

FEDERAL RESERVE SYSTEM

12 CFR Part 213

[Regulation M; Docket No. R-1028]

Consumer Leasing

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule; official staff commentary.

SUMMARY: The Board is publishing for comment proposed revisions to the official staff commentary to Regulation M, which implements the Consumer Leasing Act. The commentary applies and interprets the requirements of the regulation. The proposed update would provide guidance on disclosures for lease advertisements, multiple-item leases, renegotiations and extensions and estimates of official fees and taxes.

DATES: Comments should be received by January 22, 1999.

ADDRESSES: Comments should refer to Docket No. R-1028, may be mailed to Ms. Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551. Comments addressed to Ms. Johnson may also be delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room at all other times. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, N.W. Comments may be inspected in room MP-500 between 9:00 a.m. and 5:00 p.m., in accordance with ' ' 261.12 and 261.14, of the Board's Rules Regarding the Availability of Information. 12 CFR ' ' 261.12 and 261.14.

FOR FURTHER INFORMATION CONTACT: Kyung Cho-Miller, Staff Attorney, or Jane Ahrens, Senior Counsel, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, at (202) 452-3667. For users of Telecommunications Device for the Deaf (TDD) only, Diane Jenkins at (202) 452-3544.

SUPPLEMENTARY INFORMATION:

I. Background

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's Regulation M (12 CFR part 213) implements the Act. The CLA requires lessors to provide consumers with uniform cost and other disclosures about consumer lease transactions. The act 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.

The commentary (12 CFR Part 213 (Supp. I)) is a substitute for individual written staff interpretations; it is updated annually, as necessary, to address significant questions that arise. This is the first update since the January 1, 1998 compliance date for the revised regulation. The Board expects to adopt revisions to the commentary in final form in March 1999. To the extent the revisions require changes in lessors' compliance procedures, the effective date for mandatory compliance is October 1, 1999.

II. Proposed Revisions

Section 213.3--General Disclosure Requirements

3(d) Use of Estimates

Comment 3(d)(1)-1(I) provides an example for estimating official fees and taxes. The language of the example would be revised and moved to comment 4(n)-2.

Section 213.4--Content of Disclosures

4(c) Payment Schedule and Total Amount of Periodic Payments

Comment 4(c)-1 would be revised to clarify that scheduled payments can be made at both regular and irregular intervals. A similar revision would be made in comment 1 to appendix A.

4(f) Payment Calculation

Motor vehicle lease disclosures must include a mathematical progression of how periodic payments are derived. Comment 4(f)-2 would be added to address lease transactions that involve multiple items of leased property if one of the items is not a motor vehicle under state law.

4(n) Fees and Taxes

The lessor must disclose the total amount payable by the lessee during the lease term for official and license fees, registration, certificate of title fees, and taxes. These amounts may vary over the course of the lease, and some lessors have requested guidance for calculating an estimated total amount. Proposed comment 4(n)-2 would clarify lessors' ability to use rates or charges in effect at the time of disclosure. The proposed comment would also provide guidance for estimating fees and taxes that are based on the future market value of the leased property, both of which may vary depending on the valuation method used.

Section 213.5 -- Renegotiations, Extensions, and Assumptions

5(a) Renegotiations

A renegotiation occurs where a lease is satisfied and replaced by a new lease which generally triggers new disclosures. Proposed comment 5(a)-1 would be added to clarify that disclosures should conform to the lessee's legal obligation.

5(b) Extensions

Proposed comment 5(b)-3 would be added to provide guidance on lease extensions, which sometimes are consummated before the end of the initial lease term. The revisions would clarify that disclosures should be based on the lessee's obligation for the period of the extension, whether the extension agreement is consummated during the initial lease term or afterwards. Any fees required in connection with the extension also must be reflected in the new disclosures, regardless of when the fees are paid.

Section 213.7 -- Advertising

7(d)(2) Additional Terms

Proposed comment 7(d)(2)-1 would be revised to provide guidance for advertising periodic lease payments that are affected by third-party fees that vary by state or locality, such as taxes or licenses.

Appendix A--Model Forms

Comment 1 to appendix A would be revised to provide additional examples of permissible changes to the model forms.

III. Form of Comment Letters

Comment letters should refer to Docket No. R-1028, and, when possible, should use a standard typeface with a type size of 10 or 12 characters per inch. This will enable the Board to convert the text to machine-readable form through electronic scanning, and will facilitate automated retrieval of comments for review. Also, if accompanied by an original document in

paper form, comments may be submitted on 3 1/2 inch computer diskettes in any IBM-compatible DOS- or Windows-based format.

List of Subjects in 12 CFR Part 213

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

Text of Proposed Revisions

Certain conventions have been used to highlight the proposed revisions to text of the staff commentary. New language is shown inside bold-faced arrows, while language that would be deleted is set off with brackets.

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

PART 213--CONSUMER LEASING (REGULATION M)

1. The authority citation for part 213 would continue to read as follows:

Authority: 15 U.S.C. 1604; 1667f.

