

Briefing Summary Notes Cover Page

May 14, 2021

**APPRAISAL SUBCOMMITTEE
SUMMARY BRIEFING NOTES
MARCH 3, 2021**

LOCATION: Via Zoom

ATTENDEES

ASC MEMBERS: CFPB – John Schroeder
FDIC – John Jilovec
FHFA – Robert Witt
FRB – Keith Coughlin
HUD – Bobbi Borland
NCUA – Tim Segerson
OCC – Jim Rives

ASC STAFF: Executive Director – Jim Park
Deputy Executive Director – Denise Graves
General Counsel – Alice Ritter
Grants Director – Mark Abbott
Attorney-Advisor – Ada Bohorfoush
Financial Manager – Girard Hull
Management and Program Analyst – Lori Schuster
Administrative Officer – Brian Kelly
Regulatory Affairs Specialist – Maria Brown
Policy Manager – Claire Brooks
Policy Manager – Neil Fenochietti
Policy Manager – Kristi Klamet
Policy Manager – Vicki Metcalf
Policy Manager – Jenny Tidwell

OBSERVERS: CFPB – Deana Krumhansl
CFPB – Orlando Orellano
FDIC – Richard Foley
FDIC – Patrick Mancoske
FDIC – Mark Mellon
FHFA – Sara Todd
FRB – Trevor Feigleson
FRB – Carmen Holly
FRB – Devyn Jeffreis
FRB – Matt Suntag
NCUA – Rachel Ackmann
NCUA – Gira Bose
OCC – Will Binkley

The Briefing was called to order at 10:00 a.m. by Chair T. Segerson. The following items were discussed: (1) Appraisal Foundation (TAF) Update; (2) Strategic Communications; (3) Temporary Waiver Rulemaking; and (4) Miscellaneous Items.

TAF Update

- U.S. Department of Justice (DOJ) Opinion/Analysis

J. Park reported that the DOJ notified ASC staff, in a conference call yesterday, that the Opinion/Analysis is being finalized and the ASC should receive it within the next week. A. Ritter briefly discussed the bullet points provided by the DOJ. She requested the DOJ to include the results of their comparison of the ASC Monitoring and Review model to those of other federal agencies. T. Segerson reiterated that this discussion should be considered confidential as the Opinion/Analysis has not been finalized. J. Schroeder was pleased with the definitive answers in DOJ's email and asked what the next steps would be once the ASC receives the Opinion/Analysis. A. Ritter responded that a meeting between the leaderships of the ASC and TAF will be scheduled.

- Recent Activities

T. Segerson updated the ASC on the meeting held between himself, J. Schroeder, ASC staff and TAF leadership on January 28th. He felt there was a positive tone to the meeting. Both sides committed to meeting more frequently. J. Jilovec said the meeting was a step in the right direction to a productive relationship.

- Audit

M. Abbott reported that the audit of the FY17-19 TAF grants is underway. ASC staff held an entrance conference with the auditors on February 26th. The auditors have been in contact with TAF to schedule an entrance conference. J. Jilovec asked when the audit would be completed. M. Abbott responded that he is hoping it will be completed by September 30th.

Strategic Communications Update

J. Park reported that ASC staff is close to selecting a vendor. Once a vendor is selected, the ASC and the vendor can work on scheduling a Roundtable or possibly a hearing similar to the format that FHFA recently used.

Temporary Waiver Rulemaking

A. Ritter discussed the goals for the revisions to the Temporary Waiver Rule (Rule). The current Rule does not include definitions which makes it difficult to determine if there is appraiser scarcity or delays due to scarcity. ASC staff will work on these definitions. The timeline must allow ample time for the ASC to evaluate a Request and/or documentation, public comments and make an informed decision. The FFIEC will also need time to review the ASC's decision and approve, if necessary. The revised Rule should allow the ASC to coordinate with the State appraiser regulatory agency in the affected State since a Temporary Waiver approval order

