

FEDERAL RESERVE SYSTEM

12 CFR Part 213

Regulation M; Docket No. R-1400

RIN No. 7100-AD60

Consumer Leasing

AGENCY: Board of Governors of the Federal Reserve System

ACTION: Final rule.

SUMMARY: Effective July 21, 2011, the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) amends the Consumer Leasing Act (CLA) by increasing the threshold for exempt consumer leases from \$25,000 to \$50,000. In addition, the Dodd-Frank Act provides that, on or after December 31, 2011, this threshold must be adjusted annually by any annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers. Accordingly, the Board is making corresponding amendments to Regulation M, which implements the CLA, and to the accompanying staff commentary. Because the Dodd-Frank Act also increases the Truth in Lending Act's threshold for exempt consumer credit transactions from \$25,000 to \$50,000, the Board is making similar amendments to Regulation Z elsewhere in today's Federal Register.

DATES: Consistent with Sections 1062 and 1100H of the Dodd-Frank Act, this final rule is effective on the transfer date designated by the Secretary of the Treasury, which is July 21, 2011.

FOR FURTHER INFORMATION CONTACT: Stephen Shin, Attorney, or Benjamin K. Olson, Counsel, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, at (202) 452-3667 or 452-2412; for users of Telecommunications Device for the Deaf (TDD) only, contact (202) 263-4869.

SUPPLEMENTARY INFORMATION:

I. Background

The Consumer Leasing Act

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 purpose of the CLA is to ensure meaningful and accurate disclosure of the terms of personal property leases for personal, family, or household use. The CLA is implemented by the Board's Regulation M (12 CFR part 213).

The CLA and Regulation M require lessors to provide consumers with uniform cost and other disclosures about consumer lease transactions. The statute and the regulation generally apply to consumer leases for the use of personal property in which the contractual obligation has a term of more than four months. An automobile lease is the most common type of consumer lease covered by the CLA and Regulation M. Currently, however, if the lessee's total contractual obligation under the lease exceeds \$25,000, the CLA and Regulation M do not apply. See 15 U.S.C. 1667(1); 12 CFR 213.2(e).¹

The Dodd-Frank Wall Street Reform and Consumer Protection Act

This final rule implements Section 1100E of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act), which was signed into law on July 21, 2010. Pub. L. No. 111-203 § 1100E, 124 Stat. 1376 (2010). The Dodd-Frank Act raises the CLA's \$25,000 exemption threshold to \$50,000. In addition, the Dodd-Frank Act requires that, on or after December 31, 2011, the threshold shall be adjusted annually for inflation by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W), as published by the Bureau of Labor Statistics. Therefore, from July 21, 2011 to December 31, 2011, the threshold dollar amount will be \$50,000. Effective January 1, 2012, the \$50,000 threshold will be adjusted annually based on any annual percentage increase in the CPI-W.

In December 2010, the Board proposed to amend § 213.2(e), the accompanying commentary, and the commentary to § 213.7(a) for consistency with the amendments to the CLA's exemption threshold. See 75 FR 78632 (Dec. 16, 2010) (December 2010 Proposed Regulation M Rule). In addition, because the Dodd-Frank Act makes similar amendments to TILA's exemption threshold for consumer credit transactions, the Board simultaneously proposed to amend Regulation Z, which implements the provisions of TILA that do not address consumer leases. See 75 FR 78636 (Dec. 16, 2010) (December 2010 Regulation Z Proposed Rule).

The Board received only two comments on the December 2010 Regulation M Proposed Rule. As discussed below, the Board is generally adopting the rule as proposed. Elsewhere in today's Federal Register, the Board is also adopting a final rule amending Regulation Z in order to implement the amendments to TILA's exemption threshold for consumer credit transactions.

