

# Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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## DEPARTMENT OF JUSTICE

### Immigration and Naturalization Service

#### 8 CFR Part 212

[INS No. 2129-01]

RIN 1115-AG16

#### **Adding Colombia to the List of Countries Whose Citizens or Nationals Are Ineligible for Transit Without Visa (TWOV) Privileges to the United States Under the TWOV Program**

**AGENCY:** Immigration and Naturalization Service, Justice.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** The Transit Without Visa (TWOV) Program allows certain aliens to transit the United States en route to a specified foreign country without a passport or visa provided they are traveling on a carrier signatory to an agreement with the Immigration and Naturalization Service (Service) in accordance with section 233(c) of the Immigration and Nationality Act (Act). This interim rule adds Colombia to the list of those countries that the Service, acting on behalf of the Attorney General and jointly with the Department of State, has determined to be ineligible for participation in the TWOV program.

**DATES:** *Effective dates:* Amendment 2 of this interim rule is effective April 2, 2001. Amendment 3 of this interim rule is effective April 6, 2001.

*Comment date:* Written comments must be submitted on or before May 29, 2001.

**ADDRESSES:** Please submit written comments, in triplicate, to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW, Room 4034, Washington, DC 20536. Please include INS number 2129-01 on your correspondence to ensure proper and

timely handling. Comments are available for public inspection at the above address by calling (202) 514-3048 to arrange for an appointment.

#### **FOR FURTHER INFORMATION CONTACT:**

Robert F. Hutnick, Assistant Chief Inspector, Immigration and Naturalization Service, 425 I Street, NW, Room 4064, Washington, DC 20536, telephone number (202) 616-7499.

#### **SUPPLEMENTARY INFORMATION:**

#### **What Is the Authority for Participation in the TWOV Program?**

Section 212(d)(4)(C) of the Act provides authority for the Attorney General acting jointly with the Secretary of State (see Department of State regulation published elsewhere in this issue of the **Federal Register**) to waive nonimmigrant visa requirements for aliens who are proceeding in immediate and continuous transit through the United States and are using a carrier which has entered into a contract with the Service authorized under section 233(c) of the Act, in this case an Immediate and Continuous Transit Agreement on Form I-426, also known as a TWOV Agreement.

#### **How Does This Interim Rule Amend the Regulations?**

This rule amends § 212.1(f)(3) (section 212.1(f)(3) will be redesignated and revised as § 212.1(f)(2) effective April 6, 2001) by adding Colombia to the list of countries whose citizens are ineligible for TWOV privileges.

#### **Why Is Colombia Being Added to the Ineligibility List in § 212.1(f)(3)?**

Colombia is being added to § 212.1(f)(3) (section 212.1(f)(3) will be redesignated and revised as § 212.1(f)(2) effective April 6, 2001) making the waiver of the passport and visa requirement unavailable to an alien who is a citizen of that country (e.g., ineligible for TWOV privileges) because a steadily increasing number of Colombian citizens and nationals have exhibited a significant probability to abuse the TWOV privilege.

#### **How Have Certain Citizens of Colombia Abused the TWOV Privilege?**

During the period between October 1, 2000, and February 28, 2001, approximately 600 Colombian citizens who boarded their respective flights as TWOV passengers, purportedly in

transit through Miami International Airport to a third country, refused to depart the United States within the timeframes established by the TWOV program. Consequently, and at a cost to the United States Government, these aliens were placed into administrative proceedings to determine whether they could remain in the United States. Indeed, the number of Colombian citizens who used TWOV privileges to come to the United States and then refused to depart timely increased from 22 in October 2000, to 56 in November, 110 in December, 161 in January 2001, and 248 in February. This represents a large increase over the 29 such incidents that occurred in fiscal year 2000 (a rate of less than three instances a month). This trend represents an escalating trend and an abuse of the TWOV privilege.

#### **Good Cause Exception**

The implementation of this rule as an interim rule, with a 60-day provision for post-promulgation public comments, is based on the "good cause" exceptions found at 5 U.S.C. 553(b)(B) and 553(d)(3). The effective date of this rule on April 2, 2001 is necessary to prevent an anticipated sharp increase in the abuse of the TWOV privilege by citizens of Colombia in the near future. Further, there is a reasonable concern that publication of this rule with an effective date 30 or 60 days after publication could lead to the counter-productive result of a surge of individuals attempting to make fraudulent use of the TWOV privilege. Since prior notice and public comments with respect to this interim rule are impractical and contrary to public interest, there is good cause under 5 U.S.C. 553 to make this rule effective on April 2, 2001.

