

Briefing Summary Notes Cover Page

September 14, 2022

August 3, 2022 Briefing
Summary Notes - clean
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**APPRAISAL SUBCOMMITTEE
SUMMARY BRIEFING NOTES
AUGUST 3, 2022**

ATTENDEES

ASC MEMBERS: CFPB – Zixta Martinez (Chair)
FDIC – Luke Brown
FHFA – Maria Fernandez
FRB – Suzanne Williams
HUD – Bobbi Borland (Vice Chair)
NCUA – Tim Segerson

ASC ALTERNATES: CFPB – John Schroeder
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FRB – Keshia King
HUD – Brian Barnes
NCUA – JeanMarie Komyathy
OCC – James Rives

ASC STAFF: Executive Director – Jim Park
Deputy Executive Director – Denise Graves
General Counsel – Alice Ritter
Management and Program Analyst – Lori Schuster
Administrative Officer – Brian Kelly

OBSERVERS: See Attached List

The Briefing, held via Zoom, was called to order at 10:00 a.m. by Chair Martinez.

Opening Remarks

Z. Martinez thanked ASC staff and members for their work. She noted that the ASC and the Appraisal Foundation (TAF) Board of Trustees (BOT) will meet virtually on September 7th. She said that the discussion on the Delegations of Authority at today’s Briefing will be limited to ASC Members/Alternates and ASC senior staff; all others will be asked to disconnect from the Briefing at that time.

National Fair Housing Alliance (NFHA) Report and ASC Staff Prioritization of Report Recommendations

J. Park said that, as requested by the ASC at the July 22nd Briefing, staff prioritized NFHA’s recommendations. Priority One recommendations are those deemed by ASC staff as critical to the appraisal regulatory system and financial services industry at large. They are for the most

part within the scope of the ASC's authority and responsibility to monitor TAF's practices, procedures, activities, and organizational structure with two exceptions: (1) staff recommends sending the NFHA Report to the U.S. Department of Justice (DOJ) for an analysis/opinion on legal issues raised concerning TAF's authority; and (2) staff is currently working on interagency data sharing. The recommendations within ASC monitoring and review authority can be addressed through a single letter to TAF indicating support of the recommendations and inquiring what their intentions are to address the individual NFHA recommendations. Priority Two items were deemed by ASC staff to be important to the appraisal regulatory system and financial services industry at large. Several of these issues have been acted upon, are under consideration by TAF, and/or need further study. Priority Three items are important but are outside the direct scope of ASC authority and/or require further study. S. Williams said that the prioritization should be linked to the ASC's broader goals related to the NFHA report (appraisal bias issues and the accessibility of the appraisal profession) before engaging with TAF on specific NFHA recommendations. Staff should define the steps needed to implement the recommendations. Z. Martinez agreed that ASC staff should define next steps for implementation. L. Brown supported possibly moving forward with signaling overall or general support of NFHA's recommendations without addressing them one-by-one and appreciated their review of the *Uniform Standards of Professional Appraisal Practice* (USPAP) and the *Appraiser Qualifications Criteria* (Criteria). He noted that NFHA has a different role from the ASC and noted that NFHA did not provide rationale for the recommendations. While he agreed with most of the recommendations, he suggested that the ASC think of the long-term impacts of implementing them. He questioned whether the Report should be forwarded to the DOJ for comment since that was not a specific recommendation from NFHA. He raised questions regarding whether the ASC would be comfortable with possibly being viewed as questioning the authority of Congress to delegate certain powers to TAF. He agreed with discussing an approach for sending a letter to TAF to ask how they plan to address the recommendations in NFHA's Report. There could be implications if the ASC asks TAF to implement all of the individual recommendations, and TAF follows ASC's suggestions but unintended consequences occur that could bring negative publicity to the ASC. J. Rives agreed with L. Brown's comments. S. Williams agreed that implications of ASC requesting a DOJ review of TAF's legal authority should be considered and asked why ASC staff feels that this is an appropriate recommendation. J. Park responded that DOJ addressed TAF's authority in the DOJ memorandum to the ASC last year. That memorandum was the result of the ASC sending the Monitoring and Review Policy (Policy) to DOJ for an opinion when TAF challenged the ASC's authority. DOJ emphasized the lack of authority that ASC has over TAF, so staff felt that DOJ review of the NFHA recommendation concerning TAF's authority could be referred for review by the DOJ. He added that there are pending bills in Congress that would increase the ASC's oversight authority. An opinion from DOJ regarding TAF's authority could spur Congress to introduce legislation. L. Brown said that he understands that ASC has previously engaged DOJ, but has concerns about the ASC appearing to question the authority of Congress. A. Ritter responded that staff would make it clear that this was a recommendation within the commissioned Report and ask the DOJ if they are willing to review the issues raised. S. Williams commented that a review of TAF's legal authority was not part of ASC's engagement with NFHA. Further, NFHA raised the legal issue but did not recommend that the ASC get an opinion from DOJ. L. Brown said that the Report is public and there is pending legislation that addresses TAF's authority. Regarding the