II. Summary of Final Rule

Revisions to § 213.2

¹ Specifically, the CLA currently defines a consumer lease as "a contract in the form of a lease or bailment for the use of personal property by a natural person for a period of time exceeding four months, and for a total contractual obligation not exceeding \$25,000, primarily for personal, family, or household purposes, whether or not the lessee has the option to purchase or otherwise become the owner of the property at expiration of the lease. . . ." 15 U.S.C. 1667(1) (emphasis added). Regulation M implements this definition in § 213.2(e).

Consistent with the Dodd-Frank Act, the Board's final rule revises § 213.2 and the accompanying staff commentary to provide that, effective July 21, 2011, a consumer lease is exempt from the requirements of Regulation M if the consumer's total contractual obligation under the lease exceeds \$50,000 when the lease is consummated. This final rule further provides that, beginning on January 1, 2012, the \$50,000 threshold will be adjusted annually by any annual percentage increase in the CPI-W.

Effective Date

Section 1100H of the Dodd-Frank Act provides that Section 1100E will become effective on the designated transfer date, as defined by Section 1062 of that Act. Section 1062 of the Dodd-Frank Act requires, in relevant part, the Secretary of the Treasury to designate a single calendar date for the transfer of certain functions from other agencies to the Bureau of Consumer Financial Protection. Pursuant to Section 1062(a) of the Dodd-Frank Act, the Secretary of the Treasury has determined that the designated transfer date shall be July 21, 2011. See 75 FR 57252 (Sept. 20, 2010). Accordingly, because Section 1100E will become effective on July 21, 2011, this final rule will be effective on that date. However, if the Secretary of the Treasury designates a later transfer date pursuant to Section 1062, this final rule will instead be effective on that date.

One industry commenter requested that the Board delay the statutory effective date by one year (i.e., until July 21, 2012). This commenter asserted that – in light of the extensive regulatory changes required by the Dodd-Frank Act and other statutes – it would be burdensome for small institutions to comply with Regulation M for consumer leases of \$50,000 or less by July 21, 2011. However, the Board understands that, as a general matter, institutions that engage in consumer leasing already have the systems in place to comply with Regulation M. Thus, it should not be unduly burdensome for these institutions to comply with Regulation M with respect to a larger population of leases. Accordingly, in these circumstances, it would not be appropriate to deviate from the effective date established by Congress.

III. Statutory Authority

The CLA authorizes the Board to prescribe regulations to update and clarify the requirements and definitions applicable to lease disclosures and contracts, and any other issues specifically related to consumer leasing, to the extent that the Board determines such action to be necessary to carry out the CLA, to prevent circumvention, or to facilitate compliance. 15 U.S.C. 1667f(a). The CLA also provides that any regulations prescribed by the Board may contain classifications and differentiations, and may provide for adjustments and exceptions for any class of transactions, as the Board considers appropriate. Id. In addition, the CLA is a part of TILA, which grants similar authority to the Board. See 15 U.S.C. 1604(a) and (f). For the reasons discussed below, the Board believes it is necessary and appropriate to implement Section 1100E of the Dodd-Frank Act by revising Regulation M to effectuate the purposes of the CLA and TILA, to prevent circumvention, and to facilitate compliance.

IV. Section-by-Section Analysis

Section 213.2—Definitions

2(e) Consumer Lease

Section 213.2(e) implements the CLA’s definition of consumer lease. Currently, § 213(e)(1) defines “consumer lease” as “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.” As discussed in existing comment 2(e)-3, the total contractual obligation under a lease includes the total of payments as well as non-refundable amounts the lessee is contractually obligated to pay to the lessor. However, comment 2(e)-3 also clarifies that residual value amounts, purchase-option prices, and amounts collected by the lessor but paid to a third party (such as taxes, licenses, and registration fees) are excluded from the total contractual amount.

