

SUPPORTING STATEMENT
INTERAGENCY APPRAISAL COMPLAINT FORM
(OMB No. 3064-NEW)

INTRODUCTION

The Appraisal Complaint Form is an interagency form jointly developed by the FDIC, the Office of the Comptroller of the Currency (OCC), the National Credit Union Association (NCUA), and the Federal Reserve Board (FRB). The form was developed for those who wish to file a formal, written complaint that an entity subject to the jurisdiction of one or more agencies has failed to comply with the appraisal independence standards or the Uniform Standards of Professional Appraisal Practice (USPAP).

A. JUSTIFICATION

1. Circumstances and Need

Under section 1473(p) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act),¹ if the Appraisal Subcommittee (“ASC”), a subcommittee of the Federal Financial Institutions Examination Council (FFIEC), determines, six months after enactment of that section (*i.e.*, January 21, 2011) that no national hotline exists to receive complaints of non-compliance with appraisal independence standards and Uniform Standards of Professional Appraisal Practice (USPAP), including complaints from appraisers, individuals, or other entities concerning the improper influencing or attempted improper influencing of appraisers or the appraisal process, then the ASC shall establish and operate such a hotline (“ASC Hotline”), which shall include a toll-free telephone number and an email address. Section 1473(p) further directs the ASC to refer complaints received through the ASC Hotline to the appropriate government bodies for further action, which may include referral to the Agencies. The ASC determined that a national appraisal hotline does not exist at a meeting held on January 12, 2011, and a notice of this determination was published in the *Federal Register* on January 28, 2011 (76 FR 5161). Currently, the ASC is in the process of establishing the ASC hotline, which will refer complaints to appropriate state and federal regulators. The agencies developed the Interagency Appraisal Complaint Form as a means to efficiently collect information in circumstances where the ASC determines the FDIC, OCC, FRB, or NCUA is the appropriate regulator.

2. Use of Information Collected

The Interagency Appraisal Complaint Form is designed to collect information necessary for one or more agencies to take further action on a complaint from an

¹ Dodd-Frank Wall Street Reform and Consumer Protection Act § 1473, Pub. L. 111-203, 124 Stat. 1376, July 21, 2010; 12 U.S.C. § 3351(i)...

appraiser, other individual, financial institution, or other entities. The FDIC will use the information to take further action on the complaint to the extent it relates to an issue within its jurisdiction.

3. Use of Technology to Reduce Burden

The Appraisal Complaint Form will be available for members of the general public to submit their complaints or inquiries via an interactive form on the Internet.

4. Efforts to Identify Duplication

There is no duplication of reporting. As previously noted, the ASC Hotline and Appraisal Complaint Form have been developed in response to an ASC determination that no national hotline exists to receive complaints of noncompliance with appraisal independence standards or the USPAP.

5. Minimize the Burden on Small Entities

The submission of this information would have no burden on small banks.

6. Consequences of Less Frequent Collections

This capability is an optional method of submitting complaints and inquiries to the FDIC by appraisers, individuals, and other entities.

7. Special Circumstances

There are no special circumstances associated with this information collection.

8. Summary of Public Comments; Consultation

A *Federal Register* notice seeking public comment for a 60-day period was published on October 22, 2012 (77 FR 64595). One comment, signed by two professional appraiser organizations, was received. The views expressed in the comment letter and the Agencies' response is as indicated below:

- **Comment:** The comment focused on the overall design and purpose of the complaint hotline system, specifically, how the system is established in terms of its public policy objectives and limits, as well as the design of the form. The commenter stated that "If the appraisal complaint hotline system operates in a regulatory framework which contemplates and fosters a limitless array of complaints against appraisers by users of their services and by third parties whose financial transactions are dependent on the appraisal, a non-complex

complaint form will not save the system from exceeding its intended public policy purpose and from breaking down.” The commenter felt that, despite being well-designed, the open-ended nature of the system will impose needless burdens and costs on appraisers, on users of appraisal services and on federal and state agencies.

