

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: Final rule; official staff commentary.

SUMMARY: The Board is publishing 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 update provides guidance on disclosures for lease renegotiations and extensions, official fees and taxes, multiple-item leases, and advertisements.

DATES: This rule is effective March 31, 1999. Compliance is optional until March 31, 2000.

FOR FURTHER INFORMATION CONTACT: Kyung Cho-Miller or Obrea Poindexter, Staff Attorneys, 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 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 as necessary, but generally not more frequently than annually, to address significant questions that arise. This is the first update since the January 1, 1998, effective date for complying with the revised regulation. Except as discussed below, the interpretations are adopted as proposed, with some technical edits to address concerns raised by commenters. In

response to concerns about the uncertainty of computer readiness for the Year 2000 date change, the effective date for mandatory compliance with the commentary update is March 31, 2000.

In December, the Board published proposed amendments to the commentary to Regulation M (63 FR 67434, December 7, 1998). The Board received comments from leasing industry representatives. Overall, commenters generally supported the proposed amendments, except for the guidance on estimating official fees and taxes.

II. Commentary Revisions

Section 213.3--General Disclosures Requirements

3(d) Use of Estimates

As proposed, the example about estimating official fees and taxes in comment 3(d)(1)-1(i) is removed. A cross reference to the commentary to section 213.4(n), which provides guidance on estimating official fees and taxes, is added to comment 3(d)(1)-2.

Section 213.4--Content of Disclosures

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

Comment 4(c)-1 is revised to clarify that scheduled payments can occur at both regular and irregular intervals. A similar revision is also 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 is 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

Lessors must disclose the total amount payable by the lessee during the lease term for official and license fees, certificate of title fees, registration, and taxes. Commenters supported the need for guidance about this disclosure but thought proposed comment 4(n)-2 did not provide sufficient flexibility given the difficulty in projecting future fees and taxes on some lease transactions. Fees and taxes may differ widely, state by state and jurisdiction by jurisdiction. In addition, some of the taxes and fees being projected may involve amounts that are billed directly to consumers and not through the lessor. Comment 4(n)-2 is revised to provide guidance and flexibility in determining rates and fees.

Section 213.5 -- Renegotiations, Extensions, and Assumptions

5(a) Renegotiations

A renegotiation occurs where a lease is satisfied and replaced by a new lease. Under Regulation M, a renegotiation generally triggers new disclosures. Several commenters requested further guidance on how to properly complete model forms where, by renegotiation, the initial lease term is extended and the consummation date remains unchanged from the initial lease. Comment 5(a)-1 is added to clarify that disclosures should conform to the lessee's legal obligation and to include guidance for using the model forms.

5(b) Extensions

Comment 5(b)-3 is added to provide guidance on lease extensions, which sometimes are consummated before the end of the initial lease term. The comment clarifies 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

Comment 7(d)(2)-1 is revised to provide guidance for advertising periodic lease payments 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 is revised to provide additional examples of permissible changes to the model forms.

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; 1667f.

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

last line, paragraph 1.i. is removed, and paragraph 2. is amended by adding a new sentence to the end of the paragraph.

The addition reads as follows:

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

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Section 213.3--General Disclosure Requirements

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3(d)(1) Standard

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2. Basis of Estimates. * * * See commentary to ' 213.4(n) for estimating official fees and taxes.

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

a. The heading Section 213.4 Content of Disclosures, is revised;

b. Under 4(c) Payment Schedule and Total Amount of Periodic Payments, paragraph 1. is revised;

c. Under 4(f) Payment Calculation, a new paragraph 2. is added; and

d. Under 4(n) Fees and Taxes, a new paragraph 2. is added.

The additions and revisions read as follows:

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 **A**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 ' 213.4(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. In disclosing the total amount of fees and taxes under ' 213.4(n), lessors may need to base the disclosure on estimated tax rates or amounts and are afforded great flexibility in doing so. Where a rate is applied to the future value of leased property, lessors have flexibility in estimating that value, including, but not limited to, using the mathematical average of the agreed upon value and the residual value or published valuation guides; or a lessor could prepare estimates using the agreed upon value and disclose a reasonable estimate of the total fees and taxes. Lessors may include a statement that the actual total of fees and taxes may be higher or lower depending on the tax rates in effect or the value of the leased property at the time a fee or tax is assessed.

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

- a. A new undesignated heading, 5(a) Renegotiations, and paragraph 1. is added; and
- b. Under Paragraph 5(b) Extensions., a new paragraph 3. is added.

The additions 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.

- i. 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. In this example, since the renegotiated lease covers a 36-month period beginning January 1, 1998, the disclosures must reflect payments made since that date. On the model form, the ~~A~~total of base periodic

payments disclosed under ' 213.4(f)(7) should reflect periodic payments to be made over the entire 36-month term. Payments received since January 1, 1998, are added as a new line item disclosed as ~~A~~total of payments received and are subtracted from the ~~A~~total of base periodic payments in calculating a new item disclosed as the ~~A~~total of base periodic payments remaining. For example, if 6 monthly payments of \$300 were received since January 1, 1998, the disclosure form should include a ~~A~~total of base periodic payments line from which \$1,800 is subtracted to arrive at the ~~A~~total of base periodic payments remaining. The remainder of the disclosures would not change.

- ii. 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.

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

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Section 213.7--Advertising

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7(d)(2) Additional Terms

1. Third-party fees that vary by state or locality. The disclosure of a periodic payment or 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. is 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, March 31, 1999.

(Signed) Robert deV. Frierson

Robert deV. Frierson
Associate Secretary of the Board