



RICS professional guidance, Poland

Application of the RICS Valuation - Professional Standards in Poland

1st edition, June 2016



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RICS professional guidance

International standards

Globally recognised high-level valuation principles and definitions are now embodied in the International Valuation Standards [IVS] published by the International Valuation Standards Council [IVSC]. RICS has long been a supporter of the development of such universal standards, and not only fully embraces them itself, but also proactively supports their adoption by others around the world.

RICS Valuation – Professional Standards 2014, commonly referred to as the Red Book, formally recognises and adopts the IVS by requiring members to follow them. It also complements the IVS by providing detailed guidance and specific requirements concerning their practical implementation.

Member and firm conduct is underpinned through the application of the Rules of Conduct and the Global Professional and Ethical Standards and is assured through a well-established system of regulation. The whole ensures the positioning of RICS members and regulated firms as the leading global providers of IVS-compliant valuations.

RICS guidance notes

This is a guidance note. Where recommendations are made for specific professional tasks, these are intended to represent 'best practice', i.e. recommendations that in the opinion of RICS meet a high standard of professional competence.

Although members are not required to follow the recommendations contained in the guidance note, they should take into account the following points.

When an allegation of professional negligence is made against a surveyor, a court or tribunal may take account of the contents of any relevant guidance notes published by RICS in deciding whether or not the member acted with reasonable competence.

In the opinion of RICS, a member conforming to the practices recommended in this guidance note should have at least a partial defence to an allegation of negligence if they have followed those practices. However, members have the responsibility of deciding when it is inappropriate to follow the guidance.

It is for each member to decide on the appropriate procedure to follow in any professional task. However, where members do not comply with the practice recommended in this guidance note, they should do so only for good reason. In the event of a legal dispute, a court or tribunal may require them to explain why they decided not to adopt the recommended practice.

Also, if members have not followed this guidance, and their actions are questioned in an RICS disciplinary case, they will be asked to explain the actions they did take and this may be taken into account by the Panel.

In some cases there may be existing national standards that may take precedence over this guidance note. National standards can be defined as professional standards that are either prescribed in law or federal/local legislation, or developed in collaboration with other relevant bodies.

In addition, guidance notes are relevant to professional competence in that each member should be up to date and should have knowledge of guidance notes within a reasonable time of their coming into effect.

This guidance note is believed to reflect case law and legislation applicable at its date of publication. It is the member's responsibility to establish if any changes in case law or legislation after the publication date have an impact on the guidance or information in this document.

Document status defined

RICS produces a range of professional standards, guidance and information documents. These have been defined in the table on the next page. This document is a guidance note.

Publications status

| Type of document | Definition | Status |
|---------------------------------|---|---|
| Standard | | |
| International standard | An international high-level principle-based standard developed in collaboration with other relevant bodies. | Mandatory |
| Professional statement | | |
| RICS professional statement | A document that provides members with mandatory requirements or a rule that a member or firm is expected to adhere to. This term also encompasses practice statements, Red Book professional standards, global valuation practice statements, regulatory rules, RICS Rules of Conduct and government codes of practice. | Mandatory |
| Guidance and information | | |
| RICS code of practice | Document approved by RICS, and endorsed by another professional body/stakeholder, that provides users with recommendations for accepted good practice as followed by conscientious practitioners. | Mandatory or recommended good practice [will be confirmed in the document itself]. Usual principles apply in cases of negligence if best practice is not followed. |
| RICS guidance note [GN] | Document that provides users with recommendations or approach for accepted good practice as followed by competent and conscientious practitioners. | Recommended best practice. Usual principles apply in cases of negligence if best practice is not followed. |
| RICS information paper [IP] | Practice-based document that provides users with the latest technical information, knowledge or common findings from regulatory reviews. | Information and/or recommended good practice. Usual principles apply in cases of negligence if technical information is known in the market. |
| RICS insights | Issues-based input that provides users with the latest information. This term encompasses thought leadership papers, market updates, topical items of interest, white papers, futures, reports and news alerts. | Information only. |
| RICS economic/market reports | A document usually based on a survey of members, or a document highlighting economic trends. | Information only. |
| RICS consumer guides | A document designed solely for use by consumers, providing some limited technical advice. | Information only. |
| Research | An independent peer-reviewed arm's-length research document designed to inform members, market professionals, end users and other stakeholders. | Information only. |

1 Introduction

1.1 This guidance note provides assistance to RICS members on the application of the *RICS Valuation – Professional Standards January 2014* [the ‘Red Book’] to valuations that have to be provided in compliance with Polish law.

