated with Regulation M. To ease the compliance cost (particularly for small entities) model forms are appended to the regulation. Lessors are required to “retain evidence of compliance” for 24 months, but the regulation does not specify the types of records that must be retained.

Regulation M applies to all types of lessors of personal property. The Federal Reserve accounts for the paperwork burden associated with the regulation only for Federal Reserve-supervised institutions.³ Other federal agencies account for the paperwork burden on other lessors for which they have administrative enforcement authority. The Federal Reserve estimates that with respect to Regulation M, there are 24 Federal Reserve-supervised institutions that are deemed “respondents” for purposes of the PRA, and their collective annual burden is estimated to be 573 hours.

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

² 44 U.S.C. § 3501 *et seq.*

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

Additional information about the paperwork burden associated with CLA and Regulation M, including statutory and regulatory history, a description of the recordkeeping and disclosure requirements, and how the estimated total annual burden was calculated, is discussed below.

Background and Justification

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

In October 1996, the Board substantially revised Regulation M in its periodic review of the regulation.⁴ The 1996 revisions updated the disclosure requirements to more effectively carry out the purposes of the CLA. In April 1997, Regulation M was amended to implement statutory amendments contained in the Economic Growth and Regulatory Paperwork Reduction Act of 1996 that streamlined the advertising disclosures.⁵ The Board also revised the disclosures required for particular lease transactions to parallel the statutory changes for advertising disclosures.⁶ In September 1998, the Board published amendments to Regulation M to implement statutory amendments clarifying the rules on disclosures for lease payments, advertisements, and rounding calculations.⁷

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

Description of Information Collection

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

⁴ 61 FR 52246 (October 7, 1996).

⁵ Pub. L. 104-208, 110 Stat. 3009.

⁶ 62 FR 15368 (April 1, 1997).

⁷ 63 FR 52109 (September 29, 1998).

Lease Disclosures (Section 213.4)

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

Advertising Rules (Section 213.7)

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

Sensitive Questions

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

Consultation Outside the Agency

On July 14, 2008, the Federal Reserve published a notice in the *Federal Register* (73 FR 40349) requesting public comment for 60 days on the extension, without revision, of the recordkeeping and disclosure requirements of Regulation M. The comment period for this notice expires on September 12, 2008.

Time Schedule for Information Collection

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

Legal Status

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

Estimate of Information Collection Burden

The total annual burden for Federal Reserve-supervised institutions for this information collection is estimated to be 573 hours, as shown in the table below. The Federal Reserve has found that while in recent years the prevalence of leasing has increased⁸ amongst finance companies owned by vehicle manufacturers, it has decreased substantially among Federal Reserve-supervised institutions. The Federal Reserve has estimated that only 24 Federal Reserve-supervised institutions engage in consumer leasing⁹ with an estimated average frequency of 205 transactions per year. The Federal Reserve also estimates that the 24 Federal Reserve-supervised institutions advertise their leasing program approximately four times per year. This represents less than 1 percent of total Federal Reserve System paperwork burden.

No paperwork burden is deemed to be associated with the requirement in Regulation M that lessors "retain evidence of compliance" for a minimum of two years after the date disclosures are required to be made (§ 213.8). The regulation does not specify the kind of records that must be retained for this purpose.

	<i>Estimated number of respondents</i>	<i>Estimated annual frequency</i>	<i>Estimated response time</i>	<i>Estimated annual burden hours</i>
Disclosures (§ 213.4)	24	205	6.5 minutes	533
Advertising (§ 213.7)	24	4	25 minutes	<u>40</u>
<i>Total</i>				573

The total cost to the public is estimated to be \$5,240.¹⁰

⁸ Auto Dealers Exchange Services of America (ADESA): <http://adesa.com/global-vehicle-remarketing> 2006 - Supply Sources PDF file.

⁹ Federal Financial Institutions Examination Council Consolidated Reports of Condition and Income (Call Reports) (FFIEC 031 & 041; OMB No. 7100-0036), Schedule RC-C, data item 10.a - Leases to individuals for household, family, and other personal expenditures

¹⁰ Total cost to the public was estimated using the following formula. Percent of staff time, multiplied by annual burden hours, multiplied by hourly rate: 30% Clerical @ \$25, 45% Managerial or Technical @ \$55, 15% Senior Management @ \$100, and 10% Legal Counsel @ \$144. Hourly rate estimates for each occupational group are averages using data from the Bureau of Labor and Statistics, *Occupational Employment and Wages*, news release.

Estimate of Cost to the Federal Reserve System

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

Financial Industry Burden Averages

The other federal financial agencies are responsible for estimating and reporting to OMB the total paperwork burden for the institutions for which they have administrative enforcement authority.¹¹ They may, but are not required to, use the Federal Reserve's burden estimates. As of December 31, 2007, there were approximately 17,220 depository institutions of which the Federal Reserve estimates that 325 depository institutions¹² would be affected by this collection of information and considered respondents for purposes of the PRA. Using the Federal Reserve's method, the total estimated annual burden for all financial institutions subject to Regulation M, including Federal Reserve-supervised institutions, would be approximately 7,759 hours. The above estimates represent an average across all respondents and reflect variations between institutions based on their size, complexity, and practices. In addition, other institutions covered by Regulation M, such as retailers and finance companies potentially are affected by this collection of information, and thus are also respondents for purposes of the PRA.

¹¹ Appendix B – Federal Enforcement Agencies – of Regulation M lists those federal agencies that enforce the regulation for particular classes of business. The federal financial agencies other than the Federal Reserve include: the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), the Office of Thrift Supervision (OTS), and the National Credit Union Administration (NCUA). The federal non-financial agencies include: the Department of Transportation, the Grain Inspection, Packers, and Stockyards Administration (Department of Agriculture), the Farm Credit Administration, and the Federal Trade Commission.

¹² Estimate is based on December 31, 2007, consumer lease data filed by depository institutions in their reports of condition and income: the commercial bank Call Report; (FFIEC 031 & 041) (Federal Reserve OMB No. 7100-0036), (OCC OMB No. 1557-0081), and (FDIC OMB No. 3064-0052); the thrift institution Thrift Financial Report (TFR; form 1313) (OTS OMB No. 1500-0023); and the credit union NCUA Call Reports (form 5300) (NCUA OMB No. 3133-0004).