In addition to increasing the threshold for an exemption from \$25,000 to \$50,000 effective July 21, 2011, Section 1100E of the Dodd-Frank Act provides that, beginning in 2012, the \$50,000 threshold will be further increased annually to reflect any increases in the CPI-W. Accordingly, whether the total contractual obligation under a consumer lease is sufficient to exempt that lease from the CLA will depend on the threshold amount in effect when the lease is consummated. For that reason, the Board proposed to amend § 213.2(e)(1) to provide that a consumer lease is exempt if the total contractual obligation exceeds “the applicable threshold amount,” which would be listed in the official staff commentary. The Board further proposed to amend § 213.2(e)(1) to provide that the threshold amount will be adjusted annually to reflect increases in the CPI-W (as applicable). The Board did not receive any comment on these revisions, which are adopted as proposed.

The Board also proposed to adopt a new comment 2(e)-9 in order to clarify the method for determining the applicable threshold amount with respect to a particular lease. Specifically, this comment clarified that a consumer lease is exempt from the requirements of Regulation M if the total contractual obligation exceeds the threshold amount in effect at the time of consummation.

Proposed comment 2(e)-9 further clarified that the threshold amount in effect during a particular period of time is the amount stated in the comment for that period. The proposed comment also noted that the threshold amount would be adjusted effective January 1 of each year by any annual percentage increase in the CPI-W that was in effect on the preceding June 1. Once the annual percentage increase in the CPI-W in effect on June 1 becomes available, this comment will be amended to provide the threshold amount for the upcoming year. The Board noted that this approach is consistent with that adopted by the Board in other regulations that provide for annual adjustments based on a consumer price index. See, e.g., 12 CFR 226.32(a)(1)(ii) and its accompanying commentary. The Board believes this approach will facilitate compliance by permitting

the publication of an increased threshold amount sufficiently in advance of the January 1 effective date.

In addition, proposed comment 2(e)-9 clarified that any increase in the threshold amount would be rounded to the nearest \$100 increment. For example, if the annual percentage increase in the CPI-W would result in a \$950 increase in the threshold amount, the threshold amount will be increased by \$1,000. However, if the annual percentage increase in the CPI-W would result in a \$949 increase in the threshold amount, the threshold amount will be increased by \$900. This approach is consistent with Section 1100E(b) of the Dodd-Frank Act, which provides that annual CPI-W adjustments should be “rounded to the nearest multiple of \$100, or \$1,000, as applicable.” The Board believes that Congress did not intend for an annual CPI-W adjustment to be rounded to the nearest \$100 in some circumstances but to the nearest \$1,000 in others, which could lead to anomalous results. Because \$1,000 is itself a multiple of \$100, the Board believes that this commentary clarifies the statutory language in a manner consistent with the intent of Section 1100E.

Finally, the proposed comment clarified that, if a consumer lease is exempt from the requirements of Regulation M because the total contractual obligation exceeds the threshold amount in effect at the time of consummation, the lease remains exempt regardless of a subsequent increase in the threshold amount. Thus, for example, if a lease with a total contractual obligation of \$30,000 was consummated in June 2011, that lease is exempt based on the \$25,000 threshold in effect at that time and would remain exempt after July 21, 2011, notwithstanding the increase in the threshold to \$50,000. Similarly, if a lease with a total contractual obligation of \$55,000 is consummated in August 2011, that lease would be exempt based on the \$50,000 threshold in effect at that time and would remain exempt even if the threshold were subsequently increased to \$56,000 based on an increase in the CPI-W. This approach is consistent with § 213.3(e), which provides that events that occur after consummation of a consumer lease generally do not require the lessor to provide additional Regulation M disclosures. See comment 3(e)-2.

The Board received only one comment regarding this proposed guidance. A member of Congress suggested that consumer leases with total contractual obligations above the applicable threshold amount at consummation should not be permanently exempt from Regulation M. Instead, this commenter suggested that, if, at any point during the term of the lease, the total amount of the consumer’s remaining obligation is less than the applicable threshold amount, the lessor should begin to comply with the regulation. However, the provisions of the CLA and Regulation M generally govern disclosures made at or prior to consummation of a lease. Thus, it does not appear that requiring lessors to comply with Regulation M after consummation would provide benefits to consumers that would outweigh the burden on lessors of continually monitoring each lease to determine when the remaining obligation falls below the applicable threshold amount. Accordingly, comment 2(e)-9 is adopted as proposed.