1.2 The Red Book recognises and adopts the *International Valuation Standards 2013* [IVS], which was approved on 1 June 2013, with an effective date of 1 January 2014. The Red Book also recognises national association valuation standards and national guidance material that are designed to cover specific statutory or regulatory requirements in local jurisdictions, while being consistent with international standards [see PS 1 paragraph 5, RICS national association valuation standards].

1.3 Polish law and regulations affect the obligations of a valuer when providing a valuation service under Polish jurisdiction.

1.4 Polish law requires compliance with the following regulations in particular:

- Property Management Act of 21 August 1997 (*Ustawa o gospodarce nieruchomościami*) [unitary text Dz.U. 2015 item 782 with later changes] – hereinafter referred to as the ‘Property Management Act’
- Ordinance of the Council of Ministers of 21 September 2004 on property valuation and preparing valuation reports (*Rozporządzenie w sprawie wyceny nieruchomości i sporządzania operatu szacunkowego*) [Dz.U. No. 207, item 2109 of 2004 with further amendments] – hereinafter referred to as the ‘Ordinance’
- Professional Standard for Property Valuers: Valuation for Loan Security Purposes (*Standard zawodowy rzeczoznawców majątkowych: Wycena dla zabezpieczenia wiarytelności*) prepared by the Polish Federation of Valuers Association [PFVA] and approved by the Ministry of Infrastructure – hereinafter referred to as the ‘Loan Security Standard’.

1.5 PS 1, Compliance with standards and practice statements where a written valuation is provided, in the Red Book refers to RICS national association valuation standards in paragraph 5. In Poland there are local standards of which the best known are the General National Valuation Principles [*Krajowe Zasady Wyceny*] set up by the Polish Federation of Valuers Association [PFVA] – hereinafter referred to as the ‘Local Standards’. Currently the Local Standards are not approved by the regulator [The Ministry of Infrastructure] with the exception of the Loan Security Standard, which is obligatory and in principle is not in conflict with RICS standards and guidance, thus they can be treated as guidance notes.

1.6 RICS members must take care to ensure compliance with Polish law and approved or Polish Local Standards when providing valuation services under Polish jurisdiction. This is recognised in the Red Book in PS 1 paragraph 4, Compliance with other valuation standards. In short, RICS members may use Local Standards that are not required by law provided they do not conflict with RICS standards and guidance.

1.7 VPS 1, Minimum terms of engagement, includes IVS 101, Scope of work, in the valuation practice statement. RICS members must ensure compliance with the Red Book global valuation standards as well as the laws and regulations in the Polish jurisdiction. RICS professional standards and valuation practice statements are consistent with the principles and definitions of the IVS [as at 1 January 2014]. A valuation that complies with RICS standards and statements will also comply with the IVS.

1.8 While the Red Book is primarily directed at the valuation of tangible real and personal property:

- VPGA 3, Valuation of businesses and business interests, provides guidance on the valuation of businesses and business interests and
- VPGA 6, Valuation of intangible assets, provides guidance on the valuation of intangible assets.

1.9 The effective date of this guidance note is the date of publication. This document reflects the Polish regulations as at 2 September 2015.

