

**FEDERAL RESERVE BANK  
OF NEW YORK**

[ Circular No. **10671** ]  
December 6, 1993 ]

**REGULATION M — CONSUMER LEASING**

**Review of the Regulation under the Board's  
Regulatory Planning and Review Program**

*To All Depository Institutions, and Others Concerned,  
in the Second Federal Reserve District:*

The following statement has been issued by the Board of Governors of the Federal Reserve System:

The Federal Reserve Board has requested public comment on an advance notice of proposed rulemaking on Regulation M (Consumer Leasing) under the Board's Regulatory Planning and Review program.

Comment is requested by January 24, 1994.

The purpose of the program is to periodically analyze each of the Board's regulations to determine whether a regulation can be eliminated, simplified, or modified to ease compliance burdens, within the framework of the law.

Comment on the proposal is sought generally on provisions of the regulation and the Consumer Leasing Act. Specific comment is solicited on issues concerning the disclosure of early termination charges, lease advertising, and the format for leasing disclosures.

Printed on the following pages is the text of the proposal, which has been reprinted from the *Federal Register* of November 19; comments thereon should be submitted by January 24, 1994, and may be sent to the Board, as specified in the notice, or to our Compliance Examinations Department.

WILLIAM J. McDONOUGH,  
*President.*

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**FEDERAL RESERVE SYSTEM****12 CFR Part 213****[Regulation M; Docket No. R-0815]****Consumer Leasing****AGENCY:** Board of Governors of the Federal Reserve System.**ACTION:** Advance notice of proposed rulemaking.

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**SUMMARY:** The Board is planning to undertake a review of Regulation M, which carries out the provisions of the Consumer Leasing Act, pursuant to the Board's policy of periodically reviewing its regulations. The Consumer Leasing Act requires lessors to provide uniform cost and other disclosures about consumer lease transactions. The Board plans to review Regulation M to determine whether it can be simplified and clarified to carry out more effectively the purposes of the Consumer Leasing Act without diminishing the consumer protections afforded by the statute. To gather information needed for this review and to ensure the participation of interested parties at the beginning of the process, the Board is soliciting comment generally on revisions to the regulation, while also soliciting comment on several specific issues.

**DATES:** Comments must be received by January 24, 1994.

**ADDRESSES:** Comments should refer to Docket No. R-0815, and may be mailed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551. Comments also may be delivered to Room B-2222 of the Eccles Building between 8:45 am and 5:15 pm

weekdays, or to the guard station in the Eccles Building courtyard on 20th Street, NW (between Constitution Avenue and C Street) any time. Comments may be inspected in Room MP-500 of the Martin Building between 9:00 am and 5:00 pm weekdays, except as provided in 12 CFR section 261.8 of the Board's rules regarding the availability of information.

**FOR FURTHER INFORMATION CONTACT:** Kyung H. Cho or W. Kurt Schumacher, Staff Attorneys (202/452-2412 or 202/452-3667), Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551. For the hearing impaired *only*, Telecommunications Device for the Deaf (TDD), Dorothea Thompson (202/452-3544), Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551.

**SUPPLEMENTARY INFORMATION:**

**Background of the Consumer Leasing Act and Regulation M**

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). It was based on findings that there was a trend toward leasing as an alternative to purchasing certain consumer items on credit and that consumers were not receiving adequate leasing cost disclosures. The Board was given rulewriting authority, and its Regulation M (12 CFR part 213) implements the CLA. An official staff commentary which interprets the regulation has also been published (12 CFR part 213, Supp. I).

The CLA generally applies to consumer leases of personal property involving less than \$25,000 with a term of more than four months. A long-term automobile lease is the most common type of consumer lease covered by the act. Like the credit provisions of the TILA, the CLA requires lessors to provide uniform cost and other disclosures about consumer lease transactions, including in advertising. Prior to entering into a lease agreement, lessors must give consumers approximately 15 to 20 disclosures that include the amount of initial charges to be paid, an identification of leased property, a payment schedule, the liability for maintenance of leased property, and penalties for the early termination of a lease. The law also regulates balloon payments by limiting liability at the end of a lease term to no more than three times the monthly payment.