Section 213.7—Advertising

7(a) General Rule

Section 213.7 imposes certain requirements on advertisements for consumer leases. In order to provide guidance regarding the interaction between § 213.7 and the definition of “consumer lease” in § 213.2(e), the Board proposed to adopt a new comment 7(a)-3. This comment clarified that § 213.7 applies to advertisements for consumer leases, as defined in § 213.2(e). As discussed above, a lease is exempt from the requirements of Regulation M (including § 213.7) if the total contractual obligation exceeds the threshold amount in effect at the time of consummation. Accordingly, proposed comment 7(a)-3 clarified that § 213.7 does not apply to an advertisement for a specific consumer lease if the total contractual obligation for that lease exceeds the threshold amount in effect when the advertisement is made. If a lessor promotes multiple consumer leases in a single advertisement, the entire advertisement must comply with § 213.7 unless all of the advertised leases are exempt under § 213.2(e). The comment also provided illustrative examples. The Board did not receive any comment on this guidance, which is adopted as proposed.

V. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) (RFA) requires an agency to perform an initial and a final regulatory flexibility analysis on the impact a rule is expected to have on small entities. However, under section 605(b) of the RFA, 5 U.S.C. 605(b), the regulatory flexibility analysis otherwise required under section 604 of the RFA is not required if an agency certifies, along with a statement providing the factual basis for such certification, that the rule will not have a significant economic impact on a substantial number of small entities. Based on its initial and final analyses and for the reasons stated below, the Board believes that this final rule will not have a significant economic impact on a substantial number of small entities.

1. Statement of the need for, and objectives of, the final rule. The final rule implements Section 1100E of the Dodd-Frank Act, which increases the total contractual obligation necessary to exempt a consumer lease from the Consumer Leasing Act (CLA) from more than \$25,000 to more than \$50,000, effective July 21, 2010. Section 1100E also provides that, beginning in 2012, this amount shall be adjusted annually to reflect any annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W). The supplementary information above describes in detail the reasons, objectives, and legal basis for the final rule.

2. Summary of the significant issues raised by public comment on Board’s initial analysis, the Board’s assessment of such issues, and a statement of any changes made as a result of such comments. An industry group representing credit unions requested that, in order to reduce regulatory burden, the Board provide additional guidance regarding the types of records that institutions are required to retain in order to demonstrate compliance with Regulation M. Section 213.8 states that lessors must retain “evidence of compliance with the requirements imposed by [Regulation M], other than the advertising requirements under section 213.7, for a period of not less than two years after the disclosures are required to be made or an action is required to be taken.” Comment 8-1 clarifies that these records may be retained “in paper form, on microfilm, microfiche, or computer, or by any other method designed to reproduce records accurately” and that

“[t]he lessor need retain only enough information to reconstruct the required disclosures or other records.”

Because the current regulation and commentary provide lessors with considerable flexibility regarding the retention of records, the Board is concerned that adopting a more specific set of requirements (such as a list of documents that lessors must retain) could increase regulatory burden, rather than reducing it. Furthermore, because the Board did not propose any amendments to the record retention requirements in § 213.8, any revisions to those requirements would not have the benefit of input from the public, including small institutions. Although the commenter suggested that the Board work with a focus group of institutions to revise the record retention requirements, it would not be possible for the Board to do so and still issue a final rule sufficiently in advance of the July 21, 2010 statutory effective date. Accordingly, the final rule does not alter the requirements of § 213.8.