2 Terms

2.1 IVS terms and definitions have been adopted in the Red Book global valuation standards. These are supplemented by some RICS terms and definitions (see the Red Book Glossary). The following table identifies where there are Polish equivalents:

| Red Book term | Polish equivalent in valuation legal regulations (see 1.4) | Commentary to Polish regulations |
|--|---|--|
| Assumption | n/a | See 3.7.2 |
| Basis of value | Basis of value | See 3.7.1 |
| Cost approach | Cost approach | See 4.2 |
| Date of the report | Date of the report | Date of signing the report by the valuer |
| Departure | Departure | Described only in Loan Security standard point 6 |
| Depreciated replacement cost (DRC) | Depreciated replacement cost [Wartość Odtworzeniowa] | See 3.7.1.1 and 4.2 |
| External valuer | n/a | |
| Fair value | Fair value | See 3.7.1.5 |
| Financial statements | n/a | See 3.9 |
| Firm | n/a | |
| Goodwill | n/a | |
| Guidance note (GN) | n/a | Not defined in Polish law. General National Valuation Principles by PFVA [except Loan Security Standard] are not obligatory by law and can be treated as guidance notes. See 1.5 and 1.6 |
| Income approach | Income approach | See 4.1 |
| Inspection | n/a | See 3.5 |
| Intangible asset | n/a | |
| Internal valuer | n/a | |
| International Financial Reporting Standards (IFRS) | International Financial Reporting Standards (IFRS) | |
| Investment property | Investment property | |
| Investment value, or worth | Individual value [Wartość dla indywidualnego inwestora] | See 3.7.1.4 |
| IVSC standards | n/a | |
| Market approach | Sales comparison approach | See 4.3 |
| Market rent (MR) | n/a | See 3.7.1.3 |
| Market value (MV) | Market value [Wartość Rynkowa] | See 3.7.1.2 |
| Member | n/a | |
| Real estate | Real estate [Nieruchomość] | |
| Real property | Real property [Prawa do nieruchomości] | |
| Registered for regulation/registered by RICS | Polish Licensed Valuer (LV) | See 3.3.3 |
| Special assumptions | n/a | See 3.7.3 |
| Special purchaser | n/a | See Investment value |

| | | |
|--|---|--|
| Special value | n/a | See Investment value |
| Specialised property | n/a | |
| Synergistic value, or marriage value | n/a | See Investment value |
| Terms of engagement | n/a | See 3.4 |
| Third party | n/a | |
| Trade related property | Trade related property | See 3.11 |
| Trading stock | n/a | |
| Valuation date | n/a | Not defined precisely in legally binding regulations, though the valuation report should contain <i>essential dates for estimation of the property value</i> |
| Valuation practice guidance – application [VPGA] | n/a | See Guidance note [GN] |
| Valuation practice guidance | n/a | See GN |
| Valuation practice statement | n/a | See GN |
| Valuation report | Valuation report [<i>Operat Szacunkowy</i>] | See 3.6 |
| Valuation standard | n/a | See GN |

3 Compliance with RICS regulations in Poland

3.1 General

3.1.1 The following specific guidance is given to aid RICS members when providing valuation services in Polish jurisdiction when the RICS member is obligated to comply with both the *RICS Valuation – Professional Standards* and Polish law. In general, compliance with the Red Book will meet or exceed the requirements of Polish law, which is described in paragraph 1.4 of this document. In the few instances noted, compliance with Polish law will involve a modification of the type recognised in Red Book PS 1 paragraph 4. However, Polish law and Polish Local Standards are more specific in relation to the valuation methodology to be adopted in various circumstances or for particular asset types.

3.2 PS 1: Compliance with standards and practice statements where a written valuation is provided

3.2.1 The property valuation profession is regulated by Polish law as described in paragraph 1.4 above. Therefore, in accordance with the Property Management Act section V, article 174, point 6, and article 175 point 6, only Polish Licensed Valuers (LV) can provide valuation services and produce valuation reports in a certain format called *‘operat szacunkowy’*. LV are obliged to comply with all Polish regulations relating to valuation business in Poland; whereas RICS regulations (including Red Book) are obligatory for RICS members only, or those who agree to carry out valuation reports in accordance with RICS standards.

3.2.2 Form of the reports: Polish reports should be prepared in writing, as described in the Ordinance.

3.2.3 Regulated firms: While PS 1 of Red Book refers to RICS regulated firms, Polish law does not have an equivalent.

3.2.4 IVSC International Valuation Standards (IVS): While RICS recognises IVSC as the body responsible for International Valuation Standards, Polish law does not refer to the IVS.

3.2.5 Local RICS valuation standards: PS 1 of Red Book makes reference at paragraph 5 to RICS national association valuation standards in some countries or states. In Poland there are no such local RICS standards, although there are local standards set up by PFVA, as described in paragraph 1.5 above.