2. In Supplement I to Part 213, under Section 213.3--General Disclosure Requirements, under Paragraph 3(d)(1) Standard, paragraph 1. would be amended by removing ~~For example:~~ from the last line and paragraph 1.i. would be removed.

3. In Supplement I to Part 213, under Section 213.4--Content of Disclosures, the following amendments would be made:

- a. Under 4(c) Payment Schedule and Total Amount of Periodic Payments, paragraph 1. would be revised; and
- b. Under 4(f) Payment Calculation, a new paragraph 2. would be added.
- c. Under 4(n) Fees and Taxes, a new paragraph 2. would be added.

The additions and revisions would read as follows:

SUPPLEMENT I TO PART 213--OFFICIAL STAFF COMMENTARY TO REGULATION M

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SECTION 213.4--Content of Disclosures

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4(c) Payment Schedule and Total Amount of Periodic Payments

1. Periodic payments. The phrase Number, amount, and due dates or periods of payments requires the disclosure of all payments that are made at regular <or irregular= intervals and generally derived from rent, capitalized or amortized amounts such as depreciation, and other amounts that are collected by the lessor at the same interval(s), including, for example, taxes, maintenance, and insurance charges. Other periodic payments may, but need not, be disclosed under ' 213.4(c).

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4(f) Payment Calculation

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<2. Multiple-items. If a lease transaction involves multiple items of leased property, one of which is not a motor vehicle under state law, at their option, lessors may include all items in the disclosures required under 4(f). See comment 3(a)-4 regarding disclosure of multiple transactions.=

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4(n) Fees and Taxes

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<2. Estimates. Lessors may estimate the total amount for fees and taxes based on the rates or charges in effect at the time of the disclosure and identify it as an estimate. Where a rate is applied to the market value of the leased property, lessors have flexibility in estimating the future value of the property, including using the unamortized balance under the lease or a published valuation guide. Lessors may accompany the estimate with a statement that the actual fee or tax may be higher or lower depending on the rate in effect or the value of the leased property at the time the fee or tax is due.=

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4. In Supplement I to Part 213, under Section 213.5--Renegotiations, Extensions, and Assumptions, the following amendments would be made:

a. A new undesignated heading, 5(a) Renegotiations, and paragraph 1. would be added; and

b. Under Paragraph 5(b) Extensions., a new paragraph 3. would be added.

The additions would read as follows:

SECTION 213.5--Renegotiations, Extensions, and Assumptions

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5(a) Renegotiations

<1. Basis of disclosures. Lessors have flexibility in making disclosures so long as they reflect the legal obligation under the renegotiated lease. For example, assume that a 24-month lease is replaced by a 36-month lease. The initial lease began on January 1, 1998, and was renegotiated and replaced on July 1, 1998, so that the new lease term ends on January 1, 2001. If the renegotiated lease covers the 36-month period beginning January 1, 1998, the new disclosures would reflect all payments made by the lessee on the initial lease and all payments on the renegotiated lease. However, if the renegotiated lease covers only the remaining 30 months, from July 1, 1998, to January 1, 2001, the disclosures would reflect only the charges incurred in connection with the renegotiation and the payments for the remaining period.=

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5(b) Extensions

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<3. Basis of disclosures. The disclosures should be based on the extension period, including any upfront costs paid in connection with the extension. For example, assume that initially a lease ends on March 1, 1999. In January 1999, agreement is reached to extend the lease until October 1, 1999. The disclosure would include any extension fee paid in January and the periodic payments for the seven-month extension period beginning in March.=

5. In Supplement I to Part 213, under Section 213.7--Advertising, under Paragraph 7(d)(2) Additional Terms., paragraph 1. would be revised as follows:

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Section 213.7--Advertising

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7(d)(2) Additional Terms

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1. Third-party fees that vary by state or locality. The disclosure of <a periodic payment or=[the] total amount due at lease signing or delivery may:

i. Exclude third-party fees, such as taxes, licenses, and registration fees and disclose that fact; or

ii. Provide a <periodic payment or= total that includes third-party fees based on a particular state or locality as long as that fact and the fact that fees may vary by state or locality are disclosed.

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6. In Supplement I to Part 213, under Appendix A--Model Forms, paragraph 1. would be revised as follows:

Appendix A--Model Forms

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1. Permissible changes. Although use of the model forms is not required, lessors using them properly will be deemed to be in compliance with the regulation. Generally, lessors may make certain changes in the format or content of the forms and may delete any disclosures that are inapplicable to a transaction without losing the act's protection from liability. For example, the model form based on monthly periodic payments may be modified for single-payment lease transactions or for quarterly or other <regular or irregular periodic payments. The model form may also be modified to reflect that a transaction is an extension.= The content, format, and headings for the segregated disclosures must be substantially similar to those contained in the model forms; therefore, any changes should be minimal. The changes to the model forms should not be so extensive as to affect the substance and the clarity of the disclosures.

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By order of the Board of Governors of the Federal Reserve System, acting through the Secretary of the Board under delegated authority, December 1, 1998.

(signed)
Jennifer J. Johnson
Secretary of the Board