would pre-empt State law. If a State agrees that a Temporary Waiver is necessary, the ASC can work with the State to determine how appraisals prepared by uncredentialed appraisers should be reviewed for compliance. The revised Rule should clarify what entities can submit a Temporary Waiver Request. The revised Rule could also encourage use of grant funding. M. Abbott added that if a State already has a grant with the ASC, funds could be added to the grant for a specific item. The awardee of the Training and Technical Assistance cooperative agreement could assist the State with compiling documentation for the Request. A. Ritter said that she hopes to send a draft Proposed Rule to the ASC in the near future. The preamble will describe the current Rule and its shortcomings and the ASC's proposed approach. J. Schroeder asked for clarification of pre-emption of State law. A. Ritter responded that a temporary waiver would pre-empt State law and allow uncredentialed appraisers to prepare appraisals for federally related transactions. ASC staff feels that a State is best qualified to determine if there is a delay or scarcity in a geographic area of their State. The State could use grant funds to compile the required information to make an informed decision and that decision could be published in the Federal Register. B. Borland agreed that the ASC should work closely with the affected State and would like this wording included in the revised Rule. T. Segerson felt that 45 days was too short of a turnaround time for the ASC and FFIEC to make an informed decision. A. Ritter said she is considering an increase to 60 days, but this could be increased. T. Segerson suggested the FFIEC Legal Advisory Group be included in the review process. J. Park said that ASC staff and the Association of Appraiser Regulatory Officials (AARO) met with the FFIEC's State Liaison Committee and Conference of State Bank Supervisors recently to discuss an early warning mechanism for appraiser shortages and delays. If lenders are seeing shortages, that could be brought to the attention of the appraisal community and handled locally or at the State level negating the need for a temporary waiver. He felt that regular meetings between States, lenders and regulatory agencies would be helpful.

Miscellaneous Items discussed but not included on Briefing Agenda

- House Financial Services Committee proposed bill

J. Park reported that he received a communication from the House Financial Services Committee regarding the Real Estate Valuation Fairness and Improvement Act of 2021. A hearing will be held on March 10th on racial and economic justice where the Committee expects to notice this bill in at least discussion draft form. He will forward the information to the ASC after this Briefing.

- Grants Update

M. Abbott said the Training and Technical Assistance Cooperative Agreement is to be approved by the ASC at its March 10th Meeting. ASC staff will recommend that the Council on Licensure, Enforcement and Regulation, Inc. (CLEAR) be awarded the three-year grant and will work to partner with the AARO on training for States. He added that CLEAR could also create diversity training courses.

M. Abbott reported that Arkansas, Hawaii, North Carolina, and Vermont submitted grant proposals for the upcoming grant cycle.

- Diversity in the Appraisal and Mortgage Profession

J. Schroeder said that the CFPB Acting Director has addressed racial equity as an area of concern and will hold a meeting within the CFPB. He asked if the ASC or other member agencies would be interesting in aiding in promoting equity in the mortgage and appraiser professions. Members agreed that the ASC could advance discussions and work to address bias in appraisals.

The Briefing adjourned at 10:50 a.m.

**APPRAISAL SUBCOMMITTEE
SUMMARY BRIEFING NOTES
MARCH 30, 2021**

LOCATION: Via Zoom

ATTENDEES

ASC MEMBERS: CFPB – John Schroeder
FDIC – John Jilovec
FHFA – Robert Witt
HUD – Brian Barnes
NCUA – Tim Segerson
OCC – Enice Thomas

ASC STAFF: Executive Director – Jim Park
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Administrative Officer – Brian Kelly
Policy Manager – Neil Fenchietti
Policy Manager – Kristi Klamet
Policy Manager – Vicki Metcalf

OBSERVERS: CFPB – Deana Krumhansl
CFPB – Orlando Orellano
FDIC – Richard Foley
FDIC – Jamie Goodson
FDIC – Stuart Hoff
FDIC – Patrick Mancoske
FDIC – David Imhoff
FHFA – Sara Todd
FRB – Carmen Holly
FRB – Devyn Jeffreis
FRB – Matt McQueeney
NCUA – Rachel Ackmann
NCUA – Gira Bose
NCUA – Ian Marena
OCC – Will Binkley
OCC – Stacey Fluellen
OCC – Kevin Lawton
OCC – Jim Rives
OCC – Joanne Phillips

The Briefing was called to order at 5:00 p.m. by Chair T. Segerson. The following items were discussed: (1) Strategic Communications Update; (2) Update on DOJ Opinion; (3) Reported Bias in Appraisals; (4) ASC Annual Report-TAF Section; and (5) Letter from Congress.

