



December 18, 2012

Office of Comptroller of the Currency
Federal Deposit Insurance Corporation
National Credit Union Administration
Office of Management and Budget

Re: Notice and Request for Comment
Interagency Appraisal Complaint Hotline and Complaint Form
Paperwork Reduction Act Issues

Dear Sir or Madam:

The American Society of Appraisers (ASA) and the National Association of Independent Fee Appraisers (NAIFA) appreciate the opportunity to jointly comment on the Paperwork Reduction Act implications of the establishment of the Appraisal Complaint Hotline system mandated by section 1473 of Dodd-Frank.

Although we understand that the public will have an opportunity to comment on the appraisal complaint form itself when it is proposed (described as “the Interagency Appraisal Complaint Form”), we believe the agencies’ October 22nd *Federal Register* request for comment provides our organizations (and other stakeholders) with an important opportunity to comment on the overall design and purpose of the complaint hotline system. In some respects, how the system is established in terms of its public policy objectives – and we think necessary limits – is as important as the design of the form itself – and very likely, more important. 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. Our organizations respectfully caution the agencies against establishing an appraisal complaint hotline system in which the appraisal complaint form is well designed, but the open-ended system of complaints it fosters will impose needless burdens and costs on appraisers, on users of appraisal services and on federal and state agencies which are required to act on complaints filed.

Summary of Our Views

- **Congress intended the appraisal complaint hotline to prevent acts and practices which impede appraiser independence in federally related transactions; and, the hotline form should reflect this very important, but intentionally narrow, purpose:** The intent of Congress in enacting Section 1473 of Dodd-Frank, was to 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 to and 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. Accordingly, the form and the form instructions should make clear that it is not to be used to lodge complaints against appraisers or users of appraisal services that are unrelated to appraiser independence laws or regulations (e.g., based on someone's belief that the value reported by the appraiser was insufficient for a lending, tax or other transaction purpose);

- **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. For example, subsection “(g)” of section 1473 (“Appraiser Independence Monitoring”) states that “The Appraisal Subcommittee shall monitor each State appraiser certifying and licensing agency for the purpose of determining whether such agency’s policies, practices and procedures are consistent with the purpose of maintaining appraiser independence and whether such State has adopted and maintains effective laws, regulations, and policies aimed at maintain appraiser independence.” Subparagraph “(p)” of section 1473 (“Appraisal Complaint Hotline”), which amends Section 1122 of FIRREA, states that if “, 6 months after the date of enactment of this subsection, the Appraisal Subcommittee 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 Appraisal Subcommittee shall establish and operate such a national hotline...”. (Emphasis added). 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.
- **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 Appraisal Subcommittee 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 section 1473 requires the Appraisal Subcommittee to transmit an annual report to Congress describing “the manner in which each function assigned [to it] has been carried out...” We believe the Subcommittee is required (or certainly authorized) to include in its annual report, information suggested above about attempts to impede appraiser independence.

- **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 of 1995 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 (i.e., the establishment of an appraisal complaint hotline) 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.

ASA and NAIFA hope that these comments will be helpful to the Agencies in designing the Interagency Appraisal Complaint Form in a way that is tailored to the specific purposes of Section 1473 of Dodd Frank. If you have any questions or wish to discuss our views in more detail, please contact our government relations representative in D.C., Peter Barash, at 202-466-2221 or peter@barashassociates.com; or John D. Russell, ASA’s director of government relations, at 703-733-2103 or jrussell@appraisers.org.

Sincerely,
The American Society of Appraisers and the
National Association of Independent Fee Appraisers