**The Review of Regulation M**

The Board's Regulatory Planning and Review Program calls for the periodic review of a regulation with four goals in mind: to clarify and simplify regulatory language; to determine whether regulatory amendments are needed to address technological and other developments; to reduce undue regulatory burden on the industry; and to delete obsolete provisions. The Board plans to begin a review of Regulation M in accordance with the goals of that program. Regulation M has not been substantially revised or reviewed since its inception. The Board is soliciting comments on the provisions of Regulation M and the CLA, including coverage, exempt transactions, and general format and disclosure requirements. The Board requests that commenters include specific suggestions for improvements to the regulation, as well as the rationale for the suggested changes. In addition, the Board has identified the following specific issues on which comment would be helpful:

*Disclosure of early termination charges.* The CLA and Regulation M require lessors to disclose the amount or method of determining the amount of a charge if the consumer terminates a lease early. Virtually all leases include such a charge and lessors typically disclose the method to determine the charge rather than an amount.

Recently, a United States Court of Appeals held a lessor liable for violating the "reasonably understandable" standard for disclosure under Regulation M by providing an early termination formula that the court found to be overly complex and beyond the understanding of the average consumer. *Lundquist v. Security Pacific*, 993 F.2d 11 (2d Cir. 1993). Though some lessors would generally admit to the complexity of the disclosure, they would insist that, due to the complexity of modern automobile lease transactions, the formula was written as understandably as it could be.

Some representatives of automobile lessors have requested that the Board amend the regulation to allow them to disclose the name of the method to be used in determining the amount of any penalty or other charge for early lease termination, rather than providing a description of the method by giving the precise formula. On the other hand, consumer interest representatives have argued that the formulas used in determining such charges could be made more understandable to consumers, and that simply allowing the disclosure of the name of the

method would not allow consumers to determine the cost of an early termination charge—either before or during the performance of the lease. Specific comment is solicited on this issue, including commenters' views on whether the disclosure of the name of the method along with a representative example of a lease termination charge should be considered (as well as any other disclosure alternative) to help inform consumers of the consequences of terminating a lease early.

*Broadcast media advertising of leases.* Under the regulation, if any advertised lease transaction states certain terms (such as the amount or number of any lease payment) as many as five additional disclosures are required to be given. Due to time and space constraints in television and radio advertisements, some lease disclosures are being provided in small sometimes scrolling print at the bottom of the television screen, or very quickly at the end of the advertisement, arguably with little consumer benefit. Because the oral disclosure of required lease terms is very difficult, there is little radio advertising of leases.

Several representatives of State attorneys general offices have questioned the way that television advertisements for auto leases display the required Regulation M disclosures. They argue that the text is hard to read and appears on the screen only briefly, arguably failing the CLA clear and conspicuous standard. Some leasing representatives have expressed concern about exposure to liability due to the potential for differing State interpretations of what is clear and conspicuous disclosure. They advocate Board action on this issue, offering as an alternative a requirement that a toll-free number be provided in lieu of some or all of the disclosures now required, so consumers could call and obtain them. Comment is specifically solicited on this issue, though this type of change may be more appropriately within the purview of the Congress. Two bills introduced in Congress (S. 1447 and H.R. 3102) would modify the advertising disclosure requirements under the CLA, as well as under the TILA and the Truth in Savings Act, by allowing a toll-free number to be provided in the advertisement instead of the currently required terms. Both bills, however, would only apply to radio advertisements.

*Segregation of leasing disclosures from other information.* The CLA, unlike most of the consumer credit provisions of the TILA, does not require the segregation of the required disclosures from other terms. In many

lease agreements, a number of the leasing disclosures and the contract terms are one and the same. There is a question whether the absence of a requirement that the consumer leasing disclosures be segregated from general contract or other terms limits the effectiveness of these disclosures in meeting the consumer protection goal of the CLA—to assure meaningful disclosure of lease terms for comparison shopping. The Board solicits comments on whether a segregation requirement should be proposed for adoption in the regulation.

The Board will review the issues and information offered by commenters responding to this notice, and conduct its own research on legal, economic, operational and other issues and data as they relate to Regulation M. Based on the results of its review of Regulation M, including consideration of the comments received on this notice, the Board will decide whether to pursue proposed revisions to the regulation during 1994. The Board contemplates that any proposal to amend the Regulation would be published in the spring of 1994.

By order of the Board of Governors of the Federal Reserve System, November 15, 1993.

**William W. Wiles,**

*Secretary of the Board.*

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