Strategic Communications Update

J. Park reported that two companies, Diversity Marketing and Communications LLC and LINK Strategic Partners, have been selected to work on strategic communications. ASC staff is finalizing contract paperwork and will schedule kick-off meetings with both companies next week. They will work on separate projects but may collaborate if necessary.

Update on DOJ Opinion

J. Park reported that DOJ is finalizing its analysis and he expects to have it by the end of this week.

Reported Bias in Appraisals

J. Schroeder reported on a meeting held between the CFPB, FDIC, FRB, and OCC to discuss how to assist the ASC in its efforts to address issues related to real estate appraisal bias and the lack of appraiser diversity. He added that CFPB will be unable to provide feedback to the Appraisal Standard Board's (ASB) Exposure Draft of proposed changes to Advisory Opinion 16 by the March 31st deadline. He suggested that the ASC could consider a thorough review of USPAP and the AQB Criteria for any language that either promotes bias or does not discourage bias in appraisals. J. Park noted the relationship with TAF has changed since they are more financially independent and do not rely on grant funding as much as they did in the past. He added that the ASC withheld grant funding in 1997-98 due to poor wording in USPAP that required a rewrite. He added that he would like the ASB's rationale for wording in the USPAP Ethics Rule. J. Park suggested that an expert in fair housing review USPAP. J. Schroeder and J. Jilovec suggested that grant funds be made available to States to allow them to review their licensing standards and processes to ensure that they are not promoting bias or do not discourage bias in appraisals. J. Jilovec added that CLEAR could develop procedures that States could use to review their licensing standards and processes. J. Park noted several proposed bills in Congress highlight equity and fairness in the appraisal and the real estate lending process. E. Thomas said that OCC would support any legislation that addresses appraisal bias or diversity issues. J. Park said that barriers to entry should also be explored. J. Schroeder suggested that TAF could be included in this discussion as well. M. Abbott added that CLEAR could work with the ASC member agencies as part of its technical assistance grant to delve into these issues. The ASC may need to extend the budget authority on the CLEAR technical assistance grant which would require a vote by the ASC. A. Ritter suggested adding this issue to the June ASC Meeting agenda. T. Segerson said that NCUA is working on how to recognize when appraisal bias happens and what remedial actions could be taken, and whether there be a uniform approach, or would it be a more patchwork approach by States once a problem is identified. A. Ritter suggested that referral information regarding appraiser bias could be added to the ASC hotline website. D. Graves said actions may vary by State and added that State appraiser regulatory programs may not have the legal authority to discipline an appraiser for bias. T.

Segerson noted that these issues may require additional Roundtables to fully discuss the issues and possible resolutions. T. Segerson asked if the ASC could include a review of how States assess bias in their licensing and certification process in its Compliance Reviews. D. Graves responded that the Policy Managers review complaints to ensure they were referred to the correct entity for resolution, but Reviews are normally confined to Title XI and AQB Criteria. She added that this is not part of State findings. J. Jilovec asked for the status of the Roundtable planning. J. Park responded that the strategic communications vendor will help form a plan to bring back to the ASC to review to determine a way forward. He added that the ASC can hold hearing(s) as well. J. Schroeder was unsure of the form that hearings would take and what role the ASC members would play. He added that the Interagency Recommendations provided numerous suggestions for Roundtable topics.