3.2.6 PS 1 paragraph 6 describes exceptions to using RICS standards VPS 1, 2, 3 and 4. PS 1 paragraph 7 describes

departures, whereas in Polish legislation only the Loan Security Standard relates to the possibility of departures.

While RICS members may be required to justify to the RICS or IRRV why departures have been adopted, in Polish law (only in Loan Security Standard point 6) reasons for the departures must be described and justified, and departures are not permitted if:

- they would be misleading
- they fail to comply with legal regulations.

3.2.7 Ethical standards are not described in the Polish regulations; they are set up individually by local Polish Valuers Associations (*lokalne organizacje rzeczoznawców majątkowych*) and are obligatory for those members only. However, see 3.3.1 below.

3.3 PS 2: Ethics, competency, objectivity and disclosures

3.3.1 The general fundamental principles described at the start of PS 2 are very similar to article 175 of the Property Management Act points 1–3.

3.3.2 As mentioned before there are no Polish ethical standards obligatory for all LV in Poland, although local valuers' associations use their own standards. In PS 2 paragraph 2 RICS ethical standards are described, which link with the *RICS Rules of Conduct*.

3.3.3 Qualifications of RICS members are described in PS 2 paragraph 3. Polish law regulates the profession by granting licences based on qualification procedures, including a formal exam, which is described in article 177 of the Property Management Act. PS 2 refers to the possibility of different local requirements such as these, in point 3.3.

3.3.4 Independence, objectivity and conflict of interest: Similarly to PS 2 paragraph 4, Polish law stresses that the valuer should be independent (Property Management Act article 176) and is obliged not to disclose confidential information. Paragraphs 4.5 to 4.15 of PS 2 describe in detail conflict of interest situations and independence issues important to valuers. Detailed guidance, similar to Red Book, in this respect does not exist in Polish regulations, with the exception of general statements about the independence of valuers.

3.3.5 Issues described in PS 2, such as **Maintaining strict separation between advisers, Duty of care to third parties, and Terms of engagement**, are not described in Polish regulations. Similarly, Polish law does not require

that within terms of engagement relating to valuations for special purposes (such as reporting to the Stock Exchange), certain issues should be disclosed. No rotation of valuers, or signatories, is recognised in Polish regulations. Moreover, every Polish Licensed Valuer (LV) who has participated in carrying out the valuation has to sign the valuation report. If an LV signs a valuation it will be assumed that he or she is fully responsible for every aspect of the valuation report.

3.3.6 Reviewing another valuer's valuation: While the Red Book [see PS 2 paragraph 9] provides for one RICS member to review the valuation of another valuer, the Polish regulations do not allow such practices, and any verification is allowed only by a professional association of licensed valuers [organizacja zawodowa rzeczoznawców majątkowych].

3.4 VPS 1: Minimum terms of engagement

Agreement: Apart from the Civil Code, which regulates comprehensively the core areas of private law (including concluding contracts), there are no specific terms in the Polish regulations setting out how valuation instructions, or valuation contracts, should be concluded.

3.5 VPS 2: Inspections and investigations

Inspection: The local law does not provide any guidance on conducting properties' inspections for valuation purposes.

3.6 VPS 3: Valuation reports

3.6.1 Valuation reports: In accordance with the Ordinance, a valuation report '*operat szacunkowy*' should include all information necessary for the valuer to prepare his or her opinion on value including, among other matters:

- a) identification of the asset and scope of valuation
- b) purpose of the valuation
- c) identification of the client (reference to formal instruction) and nature and source of the information relied upon
- d) date of the valuation report and other relevant dates
- e) description of state and condition of the property
- f) description of zoning relevant for the property
- g) market analysis and description relevant for the purpose of valuation and valuation approach
- h) bases of value, valuation approach and method/ technique and
- i) calculations, property value with justification.

3.6.2 Value of the property should be expressed in PLN, which can be rounded to thousands of PLN [Ordinance].

3.6.3 Each valuation report should be signed and (according to the law must be) stamped by a valuer [Ordinance]. If a

valuation report is prepared by more than one valuer, all of them should sign the report and all of them take responsibility for the valuation.

