

## Supporting Statement For SF 83

### A. Justification

1. Subsection (a)(2) of the Freedom of Information Act, as amended ("FOIA"), 5 U.S.C. 552, requires the Appraisal Subcommittee of the Federal Financial Institutions Examination Council ("ASC") to adopt regulations making certain agency information publicly available. The ASC adopted subpart D of 12 CFR part 1102 for this purpose. The subpart contains material describing the scope and purpose of the ASC's regulations, the ASC's authority and functions, and its organization and methods of operation. Its substantive provisions incorporate by reference 12 CFR §§ 1101.4 and 1101.5, which are previously published and approved regulations of the Federal Financial Institutions Examination Council ("FFIEC"), of which the ASC is a part. These regulations have been incorporated with several non-substantive changes to certain references, e.g., "Executive Secretary" was changed to "Executive Director," to account for the ASC's separate status as an appropriated agency of the U.S. Government and its independent statutory functions and administration. Subpart D provides persons with a uniform, efficient process for requesting and obtaining copies of ASC records and portions thereof that are not exempt from disclosure under 5 U.S.C. § 552a and for appealing adverse ASC disclosure decisions.

The subpart also enables interested persons: (1) to obtain copies of ASC final opinions and orders in adjudications, statements of general policy not published in the *Federal Register*, interpretive, no-action requests and responses and certain other correspondence related to ASC field reviews; (2) to request confidential treatment of information subject to a FOIA request; and (3) to petition for the issuance, amendment or repeal of an ASC rule. The confidential treatment provision implements Executive Order No. 12600, 52 FR 23781 (June 23, 1987), which generally requires each agency subject to FOIA to establish procedures to notify submitters of records containing confidential commercial information when those records are requested under FOIA and the agency determines that the information may be required to disclose that information.

The subpart also implements Congress' 1996 adoption of the Electronic Freedom of Information Act Amendments of 1996.

Finally, the rule petition provision implements paragraph (e) of 5 U.S.C. 553, which requires each agency to give an interested person the right to petition for the issuance, amendment or repeal of a rule.

2. The information is used by the ASC and its staff in determining whether to grant a person's FOIA request, request for confidential treatment, or petition respecting ASC rulemaking. As discussed above, the ASC is required to adopt a rule of this kind to implement FOIA. Under this subpart, all members of the public will know how to exercise their rights under FOIA.

3. One half of requests will be received via Internet email.

4. Not applicable.

5. None.

6. The information collection directly affects members of the public generally and provides each member of the public with the rights contemplated by FOIA. Subpart D spells out a comprehensive, yet streamlined, procedure for the protection of FOIA disclosure rights.

7. None.

8. A 60 Day Notice of Intent to Request Clearance for Extension of Collection of Information; Opportunity for Public Comment was published on October 29, 2007, at 72 F.R. 61164.

9. None.

10. All information submitted to the ASC is public unless it can be withheld under provisions of Federal law, such as FOIA and the Privacy Act of 1974, 5 U.S.C. 552a.

11. Not applicable.

12. There is a total estimated possible universe of millions of individual requesters throughout the United States who theoretically will be able to exercise their rights under FOIA. Based on historical experience, however, we expect that we will receive 11 FOIA requests per year. We anticipate that each of those requesters will expend 30 minutes per request. The annual burden of information collection should total 5.5 hours.

13. Not applicable.

14. None.

15. Because this is a reinstatement of an existing rule, the previous hour burden amounts expired. The new hour burden therefore has to be characterized as an increase.

16. Not applicable.

17. Not applicable.

18. Not applicable.

B. Collections of Information Employing Statistical Methods  
Not applicable.