ASC Annual Report – TAF Section

T. Segerson felt that Congress should be made aware of the current relationship with TAF. J. Jilovec, J. Schroeder and E. Thomas agreed but said the Annual Report is a public document so the wording should not sound critical but be factual. R. Witt agreed that the wording should not come off as inflammatory and the ASC should continue to work to improve its relationship with TAF. J. Park noted that the Annual Report is the ASC's only reporting mechanism to Congress, so he wanted to be as forthcoming as possible. The section of the Annual Report will be recirculated for final edits.

Letter from Congress to FFIEC regarding disparities in home valuations

T. Segerson noted that several members of Congress signed a joint letter to the FFIEC. The letter requests that the FFIEC, in coordination with the housing appraisal industry, take action to address disparities in home valuations for communities of color. As NCUA will be next chair of the FFIEC, the NCUA will draft a response for member agencies to review. A Working Group may be set up to work on the response.

The Briefing adjourned at 6:00 p.m.

**APPRAISAL SUBCOMMITTEE
SUMMARY BRIEFING NOTES
APRIL 9, 2021**

LOCATION: Via Zoom

ATTENDEES

ASC MEMBERS: CFPB – John Schroeder
FHFA – Robert Witt
FRB – Keith Coughlin
HUD – Bobbi Borland
NCUA – Tim Segerson
OCC – Jim Rives

ASC STAFF: Executive Director – Jim Park
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Policy Manager – Claire Brooks
Policy Manager – Neal Fenochietti
Policy Manager – Kristi Klamet
Policy Manager – Vicki Metcalf
Policy Manager – Jenny Tidwell
Regulatory Affairs Specialist – Maria Brown

OBSERVERS: CFPB – Deana Krumhansl
CFPB – Orlando Orellano
DOJ – Amber Richer
DOJ – Jacqueline Snead
FDIC – Richard Foley
FDIC – Patrick Mancoske
FDIC – Mark Mellon
FHFA – Michael Sitcov
FHFA – Sara Todd
FHFA – Frank Wright
FRB – Trevor Feigleson
FRB – David Imhoff
FRB – Devyn Jeffreis
FRB – Matthew Suntag
NCUA – Gira Bose
NCUA – Ian Maremma
OCC – Will Binkley

OCC – Stacey Fluellen
OCC – Joanne Phillips

The Briefing was called to order at 1:05 p.m. by Chair T. Segerson. The following item was discussed: (1) Discussion on Department of Justice (DOJ) Analysis of ASC Policy on Monitoring and Reviewing the Appraisal Foundation (TAF)

Discussion on DOJ Analysis of ASC Policy on Monitoring and Reviewing TAF

J. Park introduced A. Richer and J. Snead, the DOJ attorneys who worked on the Analysis. He reiterated that the Analysis is a privileged and confidential document, an attorney-client communication and attorney work product and is not to be shared outside of the ASC. A. Richer provided the following overview: DOJ reviewed the ASC Policy on Monitoring and Reviewing TAF (Policy) and how it would hold up to a legal challenge. DOJ's overall conclusion was that the ASC appears to have a reasonable likelihood of success in defending the Policy, as well as any actions taken pursuant to the Policy, against a potential legal challenge by TAF. Title XI of FIRREA (Title XI) does not specify actions that the ASC may take to "monitor" and "review" TAF under 12 U.S.C. § 3332(b). Under the Administrative Procedures Act, the Policy is considered a general statement of policy. It is not subject to judicial review as it is not a legal obligation or duty on any of the affected parties. DOJ felt that if this Policy were challenged, they did not feel it would not be deemed arbitrary and capricious. Title XI notes that the ASC's statutory functions include "monitor[ing] and review[ing] the practices, procedures, activities, and organizational structure" of TAF. It would seem logical that the ASC has the authority to conduct a financial audit of grant spending as well as a review of TAF's structure and organizational activities. To the extent that TAF is raising objections to the ASC's long-standing practice of observing TAF meetings as described under the new Policy, the ASC has discretion to amend its policies as needed. DOJ felt that the Policy is a more formalized statement of existing practice. T. Segerson asked if DOJ is aware of any other federal agency that has an oversight structure like ASC/TAF that is also without enforcement authority. A. Richer responded that there is a similar model used by the Securities and Exchange Commission over the Financial Accounting Standards Board and the American Institute of Certified Public Accountants. T. Segerson asked if there would be any issue with the ASC revising the Policy in the future. A. Richer responded that changes would be acceptable but added that the ASC should document the rationale for the changes along with keeping an administrative record of any changes. M. Sitcov asked numerous questions regarding the Analysis. He questioned whether TAF could ignore requests for audit materials requested by the ASC. A. Richer responded that the ASC has the authority to request information under 12 U.S.C. § 3332(b). T. Segerson added that when NCUA implements new regulations, they do so under the authority of the agency and seek public comment. They do not seek a judicial review or input from the public when implementing a policy. He added that the ASC Policy is to make the ASC's monitoring and review of TAF transparent. M. Sitcov asked how the ASC would enforce compliance if TAF does not supply documents for the FY17-19 grant audit. M. Abbott responded that the ASC has adopted the Office of Management and Budget Super Circular regarding Federal grants. The