- *Agencies’ Response:* It is anticipated that many of the complainants may not be thoroughly familiar with USPAP (Uniform Standards of Professional Appraisal Practice) and an intake form that is designed to allow a complainant flexibility in voicing his/her complaint is deemed important to successfully receiving complaints. It is also true that some of the complaints received will most likely not relate to either appraiser independence or the full scope of USPAP and the federal agencies will need to separate the legitimate complaints from those that address other appraisal-related issues. The Agencies’ acknowledge that a certain amount of burden and cost is associated with the complaint hotline system. A uniform complaint form and processing system will facilitate the monitoring and tracking of complaints received and are necessary to meet the requirements of section 1473 of Dodd-Frank.
- **Comment:** The appraisal complaint hotline is intended to:
 - Prevent acts and practices that impede appraiser independence in federally-related transactions;
 - Establish a mechanism under which acts and practices whose purpose or effect is to impede appraiser independence in federally-related transactions can be efficiently reported;
 - Be reviewed by appropriate governmental authorities for a determination whether the claim of interference was factually valid and, if so, whether the alleged interference violated federal or state prohibitions against attempts to improperly influence an appraiser’s independent judgment or the provisions of USPAP requiring appraisers to be independent of all parties to a transaction.

The hotline was not intended:

- To be used as a catch-all reporting system involving allegations of appraiser incompetency or failure to adhere to USPAP. While complaints against appraisers for alleged incompetency or for failure to adhere to USPAP are appropriate subjects for review by federal and state regulators of appraisal services, the hotline system was designed to focus exclusively on issues relating to actions that impede appraiser independence; or

- To be used to lodge complaints against appraisers or users of appraisal services that are unrelated to appraiser independence laws or regulations.
- *Agencies' Response:* Section 1473 of Dodd-Frank, in referring to the ASC Hotline, states that the hotline is to receive complaints about non-compliance with appraisal independence standards and also the USPAP. The hotline is to receive complaints from appraisers, individuals, or other entities. USPAP is intended to be a set of standards for the preparation and documentation of appraisal assignments and includes many aspects of appraisal practice that are not confined to independence on the part of the appraiser. Because USPAP compliance issues are specified in Dodd-Frank, the Agencies disagree that the intent of Congress was to be so narrow as to only deal with appraiser independence issues. If the intent was to have been as narrow as this comment letter suggests, Congress would not have included taking complaints about compliance with USPAP as an objective of the hotline.
- **Comment:** While our organizations strongly support the hotline system for the purpose intended by Congress, we do not support a complaint reporting system that permits individuals or institutions to trigger an investigative process that is unrelated to appraiser independence matters: If the hotline complaint system and its purpose are not properly circumscribed, it will open a "Pandora's Box" of complaints unrelated to appraiser independence issues, create intolerable paperwork and related burdens on appraisers, on federal and state appraiser regulatory agencies which oversee appraisal practices; and, conceivably, burden financial institutions and others who order appraisal services in large volume. Dodd-Frank section 1473 makes clear that the appraiser complaint hotline should concern itself exclusively with acts and practices whose purpose or effect is to impede the independent judgment of the appraiser. Dodd-Frank states that if "...Six months after the date of enactment of this subsection, the Appraisal Subcommittee (ASC) determines that no national hotline exists to receive complaints of noncompliance with appraisal independence standards and Uniform Standards of Professional Appraisal Practice, including complaints from appraisers, individuals or other entities concerning the improper influencing or attempted improper influencing of appraisers or the appraisal process, the ASC shall establish and operate such a national hotline...". There is no room for doubt. Congress unambiguously intended the hotline to concern itself solely with appraiser independence issues and the system and form designed by the agencies should clearly reflect that fact.
- *Agencies Response:* This comment again expresses the concern that the hotline was intended for the narrow purpose of dealing with complaints about appraiser independence, and solely appraisal independence. We

respectfully disagree with this narrow reading of the Dodd-Frank Act. If such a narrow focus had been intended, there would not have been a need to include non-compliance with USPAP as an objective. In addition, the relevant Dodd-Frank clause is: “including complaints from appraisers, individuals, or other entities concerning the improper influencing or attempted improper influencing of appraisers or the appraisal process”. Although this phrase expressly includes complaints about improper influencing it does not exclude all other appraisal-related complaints.