NFHA recommendation to include borrowers as intended users of the appraisal, S. Williams indicated that this would directly conflict with the independence requirement in the banking agencies' appraisal regulation. The appraisal regulation requires "the appraiser shall be engaged directly by the regulated institution or its agent." S. Williams stated that NFHA would have considered appraisal issues from its own perspective and would not have considered banking agency regulations. J. Giesbrecht agreed with S. Williams. She said that some of NFHA's recommendations would require revisions to appraisal forms (such as Form 1004/70) and noted possible impacts to the existing Uniform Appraisal Dataset working group timelines. Staff's prioritization was helpful especially for items outside of the ASC's scope. Z. Martinez thought that a request to the DOJ to clarify may be helpful but felt it may be premature considering pending legislation that could alter the ASC's authority. She added that staff could draft a letter to TAF asking how they plan to move forward on the other recommendations. S. Williams noted that NFHA's recommendations are targeted only to residential appraisals and any letter should distinguish between recommendations tied to residential property appraisers/appraisals and all other types of appraisers/appraisals. Regarding the NFHA recommendation to "Require the ASB to make the complete text of USPAP Standards, including Advisory Opinions (AO), available to both appraisers and the public for no charge," S. Williams suggested that the ASC consider and address the implications of telling TAF to eliminate a significant part of its revenue. She further questioned whether TAF would be willing to accept grant funds in lieu of revenue from these USPAP sales. S. Williams said that the letter would lead to more effective outcomes if it set forth the ASC's goal of increasing appraiser access and ask for TAF's plan rather than specify a particular action, such as making USPAP free. For example, other actions by TAF, such as having a means-based text/sliding scale cost for USPAP may also increase appraiser access. She also asked how pricing and the process for USPAP's updates compare to those of other standards groups such as the Financial Accounting Standards Board updates. Regarding the recommendation to "Repeal the requirement of financial donations to appoint board members," ASC staff indicated that it would also impact TAF's revenue, but to a much lesser extent than USPAP sales. Z. Martinez indicated that board sponsorship gave the perception of "pay to play" and several other ASC members agreed with this concern. J. Park responded that sales of USPAP and USPAP Update courses are 90% of TAF's revenue. TAF must continually update USPAP to fund themselves. Grant funding could easily fund necessary changes to USPAP and the Criteria. Funding that TAF receives from BOT and Industry Advisory Council sponsorship make up a small portion of overall revenue. Z. Martinez agreed and said that she has heard from appraisers that the USPAP updates seem to add minimal value on furthering professional guidance and requirements. She added that TAF may not want to rely on ASC grant funds since those come with restrictions and reporting requirements. L. Brown agreed that USPAP revenue and sponsorship are significant issues that should be considered. Any response from the ASC should stress our concerns on TAF's revenue streams. The letter should ask TAF to justify these costs and why they would not accept grant funds in lieu of this revenue. The cost for a copy of USPAP could be \$5 plus administrative costs rather than \$80. J. Park said that staff will draft a letter incorporating comments discussed at today's Briefing and send it to the ASC for review.