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ATTORNEY-CLIENT COMMUNICATION

Super Circular includes numerous grant audit requirements that grantees accept as part of the grant award. A. Ritter added that this is also covered in the Policy. M. Abbott noted that Agreed Upon Procedures reviews have been done in the past. The current audit would be a financial audit of grants awarded for Fiscal Years 2017-2019. K. Coughlin felt that the DOJ Analysis was well written, and he had no further questions. Other ASC members agreed with K. Coughlin and had no further questions. T. Segerson thanked DOJ for their Analysis and time. He would like to continue TAF/ASC leadership meetings to work through the issues.

The Briefing adjourned at 1:50 p.m.

**APPRAISAL SUBCOMMITTEE
SUMMARY BRIEFING NOTES
APRIL 23, 2021**

LOCATION: Via Zoom

ATTENDEES

ASC MEMBERS: CFPB – John Schroeder
FDIC – John Jilovec
FHFA – Robert Witt
HUD – Brian Barnes
NCUA – Tim Segerson
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FDIC – Richard Foley
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FDIC – Mark Mellon
FHFA – Sara Todd
FRB – Trevor Feigleson
FRB – Carmen Holly
FRB – Devyn Jeffreis
FRB – Matt McQueeney
FRB – Derald Seid
FRB – Matthew Suntag
NCUA – Rachel Ackmann
NCUA – Gira Bose
OCC – Will Binkley
OCC – Stacey Fluellen
OCC – James Rives

The Briefing was called to order at 11:00 a.m. by Chair T. Segerson. The following items were discussed: (1) Review of Uniform Standards of Professional Appraisal Practice (USPAP) and

Appraiser Qualifications Real Property Appraiser Criteria (Criteria); (2) Comments to the Appraisal Foundation's (TAF) Exposure Draft of proposed changes to Advisory Opinion 16 (AO-16); (3) Government Accountability Office (GAO) Follow-up Questions; (4) Department of Justice (DOJ) Analysis follow-up; and (5) ASC/TAF Leadership Meeting update.