3.6.4 The valuation report should include clauses/caveats indicating any specific circumstances regarding the valuation [Ordinance].

3.6.5 Documents that are important and relevant for the valuation should be appended to the report [Ordinance].

3.6.6 An executive summary (*wyciąg z operatu*) including the purpose of the valuation, property description, valuation date and values should be presented at the beginning of the valuation report and a copy of it should be sent to relevant local authority managing cadastral system within 2 months following the date of the valuation report [Property Management Act].

3.6.7 In general, a valuation report is valid for 12 months unless changes have occurred in the legal environment defining the basis of valuation for a specific purpose, or changes regarding the state/condition of the property, or the market itself. After a lapse of 12 months, the valuer may confirm the validity of the report by providing a signed clause that would be appended to the valuation report [Property Management Act].

3.6.8 Apart from the valuation report, a valuer may prepare other reports regarding [Property Management Act]:

- market analysis and market advice
- feasibility of investments and property developments
- financial consequences of implementation of, or changes to, zoning plans
- separating individual premises from the buildings (in practice, only if the valuer holds the relevant engineering background)
- mortgage lending value
- estimation of value for individual investor's purposes (investment value)
- valuation of properties held as investments on the basis of accounting law (*ustawa o rachunkowości*) and
- valuation of properties held as fixed assets on the basis of accounting law (*ustawa o rachunkowości*).

3.6.9 The valuer may produce personal copies and notes from original documents for the purposes of the valuation report [Property Management Act].

3.6.10 The valuer does not bear any liability if the valuation report is used for any purpose other than the purpose for which it was originally prepared, without the valuer's consent [Property Management Act].

3.6.11 RICS members should follow the Red Book regarding valuation reports [VPS 3], supplemented, if necessary, with Polish law requirements. Any reason for departure must be stated [PS 1 paragraph 7.5].

3.6.12 The legal regulations described in paragraph 1.4 earlier do not refer to the language of the valuation report. It should be noted that according to the Polish Language Act (*Ustawa o języku polskim*) – Dz.U Nr 90 poz 999 (with later changes), only documents to be used by public bodies such as local or state administration, need to be prepared in the Polish language.

3.7 VPS 4: Bases of value, assumptions and special assumptions

3.7.1 Bases of value

3.7.1.1 Recognised bases of value

As at the date of this document the only bases of value recognised under Polish law are (Property Management Act):

- market value
- depreciated replacement cost (*Wartość Odtworzeniowa*) – equating to the costs necessary to be born to reinstate or replace the property reflecting amortisation/depreciation
- cadastral value for real estate tax purposes – value estimated in the public taxation process (*powszechnej taksacji nieruchomości*) outlined in the Property Management Act
- other values if defined by other legislation.

3.7.1.2 Market value

Market value is defined in the Property Management Act as:

‘the most probable price which can be obtained on the market, estimated having regard to transaction prices based on the following assumptions: the parties to the transaction were independent, did not act under pressure and had a firm intention of concluding an agreement, the time before the transaction was sufficient for the property to be exposed on the market and for the parties to negotiate the conditions of the agreement.’

According to the definition adopted by IVS and RICS, market value is:

‘the estimated amount for which an asset or liability should exchange on the valuation date between a willing buyer and a willing seller in an arm’s length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion.’

While the definitions are not identical, both refer to the same market value concept. RICS members are advised to include the two definitions in their valuation reports, with a comment

that they both describe the same valuation basis (market value).

3.7.1.3 Market rent

Market rent is not referred to in Polish law or Local Standards.

3.7.1.4 Investment value (worth)

In the Property Management Act and Ordinance estimating value for individual investors needs is mentioned, but not clearly defined. According to the law, when valuing a property for an individual investor’s needs, the valuer should take into account the investor requirements and plans for further development of the property. Such estimated value can only be used as an assessment of potential use or investment in the property, and an appropriate clause should be included in the report.

In regards to the above information, estimation of individual value should be treated as investment value (worth) according to the Red Book definition described in VPS 4 paragraph 1.4 as:

‘the value of an asset to the owner or a prospective owner for individual investment or operational objectives.’