3. Small entities affected by the final rule. Currently, Regulation M applies to any person who regularly leases, offers to lease, or arranges for the lease of personal property primarily for personal, family, or household purposes, for a period exceeding four months, and for a total contractual obligation of \$25,000 or less. 12 CFR 213.2(e) and (h). Consistent with Section 1100E of the Dodd-Frank Act, the final rule applies Regulation M, beginning on July 21, 2011, to any person who provides consumer leases for a total contractual obligation of \$50,000 or less, adjusted annually to reflect increases in the CPI-W.

Based on 2010 call report data, there are no banks with assets of \$175 million or less that engage in consumer leasing. There are, however, 306 thrifts and 92 credit unions with assets of \$175 million or less that engage in consumer leasing. In addition, the Board’s 2005 Finance Company Survey indicates that fewer than ten small finance companies engage in consumer leasing. Commenters did not provide any information on the number of small entities affected by the proposed rule. Nevertheless, the Board acknowledges that the total number of small entities likely to be affected by the final rule is unknown, in part because it is unclear how many of the small entities currently engaged in consumer leasing offer leases with total contractual obligations of more than \$25,000 but not more than \$50,000.

4. Recordkeeping, reporting, and compliance requirements. The final rule does not impose any new reporting requirements. However, the final rule does impose new recordkeeping requirements for small entities that offer consumer leases with total contractual obligations of more than \$25,000 but not more than \$50,000. As noted above, § 213.8 requires lessors to retain evidence of compliance with its provisions (except the advertising requirements in § 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. Thus, beginning on July 21, 2011, the final rule requires lessors to retain records for new consumer leases with total contractual obligations not exceeding \$50,000, adjusted annually to reflect increases in the CPI-W.

The final rule also imposes new compliance requirements for consumer leases with total contractual obligations of more than \$25,000 but not more than \$50,000. Specifically, for consumer leases subject to Regulation M, the lessor must provide certain disclosures regarding payments, liability, and other terms of the lease prior to consummation (§§ 213.3 and 213.4) and when the availability of consumer leases on particular terms is advertised (§ 213.7).

The Board understands that small entities that offer consumer leases generally have systems in place to provide the disclosures required by Regulation M and retain records of those disclosures, even if some of their leases are currently exempt. Thus, while the precise costs to small entities to provide disclosures and retain records for a larger population of leases are difficult to predict, the Board does not believe that the final rule would have a significant economic impact on a substantial number of small entities. Except as already discussed above, the Board did not receive any comments to the contrary.

5. Significant alternatives to the final rule. The final rule implements Section 1100E of the Dodd-Frank Act, which goes into effect on July 21, 2011. As discussed in the supplementary information, the final rule clarifies that, if a consumer lease with a total contractual obligation exceeding \$25,000 is consummated prior to July 21, 2011, that lease remains exempt, notwithstanding subsequent increases in the threshold amount. Except as already discussed above, the Board did not receive any comments suggesting alternatives that would minimize the impact of the rule on small entities and would be consistent with Section 1100E of the Dodd-Frank Act.

VI. Paperwork Reduction Act Analysis

In accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3506; 5 CFR Part 1320 Appendix A.1), the Board reviewed the final rule under the authority delegated to the Board by the Office of Management and Budget (OMB). In addition, as permitted by the PRA, the Board is extending for three years the current recordkeeping and disclosure requirements in connection with Regulation M. The collection of information that is required by this rule is found in 12 CFR Part 213. The Board may not conduct or sponsor, and an organization is not required to respond to, this information collection unless it displays a currently valid OMB control number. The OMB control number is 7100-0202.

This information collection is required to provide benefits for consumers and is mandatory (15 U.S.C. 1601 et seq.). The respondents/recordkeepers are lessors subject to Regulation M, including for-profit financial institutions and small businesses. 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 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 act and regulation also contain rules about advertising consumer leases. 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. This information collection is mandatory.

Since the Board does not collect any information, no issue of confidentiality normally arises. However, in the event the Board were to retain records during the course of an examination, the information may be kept confidential pursuant to section (b)(8) of the Freedom of Information Act (5 U.S.C. 522 (b)(8)).

