

## Interagency Appraisal Complaint Form

### Supporting Statement A

1557-NEW

#### A. Justification

1. Circumstances Making the Collection of Information Necessary

This collection of information is solicited pursuant to section 1473(p) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act),<sup>1</sup> which provides that if, six months after the date of the enactment (January 21, 2011) of this subsection, the Appraisal Subcommittee (“ASC”) determines that no national hotline exists to receive complaints of non-compliance 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 Appraisal Subcommittee shall establish and operate such a national hotline, which shall include a toll-free telephone number and an email address. 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.

Section 1473(p) further directs the Appraisal Subcommittee (ASC) to refer complaints received through the ASC Hotline to the appropriate government bodies for further action, which may include referral to the Office of the Comptroller of the Currency, Treasury (OCC); Federal Deposit Insurance Corporation (FDIC); and National Credit Union Administration (NCUA) (collectively, “the Agencies”).

2. Purpose and Use of the Information Collection

The Interagency Appraisal Complaint Form was developed for those who wish to file a formal, written complaint that an entity subject to the jurisdiction of one or more of the Agencies or the Federal Reserve Board has failed to comply with the appraisal independence standards or the Uniform Standards of Professional Appraisal Practice.

The form is designed to collect information necessary for one or more of the Agencies or the Federal Reserve Board to take further action on a complaint from an appraiser, other individual, financial institution, or other entities. Each appropriate Agency or the Federal Reserve Board will use the information to take further action on the complaint to the extent it relates to an issue within its jurisdiction. The Federal Reserve Board will be seeking approval for the Interagency Complaint Form through a separate notice.

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<sup>1</sup> 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).

3. Use of Improved Information Technology and Burden Reduction

Respondents may use any method of improved technology that meets the requirements of the regulation.

4. Efforts to Identify Duplication and Use of Similar Information

The required information is unique and is not duplicative of any other information already collected.

5. Methods used to Minimize Burden if the Collection has a Significant Impact on Small Businesses or Other Small Entities

The information collection does not have a significant impact on a substantial number of small businesses or other small entities.

6. Consequences of Collecting the Information Less Frequently

The collection of information is required by Federal Statute. The consequences of collecting the information less frequently would prevent the Agencies from implementing Section 1473(p) of the Dodd-Frank Wall Street Reform and Consumer Protection Act.<sup>2</sup>

7. Special Circumstances Relating to the Guidelines of 5 CFR 1320.5

The information collection would be conducted in a manner consistent with 5 CFR Part 1320.5.

8. Comments in Response to the Federal Register Notice and Efforts to Consult Outside the Agency

In the Federal Register of October 22, 2012 (77 FR 64595), the Agencies published a 60-day notice requesting public comment on the templates and the collection of information. The Agencies received one comment letter signed by two professional appraiser organizations. Each point raised by the commenter is set forth below followed by the OCC response.

- 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

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<sup>2</sup> Public Law 111-203, 124 Stat. 1376, July 2010

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.

- OCC 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 OCC acknowledges 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.

a.

- Comment:

- o 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.

- o 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.
- To be used to lodge complaints against appraisers or users of appraisal services that are unrelated to appraiser independence laws or

regulations.

- **OCC 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 OCC disagrees 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.

b.

- **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.

- **OCC 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. The language states “cocn-

compliance with appraisal independence standards and the Uniform Standards of Professional Appraisal Practice”. 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.

c.

- 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.

- OCC Response:

The commenter asks that statistics be prepared and shared to allow interested parties to assess the hotline. The purpose of using a uniform intake form to accept appraisal-related complaints are to facilitate 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 aggregate results of the complaint process, more likely including complaints that arise from the hotline process and 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.

d.

- 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.

- OCC Response:

The complaint form was designed to impose minimum burden to the public while retaining its' practical utility. The OCC believes 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 complainants 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 OCC agrees that it would be useful for the federal agencies 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. . Explanation of Any Payment or Gift to Respondents

The Agencies have not provided and have no intention to provide any payment or gift to respondents under this information collection.

10. Assurance of Confidentiality Provided to Respondents

The information collection request will be kept private to the extent permissible by law.

11. Justification for Sensitive Questions

There are no questions of a sensitive nature.

12. Estimates of Annualized Burden Hours and Costs

The Agencies estimate that the burden of this collection of information as follows:

<b>Interagency Appraisal Complaint Form</b>	<b>No. of Respondents</b>	<b>No. of Responses per Respondent</b>	<b>Annual No. of Responses</b>	<b>Burden per Response</b>	<b>Total Hours</b>
OCC	1500	1	1500	0.5	750
NCUA	300	1	300	0.5	150
FDIC	200	1	200	0.5	100
<b>Total</b>	<b>2000</b>				<b>1000</b>

13. Estimates of Annual Cost Burden to Respondents and Record Keepers

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. Annualized Cost to the Federal Government

No annualized cost to the Federal government.

15. Explanation for Program Changes or Adjustments

This is a new information collection request.

16. Plans for Tabulation and Publication and Project Time Schedule

There are no publications.

17. Reason(s) Display of OMB Expiration Date is Inappropriate

N applicable.

18. Exceptions to Certification for Paperwork Reduction Act Submissions

There are no exceptions to the certification.

**B. Collection of Information Employing Statistical Methods**

The collection of this information does not employ statistical methods. Statistical methods are not appropriate for the type of information collected and would not reduce burden or improve accuracy of results.