3.7.1.5 Fair value

Fair value is not defined in the Polish valuation regulations.

Valuations for inclusion in financial statements must comply with financial reporting standards adopted by the entity. If the entity follows the Accounting Act (*Ustawa o rachunkowości*) the basis of value will be fair value defined in the Accounting Act as follows:

‘The amount for which a given asset could be exchanged, and a liability settled in an arm’s length transaction, between willing, well-informed and non-related parties.’

If the entity has adopted IFRS the basis of value will be fair value defined in IFRS 13:

‘The price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date.’

It is important to recognise that the two definitions of fair value, although not identical, refer to the same fair value concept as presented in IFRS 13. Nevertheless, the valuers are advised to establish the correct definition and set it out in full in the terms of engagement and the valuation report.

3.7.2 Assumptions

Assumptions are not referred to in Polish law and Local Standards. The valuer, as a rule, is required to check the state of the property covering the following areas (as per the Property Management Act):

- improvements and developments
- legal title
- use and condition
- existing technical infrastructure and
- neighbourhood.

In practice, valuers make assumptions and caveats in the reports covering issues that are usually beyond the valuation instructions [e.g. environmental issues, soil-bearing capacity, restitution claims, etc.].

The Ordinance advises that special caveats should be included in the report reflecting the special conditions and circumstances. As an appendix to the report, there should be included all the relevant documents underlying the report [Ordinance].

3.7.3 Special assumptions

Special assumptions are not explicitly described in Polish law. The Loan Security Standard, however, mentions that a valuer may estimate market value of a development project as if completed: reflecting current legal state and pricing, but assuming the condition of the property upon completion. Some guidance as to completed project value has also been presented in description of residual method in the Ordinance [see paragraph 16.4]. RICS members are advised to give a clear explanation if instructed by the client to provide market value under special assumptions, as it is not clearly defined by Polish law.

3.7.4 Valuations reflecting an actual or anticipated market constraint and forced sale

These are not referred to in Polish law and Local Standards.

3.8 IVSC International Valuation Standards [IVS] 2013

The Property Management Act and the Ordinance and Local Standards do not make any reference to IVS. A valuer providing valuation subject to Polish regulations is not required to comply with IVS.

3.9 VPGA 1: Valuation for inclusion in financial statements

The only reference to valuations for inclusion in financial statements in the Property Management Act states that Polish certified valuers may conduct property valuations for tangible fixed assets and investment properties accounting in the form of expert opinions rather than in the form of a valuation report [*Operat Szacunkowy*].

3.10 VPGA 2: Valuation for secured lending

3.10.1 As indicated in paragraph 1.4 above, in the case of valuations for secured lending, the valuer is obliged to comply with the Loan Security Standard.

3.10.2 In particular, RICS members should apply and include in the report the following:

- Market value as the basis of value. In cases where different values to market value are presented in the valuation report [*operat szacunkowy*], they should be clearly defined and highlighted to avoid any misinterpretation – and identified as a departure from the Red Book (unless a basis of value recognised by the Red Book, or mandatory in the Polish jurisdiction).
- A valuation report that was prepared for the purpose of financial reporting cannot be used for secured lending.
- Valuers preparing valuations should apply the guidelines for the valuation of the particular lending institution, in addition to the requirements of the Red Book. Where the lending institution's guidelines are not applied, the valuer should highlight this in the valuation report and explain the reasons.
- For commercial properties, the valuer should comment on the suitability of the property as security for mortgage purposes, in addition to any other circumstances of which the valuer is aware that could adversely affect the possibility of obtaining mortgage collateral on the property.
- The valuer should comment on risk areas, which are identified and anticipated in a particular market, as well as with the property, and evaluate their effect on the property price in the foreseeable future. These must also be drawn to the attention of the lender in the form of an appendix to the valuation report.
- Where appropriate, the valuer should provide additional evaluation of the lending risk – for example, sensitivity analysis can be prepared as an additional assignment to the valuation report and presented in the attachment.