Regulation M applies to all types of lessors of personal property. The Board accounts for the paperwork burden associated with the regulation only for Board-supervised institutions. Appendix B of Regulation M defines the Board-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. Other federal agencies account for the paperwork burden on other lessors for which they have administrative enforcement authority.

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 types of records that must be retained.

The current annual burden to comply with the provisions of Regulation M is estimated to be 2 hours for each of the 4 State member banks² that engage in consumer leasing. Thus, the current total annual burden for all respondents is 8 hours.

The Board estimates that the final rule will impose a one-time increase in the total annual burden under Regulation M. The 4 respondents will take, on average, 40 hours (one business week) to update their systems to comply with the requirements of the final rule. This one-time revision will increase the total burden for all 4 respondents by 160 hours. On a continuing basis, the Board estimates that the 4 respondents will each take, on average, an additional 8 hours (one business day) annually to comply with the requirements, which will increase the ongoing total annual burden for all 4 respondents by 32 hours. Therefore, the total annual burden for all respondents is estimated to increase by 192 hours (from 8 to 200 hours) during the first year after this rule takes effect. Thereafter, the estimated ongoing total annual burden will be 40 hours.

The total burden increase represents averages for all respondents regulated by the Board. The Board expects that the amount of time required to implement each of the changes for a given financial institution or entity may vary based on the size and complexity of the respondent. Furthermore, the Board understands that many lessors

² 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.

voluntarily comply with Regulation M for leases that are currently exempt. Thus, the estimated burden increase likely overstates the actual increase in burden for those lessors.

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.³ They may, but are not required to, use the Board's burden estimates. There are approximately 16,200 depository institutions of which the Board estimates that 58 depository institutions⁴ will be affected by this collection of information and considered respondents for purposes of the PRA. Using the Board's method, the total estimated annual burden for all financial institutions subject to Regulation M is currently approximately 116 hours. The final rule will impose a one-time increase in the estimated annual burden for the estimated 58 institutions thought to engage in consumer leasing by a total of 2,320 hours. On a continuing basis, the final rule will impose an increase in the estimated annual burden by a total of 464 hours. Thus, the total annual burden for the 58 institutions is estimated to increase by 2,784 hours (from 116 to 2,900 hours) during the first year after this rule takes effect. Thereafter, the estimated ongoing total annual burden will be 580 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. As noted above, the estimated burden increase likely overstates the actual increase in burden because many lessors voluntarily comply with Regulation M for exempt leases.

The Board did not receive any comments specifically addressing the foregoing estimates, which were provided in the December 2010 Regulation M Proposed Rule. The Board did receive one comment generally addressing the burdens associated with retaining records pursuant to § 213.8, which is discussed above in the Board's final RFA analysis.

The Board has a continuing interest in the public's opinion on the collection of information. Comments on the collection of information should be sent to Cynthia Ayouch, Acting Federal Reserve Clearance Officer, Division of Research and Statistics, Mail Stop 95-A, Board of Governors of the Federal Reserve System, Washington, DC

³ 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.

⁴ Estimate is based on September 30, 2010, 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).

20551, with copies of such comments sent 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 record keeping requirements, Truth in lending.

Text of Final Revisions

For the reasons set forth in the preamble, the Board amends Regulation M, 12 CFR part 213, as set forth below:

PART 213—CONSUMER LEASING (REGULATION M)

1. The authority citation for part 213 is amended to read as follows:

Authority: 15 U.S.C. 1604 and 1667f; Pub. L. No. 111-203 § 1100E, 124 Stat. 1376.

2. Section 213.2(e)(1) is revised to read as follows:

§ 213.2 Definitions.