Review of USPAP and Criteria

J. Park reported that he introduced officials with HUD's Office of Fair Housing and Equal Opportunity (OFHEO) to TAF leadership. He felt that OFHEO would be a valuable resource to the Appraisal Standards Board as they review changes to USPAP and AO-16. T. Segerson asked if the ASC should move forward with a plan to seek a review of the Criteria and USPAP. J. Park discussed the draft Statement of Work (SOW) prepared by ASC staff. J. Schroeder noted that some ASC member agencies have expressed concerns with ethics language in AO-16 and questioned whether similar language is also in the Criteria or USPAP. The ASC should ensure that neither USPAP nor Criteria have language that could intentionally encourage bias in the appraisal process. The language should promote fairness and equity in the appraisal process and promote diversity in the appraisal field. He felt this would be a worthwhile use of grant funds. R. Witt suggested that fair lending offices in the ASC member agencies could be a resource. He added that the review should be contracted out. E. Thomas and J. Jilovec felt the ASC should move forward on the review of the Criteria and USPAP. T. Segerson said the review needs to be objective and focus only on the Criteria and USPAP; not the make-up of TAF's Boards. J. Schroeder said that TAF staff/board members should be part of the review team as well as an outside contractor. He agreed with R. Witt that fair lending offices within ASC agencies could assist depending on their workloads. A. Ritter said this discussion is extremely helpful in establishing an administrative record if the ASC decides to vote on this review. T. Segerson agreed saying that a record is helpful to have to show that this was not an arbitrary or capricious decision. B. Barnes agreed on moving forward with the review of the Criteria and USPAP. T. Segerson questioned whether a legal review should be done before involving fair lending staff. J. Jilovec preferred an outside party rather than ASC member agency staff as it will give the review more credibility. R. Witt agreed with J. Jilovec's suggestion and said the findings could be shared with ASC member fair lending offices. J. Schroeder asked if the Council on Licensure, Enforcement and Regulation, Inc. (CLEAR) could do this review under the cooperative agreement for training and technical assistance. M. Abbott responded "yes" adding that CLEAR could bid out this review under the auspices of their cooperative agreement. T. Segerson and E. Thomas suggested that ASC members and legal staff review the SOW before it is publicized. A. Ritter suggested that the ASC could vote on this review in a Special Meeting or wait until the quarterly meeting on June 2nd. T. Segerson suggested holding a Special Meeting in early to mid-May. He asked if the Meeting would have to be noticed in the *Federal Register*. A. Ritter responded that the ASC is not required to adhere to the Sunshine Act but does publish Meeting notices as a matter of transparency. J. Park said ASC staff would poll the ASC members for their availability for the week of May 10-14. A. Ritter asked whether the ASC wishes to do a full review of the Criteria and USPAP. ASC members agreed that both documents should be reviewed. T. Segerson reiterated that TAF staff/Board members should be included as a part of the review team. T. Segerson asked ASC staff to send out a draft SOW to the ASC by April 30th.

Comments to TAF's Exposure Draft of proposed changes to AO-16

J. Park asked if AO-16 should be discussed at the meeting with TAF leadership on April 28th. J. Schroeder responded that the broader review of the Criteria and USPAP should be discussed at that meeting. J. Jilovec noted that ASC members agencies had varying opinions on whether to respond to AO-16 Exposure Draft. T. Segerson responded that he did not think the ASC would be responding to the Exposure Draft. J. Park said that a Second Exposure Draft on AO-16 will be published soon and the ASC can consider responding then.

GAO Follow-up Questions

J. Park said a meeting is scheduled with GAO for April 26th to review the follow-up questions submitted by them. ASC staff drafted responses to the questions, and they were sent to the ASC on April 22nd. J. Park said that most of the questions pertain to the approval of the North Dakota temporary waiver. J. Schroeder asked if potential rulemaking should be included in the responses. J. Rives felt it was too early to know if rulemaking would be necessary until a final report is received from GAO. J. Schroeder said that rulemaking should be an option and not a foregone conclusion as the ASC has not voted to move forward on rulemaking. A. Ritter said that the responses will be edited to remove any references that would infer the ASC has made a decision to move forward with rulemaking. T. Segerson asked ASC members to submit edits to J. Park by April 28th.

DOJ analysis follow-up

A. Ritter reported that ASC staff asked DOJ for a public summary of their analysis. DOJ responded that they are working to resolve some concerns about potentially waiving privilege.

ASC/TAF Leadership Meeting update

T. Segerson said that a meeting has been scheduled with TAF leadership for April 28th. The purpose of the meeting is to build a relationship with TAF and listen to their concerns. The DOJ analysis will be summarized. TAF will also be notified that the ASC will schedule a Special Meeting in May to discuss the review of the Criteria and USPAP. TAF will be asked to be a part of this review process. J. Rives asked if AO-16 will be part of the review. J. Park responded that the review does not include Advisory Opinions but that could be added. A. Ritter noted that an appropriate legal review of USPAP would likely include Advisory Opinions.

The Briefing adjourned at 11:50 a.m.