Census/Survey

J. Park provided background on the Census/Survey project. In June 2021, the ASC approved initial budget authority of \$150K to initiate a comprehensive census/survey of stakeholders in the real property appraiser profession. One goal of this census/survey would be to provide a trend analysis on appraiser demographics. As part of its cooperative agreement, the Council on Licensing, Enforcement and Regulation (CLEAR) is managing the procurement and they have hired Econometrica as a sub-contractor for this project. CLEAR published a Request for Information with responses due on July 22nd. Three responses were received: an Appraisal Management Company, ClearBox and Veros. FHFA provided data from Fannie Mae and Freddie Mac to the ASC from 2013 to the present and it has been helpful to show the progression/regression of appraisers across the U.S. He asked ASC members what information they would like to see extrapolated from this data. FHFA will maintain the servers for this data and federal agencies will be able to access the data. The ASC can work with other agencies to leverage expertise. J. Giesbrecht clarified that FHFA is working on an aggregated database. J. Park said that staff will be requesting an additional \$275K in its Fiscal Year 2023 budget to continue work on the census/survey. Z. Martinez asked if \$275K would be a one-time expenditure or will staff request additional funding in the future. J. Park responded that additional funding may be requested. If there is needed data that cannot be obtained through FHFA, staff may request funding to purchase data on an annual basis from private entities. He expects that data will be needed on an ongoing basis. Z. Martinez said this kind of data would be helpful for temporary waivers and that data would need to be continually updated to maintain accuracy. S. Williams asked that staff address the use and purpose of the census/survey. She also asked if appraiser data on the National Registry would be used. J. Park responded that the National Registry does not contain demographic information nor is it collected. Staff has developed a Unique Identifier to tie appraiser records together for those appraisers working in multiple States. He added that national registry data combined with FHFA's data will be a powerful tool to determine demographics in the appraiser profession. He added that this data would be helpful in determining if there is a lack of appraisers in certain markets. He agreed with Z. Martinez that this data would be helpful for temporary waiver requests.

Governance and ASC Delegations of Authority

The Briefing continued at 11:00 with a limited-attendance session to discuss this item. Attendees, except for ASC Members/Alternates and ASC senior staff, were asked to disconnect from the Briefing.

FRB representatives proposed adding a provision to the ASC board's delegations of authority that would provide any ASC board member with the ability to elevate any delegated action to the full board. The preamble to the Delegations of Authority would be revised to say the following:

“Pursuant to the Appraisal Subcommittee's (ASC) authority under Title XI of the Federal Financial Institutions Reform, Recovery and Enforcement Act, the ASC has delegated specific functions and duties to its Chairperson and staff. In addition to the delegations listed in this document, general areas of responsibility and authority, as well as other specific delegations of authority, have been and will be made in other documents, including, but not limited to, ASC regulations,

Policy Statements, manuals, position descriptions, orders and certain instructions. All authority not expressly delegated is reserved by the ASC. All delegations must agree with applicable laws and regulations. Unless specifically provided for in the delegations below, there is no authority to redelegate. All authorized redelegations of authority shall be made in writing. An individual who acts in the capacity of another is vested with all of the delegated authority of the position. No redelegation is needed if one has been authorized in writing to act in the capacity of another.

The following compilation of delegations of authority reflects those authorities delegated or whose delegation was reaffirmed at the ASC's May 10, 1995 meeting, and as subsequently amended.

“The ASC Board shall review any action taken, or proposed to be taken, at a delegated level upon the vote of any one member of the ASC Board.”

FRB also recommends the following changes be made to SPE 3 and SPE 4:

“After consultation with the ASC Board and unless any ASC Board member objects, the authority to sign and release non-routine, significant correspondence (with the authority to redelegate to the Executive Director).”

“Unless any ASC Board member objects, the authority to sign and release routine correspondence.”

Although no decisions were made about next steps, there was general discussion among Board members about the need for future broad discussions about delegations of authority in connection with the ASC's current overall goals and objectives, given the changes in the role and responsibilities of the ASC over the last several years.

Attachment: Observer list

Meeting:	Appraisal Subcommittee Briefing	Meeting Date:	August 3, 2022
Contact:	Lori Schuster	Location:	Zoom Meeting
Time:	10:00 AM ET	Alternate Contact:	Brian Kelly

Affiliation	Name
Consumer Financial Protection Bureau	Kara Allen
Consumer Financial Protection Bureau	Deana Krumhansl
Consumer Financial Protection Bureau	Orlando Orellano
Consumer Financial Protection Bureau	David Ueijo
Federal Deposit Insurance Corporation	Richard Foley
Federal Deposit Insurance Corporation	Stuart Hoff
Federal Deposit Insurance Corporation	Patrick Mancoske
Federal Deposit Insurance Corporation	Mark Mellon
Federal Deposit Insurance Corporation	George Parkerson
Federal Deposit Insurance Corporation	Lauren Whitaker
Federal Deposit Insurance Corporation	Meron Wondwosen
Federal Housing Finance Agency	Sara Todd
Federal Reserve Board	Carmen Holly
Federal Reserve Board	David Imhoff
Federal Reserve Board	Devyn Jeffereis
Federal Reserve Board	Matthew McQueeney
Federal Reserve Board	Derald Seid
National Credit Union Administration	Gira Bose

Affiliation	Name
Office of the Comptroller of the Currency	Jose Brandao
Office of the Comptroller of the Currency	Stacey Fluellen
Office of the Comptroller of the Currency	Kevin Lawon
Office of the Comptroller of the Currency	Joanne Phillips
Office of the Comptroller of the Currency	Marta Stewart-Bates