3.10.3 Valuers should also consider the following particular requirements:

- The valuer should meet the criteria relating to qualifications, independence, sufficient experience and no conflict of interest.
- The valuation can be prepared in the form and in accordance with the internal procedures of the lender – unless contrary to the Polish jurisdiction.
- Valuation of investment property in the portfolio: each property in the portfolio should be valued as a single asset. In addition, the valuer can be asked to provide his or her opinion under the assumption that property is transacted as part of a portfolio.
- Vacant possession valuations should be prepared in the case of owner-occupied properties, and all other profits of the current property owner connected with the particular business activity that is being run by the

property owner should be disregarded.

- Valuation of properties under construction and development:
 - existing or potential and possible planning and building consents should be taken into account
 - special assumptions concerning possible future development (HBU) should be agreed with the lender prior to the valuation
 - the property should be valued as at the valuation date, in the current market conditions and stage of development. Where the property is to be valued under the special assumption that construction and development of the property is completed, the current market conditions should be adopted
 - on request of the lender, the valuer should present his or her opinion concerning required development budget for completion of the development, on the basis of underlying documentation provided by the lender or investor. The valuation report must clearly set out all the assumptions that the valuer has made – including the development costs.

Any future economic benefit arising from a business or an interest in a business (goodwill) in case of valuation of trade related properties, by using the profits method, should be disregarded.

3.11 VPGA 3: Valuation of businesses and business interests

Polish jurisdiction does not require that the valuations of businesses and business interests are carried out by members of certain professions (e.g. Polish Licensed Valuers). However, PS 2 paragraph 3, Member qualification, in the Red Book, must be complied with.

3.12 VPGA 4: Valuation of individual trade related properties

3.12.1 There are no references to valuation of individual trade related properties either in the Property Management Act or in the Ordinance. The information in the Ordinance relates only to the profit methodology, which is also described in VPGA 4 as appropriate for the valuation of this kind of property.

3.12.2 In the Loan Security Standard there is information about valuation of trade related properties like hotels, petrol stations, hospitals, medical centres, and recreational properties – which can be valued based on their income and the valuation of similar properties.

3.13 VPGA 5: Valuation of plant and equipment

Polish jurisdiction requires that plant and equipment permanently affixed to the real property is valued only by Polish Licensed Valuers, with punitive measures imposed by the Property Management Act for a breach of this condition. There is no reference to the valuation of plant and equipment not affixed permanently to real property in the Property Management Act.

3.14 VPGA 6: Valuation of intangible assets

There are no references to valuations of intangible assets either in the Property Management Act or in the Ordinance. However, PS 2 paragraph 3, Member qualification, in the Red Book, must be complied with.

3.15 VPGA 7: Valuation of personal property including arts and antiques

The local law does not require that the valuations of antiques and work of art are carried out by members of certain professions. However, PS 2 paragraph 3, Member qualification, in the Red Book, must be complied with.

3.16 VPGA 8: Valuation of portfolios, collections and groups of properties

The local law does not provide any guidance on valuations of portfolios and group of properties, apart from the Loan Security Standard, which states that when valuing portfolios for loan security purposes, each property within the portfolio shall be valued individually. However, a valuer can be asked to comment on value if that property is transacted as part of the portfolio. In Red Book refer to VPGA 8.

3.17 VPGA 9: Valuation in markets susceptible to change: certainty and uncertainty

There are no references to this in the Polish jurisdiction. In Red Book refer to VPGA 9.

4 Valuation methodology

4.1 Valuation of income-producing properties

4.1.1 According to the Polish Law [Property Management Act and Ordinance], income-producing properties should be valued using an income approach. An income approach is based on the assumption that a buyer will pay the price which is related to the expected income from the property. The law recognises two income valuation methods: 'Investment' and 'Profit' (§7 Ordinance).

4.1.2 The investment method should be used for the valuation of properties that can generate rental income.

4.1.3 The profit method is for valuing properties that can produce income different to rent. Such income is based on profit share in the business that can be performed on the property.

4.1.4 For each method of valuation, 'capitalisation' or 'discounted cash flow [DCF] techniques' can be used. The capitalisation technique is used for the valuation of properties that generate stable income, and DCF is used for those with variable income.

4.1.5 In the glossary to the RICS Red Book, an income approach is defined as 'An approach that provides an indication of value by converting future cash flows to a single current capital value.' Investment and profit methods are to be used. Both definition and methods are similar to the Polish Law, but the term 'technique' is not mentioned.

