

To FDIC

Re: Interagency Appraisal Complaint Form

Dear Sirs,

Thank you for the opportunity to comment. This letter is in response to a notice filed in the Federal Register by the Comptroller of the Currency and the Federal Deposit Insurance Corporation on 02/25/2016 regarding Agency Information Collection Activities: Information Collection Renewal; Submission for OMB Review; Interagency Appraisal Complaint Form.

**(a) Whether the collection of information is necessary for the proper performance of the functions of the Agencies, including whether the information has practical utility;**

The Interagency Evaluation and Appraisal Guide Lines (2010) state; “*the Guidelines promote consistency in the **application and enforcement of the Agencies’ appraisal regulations** and safe and sound banking practices. The Agencies recognize that revisions to the Guidelines may be necessary to address future regulations implementing the provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010*” (Summary Section). The IAEG (2010) provides the backdrop that the interagencies will enforce appraisal regulations and safe and sound banking practices.

Within the IAEG (2010) Section **VI. Selection of Appraisers or Persons Who Perform Evaluations** in part states; *For certain transactions, an institution also must comply with the provisions addressing valuation independence in Regulation Z (Truth in Lending).*<sup>1321</sup> Foot note 32 states; *See 12 CFR 226.42.*

12 CFR 226.42 states; “(a) *Scope. This section applies to any consumer credit transaction secured by the consumer’s principal dwelling*” (ibid).

12 CFR 226.42 sections (c) through (g) contain the Appraiser Independence Requirements from Dodd Frank, as interpreted by the Federal Reserve Board’s Interim Final Rule and specifically contains section (f), commonly called the customary and reasonable Appraisal Fee section.

The Appraisal Independence has been in effect since April 1, 2011 (Interim Final Rule). The Interagency Appraisal Complaint Form was published in the Federal Register January 29, 2013. The Appraisal Subcommittee Complaint Hotline became available about March 29, 2013. The AMC final Rule published in the Federal Register 6/29/2015 states: “*The final rule also implements the minimum requirements in the Dodd-Frank Act for AMCs that are subsidiaries owned and controlled by an insured depository institution and regulated by a Federal financial institutions regulatory agency (Federally regulated AMCs). Under the final rule, these Federally regulated AMCs do not need to register with a State, but are subject to the same minimum requirements as State-regulated AMCs*” (ibid).

As of today, March 8, 2016, the Appraisal Subcommittee Complaint Hotline does not appear to be effective. When trying to file a complaint there against an AMC in a covered transaction,

their website states “*Regulation of appraisal management companies (AMCs) varies from State to State. Therefore, the State agency included in this referral may not be able to assist with your AMC complaint at this time*” (ASC.gov). There is then a reference to file a complaint with the CFPB. The CFPB complaint website does not provide an option to file for Appraiser Independence, but rather, is geared toward borrower complaints. Also, AMCs that are not owned and controlled by an insured depository institution and regulated by a Federal financial institutions regulatory agency, but still are agents of insured depository institution and regulated by a Federal financial institutions regulatory agency are currently without regulation in States that have not yet instituted AMC regulations, but still fall within the purview of the IAEG (2010) and as such, should be the responsibility of the lenders, whom you regulate.

Without the Interagency Appraisal Complaint Form on the FDIC’s website, there does not appear to be anyway most appraisers can file a Independence complaint against AMCs that are subsidiaries owned and controlled by an insured depository institution and regulated by a Federal financial institutions regulatory agency, or against a lender who, in accordance with 12 CFR 226.42 (f); *Requirement to provide customary and reasonable compensation to fee appraisers. In any covered transaction, the creditor and its agents shall compensate a fee appraiser for performing appraisal services at a rate that is customary and reasonable for comparable appraisal services performed in the geographic market of the property being appraised. Or 226.42 (f)(2)(F)(ii) “The creditor and its agents do not engage in any anticompetitive acts in violation of state or federal law that affect the compensation paid to fee appraisers...”* (ibid).

These are important provisions of the Appraiser Independence provision of the Federal law, to which the IAEG (2010) references as being within the enforcement purview of the Agencies’, hence it would appear to be imperative that the Interagency Appraisal Complaint Form remain functional and accessible to appraisers as no other means of communicating a complaint concerning a federally regulated lender or their agent is available to appraisers and others who have knowledge of violations of Appraiser Independence by entities regulated by the Agencies’ and the IAEG (2010) states that the Agencies enforce their Appraisal Regulations of the entities they regulate, which would include the 12 CFR 226.42, via footnoted reference.

**(b) The accuracy of the Agencies' estimates of the burden of the collection of information;**

The half an hour reported for information collection appears to be overstated. This is a one page form with fill in the blanks.

**(c) Ways to enhance the quality, utility, and clarity of the information to be collected;**

There should be a selection box for Appraisal type (ie) VA, FHA, RH, Liquidation, Conventional, Other.

Having these check boxes might help to narrow which portions of a regulated organization are receiving the most complaints regarding Appraisal Independence.

**(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and**

The Interagency Appraisal Complaint Form could be linked in an Appraiser's software package so that they are not surfing the internet looking for it. Or the FDIC's complaint website could be linked through Appraisal Software so that appraisers can easily find and access the complaint process, which has not been publicized to the appraisal population.

**(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.**

No Comment.

Thank you for your time in reading this letter.

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Real Estate Appraiser