- **Comment:** Statistical summaries of information about the nature and disposition of complaints alleging interference with appraiser independence should be maintained and published, no less than annually, by the ASC which manages the hotline system; but, the identities of the appraiser, the complainant and the party alleged to have violated the appraiser independence requirements should not be disclosed unless the complaint gives rise to a formal enforcement action and disclosure would not violate any federal or state law or policy: Without a publicly available statistical summary of hotline operations and activities, the professional appraisal community, stakeholders in the appraisal process and other interested parties will have no way of assessing whether the hotline is being effective in preventing improper interference in the appraisal process. Dodd-Frank requires the ASC to transmit an annual report to Congress describing “the manner in which each function assigned [to it] has been carried out...” We believe the ASC is required (or certainly authorized) to include in its annual report, information suggested above about attempts to impede appraiser independence.
- **Agencies' Response:** The commenter asks that statistics be prepared and shared to allow interested parties to assess the hotline. Ironically, the purpose of using a uniform intake form to accept appraisal-related complaints is to allow monitoring and tracking of complaints. The DFA allows the ASC to follow up on complaints, but does not require it to do so. At some point we anticipate some disclosure of some of the results of the complaint process, more likely including complaints that arise from the hotline process and also complaints received through different processes. As a practical matter, we will not be able to separate complaints coming from a referral from the hotline or from other sources, so the request for a statistical summary of hotline operations and activities, is not feasible.
- **Comment:** The agencies' Paperwork Reduction Act (PRA) estimates omit the impact of Appraisal Complaints on State Appraiser Regulatory Agencies if the form's purpose is not carefully circumscribed: The PRA establishes the responsibilities that federal agencies must fulfill when seeking to collect information from the public. As a general matter, it

requires that forms used to collect information from the public be designed to avoid complexity and facilitate easy comprehension. In recent years, federal agencies have made important efforts to simplify and streamline forms and, where appropriate, to eliminate them. Where reliance on forms is the most cost-effective way to achieve a federally mandated purpose it is incumbent on the federal agencies to construct the form in a way that is readily understandable to the public. The PRA also requires that federal activities be designed not to be burdensome. We recognize that the PRA does not require federal agencies to include in their estimates of the number of Appraisal Complaint Forms likely to be generated, the potential impact of these complaints on state agencies which have state jurisdiction over their subject matter. Although there is no such formal requirement, we believe it would be useful for the federal agencies to consider the impact on state agencies if the form is not carefully designed to eliminate issues that are unrelated to appraiser independence. Failure to do so, in our judgment, would swell the number of complaints and impose substantial burdens both on federal and state agencies.

- *Agencies' Response:* The complaint form was designed to impose minimum burden to the public while retaining its' practical utility. The Agencies believe that it is important to use a form that is readily understandable to the public but general and flexible enough to allow a complainant to express the nature of a complaint without restricting what types of complaints are allowable. The ASC is responsible for transmitting complaints to the state agencies in circumstances where they are the appropriate regulator, so there could be an impact on state agency workloads when complaints, having been received via the ASC Hotline, are then referred to those agencies.

The Agencies agree that it would be useful to consider the impact on state agencies; however, this would be outside the scope of the PRA. The Agencies developed the Interagency Appraisal Complaint Form for their own use and the burden estimates are limited to complaints each Agency reasonably anticipates to receive from an ASC referral. Such estimates are not intended to encompass the total complaints received by the ASC through the ASC Hotline, the total number of complaints referred by the ASC to the appropriate regulator(s), or the total complaints expected to be received independent of ASC Hotline referrals.

9. Payment or Gift to Respondents

There are no payments or gifts to respondents.

10. Confidentiality

No confidentiality issues are anticipated. The Appraisal Complaint Form will display the standard Privacy Act Statement.

11. Information of a Sensitive Nature

No questions of a sensitive nature are included in the form.

12. Estimates of Annualized Burden

Number of respondents: 200

Time per response: 30 minutes

Total annual burden: 100 hours.

13. Capital, Start-Up, Operating and Maintenance Costs

Total annual cost burden:

(a) Total annualized capital and start-up costs associated with the Interagency Appraisal Complaint Form are estimated to be \$0 (zero dollars). In general, reporting on the Interagency Appraisal Complaint Form requires neither specialized capital equipment, nor fixed or variable costs that are not already associated with the customary and usual business practices of respondents.

(b) Total annualized operations, maintenance, and purchases of services costs are estimated to be \$0 (zero dollars). Reporting on the Interagency Appraisal Complaint Form does not in general impose operations, maintenance, or specialized services costs that are not already associated with the customary and usual practices of respondents.

The above cost estimates are not expected to vary widely among respondents.

14. Annual Cost to the Federal Government

200 responses x ½ hr per response = 100 hours x \$30/hr = \$3,000

(Note: this is not an increased cost to the government; it is included in salary expenses for staff that are already on board.)

15. Reason for Program Changes or Adjustments

This is a new information collection.

16. Publication

The information collected is for internal use and is not published.

17. Display of Expiration Date

The expiration date will be displayed.

18. Exceptions to Certification

None.

B. STATISTICAL METHODS

Not applicable.