

## **Supporting Statement for the Recordkeeping and Disclosure Requirements Associated with the CFPB's Regulation M (FR M; OMB No. 7100-0202)**

### **Summary**

The Board of Governors of the Federal Reserve System (Board), under authority delegated by the Office of Management and Budget (OMB), proposes to extend for three years, without revision, the Recordkeeping and Disclosure Requirements Associated with the CFPB's Regulation M (FR M; OMB No. 7100-0202). Since 2011, the Consumer Financial Protection Bureau (CFPB) has been responsible for issuing Consumer Leasing Act (CLA)<sup>1</sup> regulations that apply to depository institutions and other lessors. However, the Board continues to be responsible under the Paperwork Reduction Act (PRA) for renewing every three years the information collections mandated by the CFPB's regulation for institutions supervised by the Board.<sup>2</sup>

The estimated total annual burden for the FR M is 17 hours.

### **Background and Justification**

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

The CFPB's Regulation M applies to all types of lessors of personal property (except motor vehicle dealers excluded from the CFPB's authority under Dodd-Frank Act section 1029, which are covered by the Board's Regulation M).<sup>3</sup> The CLA and Regulation M require lessors uniformly to disclose to consumers 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 \$50,000, adjusted annually for inflation, and has a term of more than four months.<sup>4</sup> The CLA does not provide exemptions for small entities. This information is not available from other sources.

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<sup>1</sup> The CLA was enacted in 1976 as an amendment to the Truth in Lending Act (TILA) and is codified at 15 U.S.C. 1667-1667f. The Board's regulation M is located at 12 CFR Part 213.

<sup>2</sup> The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) transferred rulemaking authority for the CLA to the CFPB except for certain motor vehicle dealers that are excluded from the CFPB's authority, which remain subject to the Board's Regulation M. See section 1029 of the Dodd-Frank Act, Pub. L. 111-203, 124 Stat. 1376 (2010), 12 U.S.C. 5512, 5519, 5581. The CFPB's Regulation M is published at 12 CFR Part 1013 and the Board's Regulation M is published at 12 CFR Part 213.

<sup>3</sup> See 12 U.S.C. 5519; 12 CFR Part 213.

<sup>4</sup> For 2023, the Regulation M threshold is \$66,400.

## **Description of Information Collection**

The information collection under Regulation M is triggered by specific events. All disclosures must be provided to the lessee prior to the consummation of the lease and when the availability of consumer leases on particular terms is advertised. No reporting forms are associated with Regulation M, but certain disclosures must be provided in a manner substantially similar to the applicable model form in the appendix to the regulation. To ease the compliance cost (particularly for small entities) model forms are appended to the regulation. Lessors are required to “retain evidence of compliance” with the applicable requirements for two years, but the regulation does not specify the types of records that must be retained. Regulation M’s recordkeeping and disclosure requirements are described in greater detail below.

### **Section 1013.4 - Lease disclosures.**

Under the CLA and Regulation M, lessors are required to provide certain key information to consumers before they enter into a transaction to lease personal property for consumer (not business) purposes. Lessors are persons who regularly lease, offer to lease, or arrange to lease personal property to consumers. The costs and terms of the lease must be disclosed to consumers clearly and conspicuously and must be in writing in a form the consumer may keep. 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.

### **Section 1013.7 - Advertising rules.**

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

Regulation M permits the required disclosures to be provided to the consumer in electronic form, subject to compliance with the consumer consent and other applicable provisions of the Electronic Signatures in Global and National Commerce Act (E-Sign Act), 15 U.S.C. 7001 et seq. For an advertisement accessed by the consumer in electronic form, Regulation M permits the required disclosures to be provided to the consumer in electronic form without regard to consumer consent or other provisions of the E-Sign Act. Use of such electronic communications is consistent with the Government Paperwork Elimination Act (GPEA), Title XVII of Pub. L. 105-277, codified at 44 U.S.C. 3504.

The Board understands that the E-Sign Act and GPEA can reduce businesses’ compliance burden related to federal requirements, including Regulation M, by enabling lessors to utilize more efficient electronic media for disclosures and compliance. This includes information technology to comply with Regulation M’s recordkeeping requirements, which permit lessors to retain records using any method that reproduces records accurately including computer

programs, microfilm, or microfiche. Lessors need only retain enough information to reconstruct the required disclosure or other records. See 12 CFR 1013.8.

Most lessors use computer support to calculate the required information and generate the mandated disclosures, thereby limiting the burden on these entities.