#### **Regulatory Flexibility Act**

The Acting Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule governs whether a citizen of a particular country may transit the United States under the TWOV program. These aliens are not considered small entities as that term is defined under 5 U.S.C. 601(6).

### Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments in the aggregate, or by the private sector, of \$100 million or more in any 1-year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

### Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in cost or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

### Executive Order 12866

This rule is not considered by the Department of Justice, Immigration and Naturalization Service, to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, the Office of Management and Budget has waived its review process under section 6(a)(3)(A).

### Executive Order 13132

This rule will not have substantial direct effects on the States, on the relationship between the Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

### Executive Order 12988—Civil Justice Reform

This final rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

### List of Subjects in 8 CFR Part 212

Administrative practice and procedure, Aliens, Passports and Visas.

Accordingly, part 212 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

### PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

1. The authority citation for part 212 continues to read as follows:

**Authority:** 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1187, 1225, 1226, 1227, 1228, 1252; 8 CFR part 2.

2. Section 212.1(f)(3), currently in effect, is amended by adding "Colombia," in proper alphabetical sequence effective April 2, 2001.

3. Section 212.1(f)(2), as redesignated and revised at 66 FR 1018, effective April 6, 2001, is amended by adding "Colombia," in proper alphabetical sequence effective April 6, 2001.

Dated: March 23, 2001.

**Mary Ann Wyrsh,**

*Acting Commissioner, Immigration and Naturalization Service.*

[FR Doc. 01-7914 Filed 3-29-01; 8:45 am]

**BILLING CODE 4410-10-P**

### FEDERAL RESERVE SYSTEM

#### 12 CFR Part 213

[Regulation M; Docket No. R-1042]

#### Consumer Leasing

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Interim rule; request for comments.

**SUMMARY:** The Board is adopting an interim rule amending Regulation M, which implements the Consumer Leasing Act, to establish a uniform standard for the timing of the electronic delivery of disclosures required by the act and regulation. The rule provides guidance on the timing and delivery of electronic disclosures to ensure lessees have adequate opportunity to access and retain cost information when shopping for a lease or becoming obligated for a lease. (Similar rules are being adopted under other consumer financial services and fair lending regulations administered by the Board.) Under the rule, lessors may deliver disclosures electronically if they obtain lessees' affirmative consent in accordance with the Electronic Signatures in Global and National Commerce Act. The rule is being adopted as an interim rule to allow for additional public comment.

**DATES:** The interim rule is effective March 30, 2001; however, to allow time for any necessary operational changes, the mandatory compliance date is October 1, 2001. Comments must be received by June 1, 2001.

**ADDRESSES:** Comments, which should refer to Docket No. R-1042, may be mailed to Ms. Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551 or mailed electronically to [regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov). 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. weekdays, and to the security control room at all other times. The mail room and the security control room, both in the Board's Eccles Building, are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW. Comments may be inspected in room MP-500 in the Board's Martin Building between 9 a.m. and 5 p.m., pursuant to the Board's Rules Regarding the Availability of Information, 12 CFR part 261.

**FOR FURTHER INFORMATION CONTACT:** Jane E. Ahrens, Senior Counsel, or David A. Stein, Attorney, Division of Consumer and Community Affairs, at (202) 452-2412 or (202) 452-3667.

#### 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 CLA requires lessors to provide lessees 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 Board's Regulation M (12 CFR part 213) implements the act.

The CLA and Regulation M require disclosures to be provided in writing, presuming that lessors provide paper documents. Under the Electronic Signatures in Global and National Commerce Act (E-Sign Act) (15 U.S.C. 7001 *et seq.*), however, electronic documents and signatures have the same validity as paper documents and handwritten signatures.

##### *Board Proposals Regarding Electronic Disclosures*

Over the past few years, the Board has published several interim rules and proposals regarding the electronic delivery of disclosures. In 1996, after a comprehensive review of Regulation E (Electronic Fund Transfers), the Board proposed to amend the regulation to permit financial institutions to provide