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Revised 8/24/22

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the appraisal regulatory system and financial services industry at large. They are for the most part within the scope of the ASC's authority and responsibility to monitor TAF's practices, procedures, activities, and organizational structure with two exceptions: (1) staff recommends sending the NFHA Report to the U.S. Department of Justice (DOJ) for an analysis/opinion on legal issues raised concerning TAF's authority; and (2) staff is currently working on interagency data sharing. The recommendations within ASC monitoring and review authority can be addressed through a single letter to TAF indicating support of the recommendations and inquiring what their intentions are to address the individual NFHA recommendations. Priority Two items were deemed by ASC staff to be important to the appraisal regulatory system and financial services industry at large. Several of these issues have been acted upon, are under consideration by TAF, and/or need further study. Priority Three items are important but are outside the direct scope of ASC authority and/or require further study. S. Williams said that the prioritization should be linked to the ASC's broader authorities goals related to the NFHA report (appraisal bias issues and the accessibility of the appraisal profession) before. ~~She also suggested~~ engaging with TAF on specific NFHA recommendations an overall plan to improve the appraisal profession as the goals of the ASC and TAF are similar. Staff should define the steps needed to implement the recommendations. Z. Martinez agreed that ASC staff should define next steps for implementation. L. Brown supported possibly moving forward with signaling overall or general support of a NFHA's recommendations without addressing them one-by-one, and appreciated their review of the *Uniform Standards of Professional Appraisal Practice* (USPAP) and the *Appraiser Qualifications Criteria* (Criteria). He noted that NFHA has a different role from the ASC and noted that NFHA did not provide rationale for the recommendations. While he agreed with most of the recommendations, he suggested that the ASC ~~needs to~~ think of the long-term impacts of implementing them. He questioned whether the Report should be forwarded to the DOJ for comment since that was not a specific recommendation from NFHA. He raised questions regarding whether the ~~said the~~ ASC would be comfortable with possibly should not being viewed as questioning the authority ~~that of~~ Congress to delegated certain powers to TAF. He agreed with discussing an approach for sending a letter to TAF to ask how they plan to address the recommendations in NFHA's Report. There could be implications if the ASC asks TAF to implement all of the individual recommendations, and TAF follows ASC's suggestions recommendations are not implemented correctly but unintended consequences occur that could bring negative publicity to the ASC. ~~He would like further discussion on specifics.~~ J. Rives agreed with L. Brown's comments. S. Williams agreed that implications of ASC requesting a DOJ review of TAF's legal authority should be considered and asked why ASC staff feels that this is an appropriate recommendation DOJ should provide an analysis of NFHA's Report. J. Park responded that DOJ addressed TAF's authority in the DOJ memorandum to the ASC last year. That memorandum was the result of the ASC sending the Monitoring and Review Policy (Policy) to DOJ for an opinion when TAF challenged the ASC's authority. DOJ emphasized the lack of authority that ASC has over TAF, so staff felt that DOJ review of the NFHA recommendation concerning TAF's authority could be referred for review by the DOJ. He added that there are pending bills in Congress that would increase the ASC's oversight authority. An opinion from DOJ regarding TAF's authority could spur Congress to introduce legislation. L. Brown said that he understands ate ASC has previously engaged DOJ, constitutional questions in the NFHA Report but has concerns about the ASC appearing to question the authority of action by Congress. A. Ritter responded that staff would make it clear

