

# RESCINDED

Consumer Leasing Program

This document and any attachments are superseded by Comptroller's Handbook - Consumer Compliance - Other Consumer Protection Laws and Regulations.

## EXAMINATION OBJECTIVE

To assess the quality of the institution's compliance management system for the Consumer Leasing Act.

To determine that lessees of personal property are given meaningful and accurate disclosures of lease terms.

To determine if the limits of liability are clearly indicated to the lessees and correctly enforced by the institution.

To ensure that the financial institution provides accurate disclosures of its leasing terms in all advertising.

## EXAMINATION PROCEDURES

WKP. REF.

### General Disclosure Requirements

1. Review the Matters Requiring Board Attention and Corrective Actions from the three or four previous ROEs to ensure that the board and management have taken appropriate corrective action where necessary and persistent problems have not recurred.

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2. Review the institution's procedures for providing disclosures to ensure that there are adequate controls and procedures to effect compliance.

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3. Review the disclosures provided by the institution.
  - Are the disclosures clear and conspicuous and provided in writing in a form the consumer may keep? For disclosures provided electronically (other than for advertising requirements), are the disclosures in electronic form provided in compliance with the consumer consent and other applicable provisions of the Electronic Signatures in Global and National Commerce Act (E-Sign Act)?<sup>1</sup>

<sup>1</sup> The final amendment to Regulation M on the electronic delivery of disclosures, consistent with the requirements of the E-Sign Act, became effective December 10, 2007, and required mandatory compliance by October 1, 2008.

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For an advertisement accessed by the consumer in electronic form, are the disclosures required by 12 CFR 213.7 provided to the consumer in electronic form in the advertisement? (§ 213.3(a))

- Are the disclosures given in a dated statement and in the prescribed format? (§ 213.3(a)(1))
- Is the information required by sections 213.4(b) through (f), (g)(2), (h)(3), (i)(1), (j), and (m)(1) segregated and in a form substantially similar to the model in Appendix A? (§ 213.3(a)(2))
- Are the disclosures timely? (§ 213.3(a)(3))
- If the lease involves more than one lessee, are the disclosures provided to any lessee who is primarily liable? (§ 213.3(c))
- If additional information is provided, is it provided in a manner such that it does not mislead or confuse the lessee? (§ 213.3(b))
- Are all estimates clearly identified and reasonable? (§ 213.3(d))
- Are the disclosures accurate and do the disclosures contain the information required by section 213.4(a) through (f)? (§ 213.4)
- Are disclosures given to lessees when they “renegotiate” or “extend” their leases? (§ 213.5)

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## Lessee Liability

4. Review the lease estimates and calculations to ensure that there is not any unreasonable balloon payment expected of the lessee in the following circumstances:
  - At early termination,
    - Does the lessor disclose the conditions under which the lease may be terminated early and the amount and method of determining the amount of any early termination charges? (§ 213.4(g)(1))
    - Are any early termination charges reasonable? (§ 213.4(g)(1), (q))
  - At end of lease term, for wear and use,

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- If the lessor sets standards for wear and use of the leased vehicle are the amounts or method of determining any charge for excess mileage disclosed? (§ 213.4(h)(3))
  - Are standards for wear and use reasonable? (§ 213.4(h)(2))
  - At end of lease term (for open-end leases), and
    - Does the lessor disclose the limitations on the lessee's liabilities at the end of the lease term? (§ 213.4(m)(2))
    - Are the lessee and lessor permitted to make a mutually agreeable final adjustment regarding excess liability? (§ 213.4(m)(3))
  - In delinquency, default or late payment.
    - Does the lessor disclose penalties or other charges for delinquency, default or late payments? (§ 213.4(q))
    - Are the penalties or other charges reasonable? (§ 213.4(q))
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## Advertising

5. Review advertising policies and procedures used by the institution to ensure that there are adequate controls and procedures to effect compliance.
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6. Review a sample of the institution's advertisements. Determine the following:
    - Do the advertisements advertise terms that are usually and customarily available? (§ 213.7(a))
    - Are the disclosures contained in the advertisements clear and conspicuous? (§ 213.7(b))
    - Do catalogs, multiple page advertisements and electronic advertisements comply with the page reference requirements? (§ 213.7(c))
    - When triggering terms are used, do the advertisements contain the additional required information? (§ 213.7(d))

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- Do merchandise tags which use triggering terms refer to a sign or display that contains the additional required disclosures? (§ 213.7(e))
  - If television or radio advertisements use triggering terms, if they do not contain the additional terms required by § 213.7(d)(2), do they use alternative disclosure methods (direct consumers to a toll free number or written advertisement)? (§ 213.7(f))
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## Miscellaneous

7. Are records and other evidence of compliance, (other than for advertising requirements under § 213.7), retained for a period of no less than two years? (§ 213.8)
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## EXAMINER'S SUMMARY, RECOMMENDATIONS, AND COMMENTS

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