### **Respondent Panel**

The FR M panel comprises state member banks with assets of \$10 billion or less that are not affiliated with an insured depository institution with assets over \$10 billion (irrespective of the consolidated assets of any holding company); non-depository affiliates of such state member banks; and non-depository affiliates of bank holding companies that are not affiliated with an insured depository institution with assets over \$10 billion. Notwithstanding the foregoing, the CFPB, and not the Board, has supervisory authority for Regulation M with respect to automobile leasing over non-banks defined as “larger participants” in the automobile finance market pursuant to 12 U.S.C. 5514 (implemented by 12 CFR 1090.108).

### **Frequency and Time Schedule**

The FR 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.

### **Public Availability of Data**

There is no reporting form associated with the requirements of Regulation M. Lease-specific disclosures are not collected by the Board, are not publicly available, and are not published. Disclosures of lease terms that appear in advertisements are available to the public.

### **Legal Status**

The FR M recordkeeping and disclosure requirements are authorized pursuant to sections 105(a) and 187 of the Truth in Lending Act (“TILA”) (15 U.S.C. §§ 1604(a) and 1667f), which require that the CFPB prescribe regulations regarding the disclosure requirements relating to consumer lease transactions, and that the Board retains authority to issue rules relating to consumer lease transactions for certain motor vehicle dealers. The FR M is mandatory.

The disclosures and records are not required to be submitted to the Board, so confidentiality issues are generally not be implicated. To the extent such disclosures and records are obtained by the Board through the examination process, they may be kept confidential under exemption 8 of the Freedom of Information Act, which protects information contained in or related to an examination of a financial institution.<sup>5</sup>

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<sup>5</sup> 5 U.S.C. § 552(b)(8).

## Consultation Outside the Agency

There has been no consultation outside the Federal Reserve System.

## Public Comments

On March 7, 2024, the Board published an initial notice in the Federal Register (89 FR 16567) requesting public comment for 60 days on the extension, without revision, of the FR M. The comment period for this notice expires on May 6, 2024.

## Estimate of Respondent Burden

As shown in the table below, the estimated total annual burden for the FR M is 17 hours. The Board estimates that the number of respondents that engage in consumer leasing is based, in part, on the number of outstanding auto leases received in 2022. The Board estimates that only 3 Board-supervised institutions engaged in consumer leasing with an estimated average of 15 transactions per institution per year. The Board also estimates that the 3 Board-supervised institutions advertise their leasing program approximately 4 times per year. The burden estimate was produced using the standard Board burden calculation methodology.

No paperwork burden is deemed to be associated with the recordkeeping requirement in Regulation M that lessors “retain evidence of compliance” for a minimum of two years after the date disclosures are required to be made (section 1013.8) because the regulation does not specify the kind of records to be retained for this purpose. The Board understands that respondents use technology and computer support to comply with this provision and has determined that the records required to be retained under Regulation M are retained by lessors in the normal course of business, with no additional burden imposed by regulatory requirements.

These recordkeeping and disclosure requirements represent less than 1 percent of the Board’s total paperwork burden.

FR M	<i>Estimated number of respondents<sup>6</sup></i>	<i>Estimated Annual frequency</i>	<i>Estimated average hours per response</i>	<i>Estimated annual burden hours</i>
<b>Disclosure</b>				
Section 1013.4				
Lease Disclosures	3	15	0.25	11
Section 1013.7				
Advertising Rules	3	4	0.50	<u>6</u>
	<i>Total</i>			17

<sup>6</sup> Of these respondents to this information collection, none are considered small entities as defined by the Small Business Administration (i.e., entities with less than \$850 million in total assets). Size standards effective March 17, 2023. See <https://www.sba.gov/document/support--table-size-standards>.

The estimated total annual cost to the public for this collection of information is \$1,126.<sup>7</sup>

### **Sensitive Questions**

These collections of information contain no questions of a sensitive nature, as defined by OMB guidelines.

### **Estimate of Cost to the Federal Reserve System**

The estimated cost to the Federal Reserve System for collecting and processing this information collection is negligible.

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<sup>7</sup>Total cost to the responding public is estimated using the following formula: total burden hours, multiplied by the cost of staffing, where the cost of staffing is calculated as a percent of time for each occupational group multiplied by the group's hourly rate and then summed (30% Office & Administrative Support at \$22, 45% Financial Managers at \$80, 15% Lawyers at \$79, and 10% Chief Executives at \$118). Hourly rates for each occupational group are the (rounded) mean hourly wages from the Bureau of Labor Statistics (BLS), Occupational Employment and Wages, May 2022, published April 25, 2023 <https://www.bls.gov/news.release/ocwage.t01.htm#>. Occupations are defined using the BLS Standard Occupational Classification System, <https://www.bls.gov/soc/>.