For the purposes of this part the following definitions apply:

* * * * *

(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 the applicable threshold amount, whether or not the lessee has the option to purchase or otherwise become the owner of the property at the expiration of the lease. The threshold amount is adjusted annually to reflect increases in the Consumer Price Index for Urban Wage Earners and Clerical Workers, as applicable. See the official staff commentary to paragraph (e) of this section for the threshold amount applicable to a specific consumer lease. Unless the context indicates otherwise, in this part “lease” means “consumer lease.”

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3. In Supplement I to Part 213:

A. Under Section 213.2—Definitions, under 2(e) Consumer Lease, paragraph 9. is added; and

B. Under Section 213.7—Advertising, under 7(a) General Rule, paragraph 3. is added to read as follows:

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

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Section 213.2—Definitions

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2(e) Consumer Lease.

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9. Threshold amount. A consumer lease is exempt from the requirements of this Part if the total contractual obligation exceeds the threshold amount in effect at the time of consummation. The threshold amount in effect during a particular time period is the amount stated below for that period. The threshold amount is adjusted effective January 1 of each year by any annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) that was in effect on the preceding June 1. This comment will be amended to provide the threshold amount for the upcoming year after the annual percentage change in the CPI-W that was in effect on June 1 becomes available. Any increase in the threshold amount will be rounded to the nearest \$100 increment. For example, if the annual percentage increase in the CPI-W would result in a \$950 increase in the threshold amount, the threshold amount will be increased by \$1,000. However, if the annual percentage increase in the CPI-W would result in a \$949 increase in the threshold amount, the threshold amount will be increased by \$900. If a consumer lease is exempt from the requirements of this Part because the total contractual obligation exceeds the threshold amount in effect at the time of consummation, the lease remains exempt regardless of a subsequent increase in the threshold amount.

i. Prior to July 21, 2011, the threshold amount is \$25,000.

ii. From July 21, 2011 through December 31, 2011, the threshold amount is \$50,000.

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Section 213.7—Advertising

7(a) General Rule.

* * * * *

3. Total contractual obligation of advertised lease. Section 213.7 applies to advertisements for consumer leases, as defined in § 213.2(e). Under § 213.2(e), a consumer lease is exempt from the requirements of this Part if the total contractual obligation exceeds the threshold amount in effect at the time of consummation. See comment 2(e)-9. Accordingly, § 213.7 does not apply to an advertisement for a specific consumer lease if the total contractual obligation for that lease exceeds the threshold

amount in effect when the advertisement is made. If a lessor promotes multiple consumer leases in a single advertisement, the entire advertisement must comply with § 213.7 unless all of the advertised leases are exempt under § 213.2(e). For example:

A. Assume that, in an advertisement, a lessor states that certain terms apply to a consumer lease for a specific automobile. The total contractual obligation of the advertised lease exceeds the threshold amount in effect when the advertisement is made. Although the advertisement does not refer to any other lease, some or all of the advertised terms for the exempt lease also apply to other leases offered by the lessor with total contractual obligations that do not exceed the applicable threshold amount. The advertisement is not required to comply with § 213.7 because it refers only to an exempt lease.

B. Assume that, in an advertisement, a lessor states certain terms (such as the amount due at lease signing) that will apply to consumer leases for automobiles of a particular brand. However, the advertisement does not refer to a specific lease. The total contractual obligations of the leases for some of the automobiles will exceed the threshold amount in effect when the advertisement is made, but the total contractual obligations of the leases for other automobiles will not exceed the threshold. The entire advertisement must comply with § 213.7 because it refers to terms for consumer leases that are not exempt.

C. Assume that, in a single advertisement, a lessor states that certain terms apply to consumer leases for two different automobiles. The total contractual obligation of the lease for the first automobile exceeds the threshold amount in effect when the advertisement is made, but the total contractual obligation of the lease for the second automobile does not exceed the threshold. The entire advertisement must comply with § 213.7 because it refers to a consumer lease that is not exempt.

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By order of the Board of Governors of the Federal Reserve System, March 24, 2011.

Jennifer J. Johnson (signed)
Jennifer J. Johnson
Secretary of the Board