that this was a recommendation within the commissioned Report and ask the DOJ if they are willing to review the issues raised. S. Williams commented that a review of the TAF's legal authority was not part of ASC's engagement with ~~did not ask~~ NFHA. Further, to review TAF's authority; NFHA raised the legal issue but did not recommend that the ASC get an opinion from DOJ. L. Brown said that the Report is public and there is pending legislation that addresses TAF's authority. Regarding the NFHA recommendation to include borrowers as intended users of the appraisal, S. Williams indicated that this would directly conflict with the independence requirement in the banking agencies' appraisal regulation. The appraisal regulation requires the "the appraiser shall be engaged directly by the regulated institution or its agent." S. Williams ~~thought stated~~ that NFHA would have considered ~~was looking at some appraisal~~ issues from its own perspective and would not have considered ~~ing~~ banking agency regulations. J. Giesbrecht agreed with S. Williams. She said that some of NFHA's recommendations would require revisions to ~~FHFA~~ appraisal forms (such as Form 1004/70) and noted possible impacts to the existing Uniform Appraisal Dataset working group timelines. Staff's prioritization was helpful especially for items outside of the ASC's scope. Z. Martinez thought that a request to the DOJ to clarify may be helpful but felt it may be premature considering pending legislation that could alter the ASC's authority. She added that staff could draft a letter to TAF asking how they plan to move forward on the other recommendations. S. Williams noted that NFHA's recommendations are targeted only towards residential appraisals and any letter should distinguish between recommendations tied to residential property appraisers/appraisals and all other types of appraisers/appraisals. Regarding the NFHA recommendation to "Require the ASB to make the complete text of USPAP Standards, including Advisory Opinions (AO), available to both appraisers and the public for no charge," S. Williams suggested that the ASC consider and address the implications of telling TAF to eliminate a significant part of its revenue. ~~appraisers and those tied to appraisals.~~ She further questioned whether TAF would be willing to accept grant funds in lieu of revenue from these USPAP sales ~~since that is a large part of TAF's revenue stream~~. S. Williams said that the letter would lead to more effective outcomes if it set forth the ASC's goal of increasing appraiser access and ask for TAF's plan rather than specify a particular action, such as making USPAP free. For example, other actions by TAF, such as having a means-based text/sliding scale cost for USPAP may also increase appraiser access. She also asked how pricing and the process for USPAP's updates compare to those of other standards groups such as the Financial Accounting Standards Board updates. Regarding the recommendation to "Repeal the requirement of financial donations to appoint board members," ~~ASC staff indicated that it~~ Repealing the requirement of financial donations to appoint board members would also impact TAF's revenue, but to a much lesser extent than USPAP sales. ~~She did feel that providing free copies of USPAP would make the appraisal profession more accessible.~~ Z. Martinez indicated that board sponsorship gave the perception of "pay to play" and several other ASC members agreed with this concern. J. Park responded that sales of USPAP and USPAP Update courses are 90% of TAF's revenue. TAF must continually update USPAP to fund themselves. Grant funding could easily fund necessary changes to USPAP and the Criteria. Funding that TAF receives from BOT and Industry Advisory Council sponsorship make up a small portion of overall revenue. Z. Martinez agreed and said that she has heard from appraisers that the USPAP updates seem to add minimal value on furthering professional guidance and requirements. She added that TAF may not want to rely on ASC grant funds since those come with restrictions and reporting requirements. L. Brown agreed that USPAP revenue

and sponsorship are significant issues big challenges that should be considered. Any response from the ASC should stress our concerns on TAF's revenue streams. The letter should ask TAF to justify these costs and why they would not accept grant funds in lieu of this revenue. The cost for a copy of USPAP could be \$5 plus administrative costs rather than \$80. ~~S. Williams said the letter should state the ASC's goals and the answer may be to have a means-based test to receive USPAP. She also asked how USPAP's updates compare to the Financial Accounting Standards Board updates. She agreed with other members that sponsorship does give the perception of "pay to play."~~ J. Park said that staff will draft a letter incorporating comments discussed at today's Briefing and send it to the ASC for review.

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Time:	10:00 AM ET	Alternate Contact:	Brian Kelly

Affiliation	Name
Consumer Financial Protection Bureau	Kara Allen
Consumer Financial Protection Bureau	Deana Krumhansl
Consumer Financial Protection Bureau	Orlando Orellano
Consumer Financial Protection Bureau	David Ueijo
Federal Deposit Insurance Corporation	Richard Foley
Federal Deposit Insurance Corporation	Stuart Hoff
Federal Deposit Insurance Corporation	Patrick Mancoske
Federal Deposit Insurance Corporation	Mark Mellon
Federal Deposit Insurance Corporation	George Parkerson
Federal Deposit Insurance Corporation	Lauren Whitaker
Federal Deposit Insurance Corporation	Meron Wondwosen
Federal Housing Finance Agency	Sara Todd
Federal Reserve Board	Carmen Holly
Federal Reserve Board	David Imhoff
Federal Reserve Board	Devyn Jeffereis
Federal Reserve Board	Matthew McQueeney
Federal Reserve Board	Derald Seid
National Credit Union Administration	Gira Bose

Affiliation	Name
Office of the Comptroller of the Currency	Jose Brandao
Office of the Comptroller of the Currency	Stacey Fluellen
Office of the Comptroller of the Currency	Kevin Lawon
Office of the Comptroller of the Currency	Joanne Phillips
Office of the Comptroller of the Currency	Marta Stewart-Bates