4.1.6 The main difference is in interpretation of capitalisation and DCF methodology. RICS information papers set out a number of capitalisation techniques [see *Commercial Investment Property: Valuation Methods*, RICS information paper], which can be used for valuation of variable income assets [hard core/top slice, term and reversion], while according to Polish law only DCF can be used.

4.1.7 In such cases RICS members are advised to include DCF analysis in their valuation reports in order to fulfill Polish law requirements.

4.1.8 Note that RICS information papers provide a wide range of yield definitions for investment methods [initial yield, equivalent yield, core yield, reversionary yield], which is different to Polish law, where only all-risks yield is recognised.

4.1.9 Therefore RICS members are advised to provide a full description of the adopted methodology and definitions used.

4.2 Cost based valuations

4.2.1 According to Polish law [Property Management Act and Ordinance] for cost valuations, the cost approach should be used.

4.2.2 Cost approach is based on assumption that the value of the property is equal to replacement cost of the property less the amount of depreciation. The law recognises two valuation methods: replacement cost and reinstatement cost (§20 Ordinance).

4.2.3 Replacement cost evaluation includes market value of land and replacement cost of buildings and structures, less depreciation.

4.2.4 Reinstatement cost estimation is based on the cost that is required to reinstate the buildings and structures using current technology and materials, and also allows for depreciation.

4.2.5 For each method three techniques can be used: detailed technique, aggregated elements technique and indicator technique.

4.2.6 Detailed technique is based on the amount of construction work to be completed and cost of each work.

4.2.7 Aggregated elements technique uses aggregate construction works and the prices of such works.

4.2.8 Indicator technique is based on indicator price multiplied by the number of units.

4.2.9 According to the RICS Red Book definition, the cost approach is:

'An approach that provides an indication of value using the economic principle that a buyer will pay no more for an asset than the cost to obtain an asset of equal utility, whether by purchase or construction.'

4.2.10 In RICS guidance only the depreciated replacement cost method has been recognised for both the cost of replacing or reinstating the property, allowing for depreciation. Any techniques have not been mentioned.

4.2.11 Reinstatement cost is treated as a different basis of valuation, which is used for insurance purposes and is described in RICS UK valuation standards only.

4.2.12 In order to remain compliant with Polish law and the RICS requirements, RICS members who perform cost

valuations are recommended to use the depreciated replacement cost (DRC) method of valuation only, unless instructed otherwise by the client.

4.2.13 Any departures should be clearly stated in the valuation report. For example, if the valuation assumes not replacing, but reinstating the property, an appropriate comment should be added to the report.

4.3 Sales comparison approach

4.3.1 According to Polish law, the sales comparison approach is possible for application when prices and features of comparable properties are known [article 153.1 of the Property Management Act and Ordinance]. Definition of comparable property is included in the Property Management Act and Ordinance. In some cases the application of the sales comparison approach is mandatory, according to Polish law, e.g. in tax purpose valuations.

4.3.2 The approach recognises three different valuation methods. These are the ‘comparison in pairs’ method, the ‘average price adjustment’ method and the ‘statistical analysis’ method [§4.2 of the Ordinance].

4.3.3 The **comparison in pairs** method is based on an individual comparison of the valued property with each comparable property that was the subject of a transaction [§4.3 of the Ordinance].

4.3.4 The **average price adjustment** method is based on a sample of at least 11 transactions of comparable properties. The value is derived from an adjustment of an average price from the sample of transactions by an application of relevant corrections [§4.4 of the Ordinance].

4.3.5 The **statistical analysis** method is based on statistical methods [§4.5 of the Ordinance].

4.3.6 The RICS Red Book recognises the sales comparison valuation approach, naming it the ‘market approach’. Its technical explanation is much less detailed than in Polish law. It provides a general definition and framework of the methodology. In line with that guidance, the comparison valuation should be based on the comparison of ‘the subject asset with identical or similar assets for which price information is available’. The Red Book does not classify different methods or techniques within that approach: Polish law does. Slightly more detailed in terms of that approach are International Valuation Standards. For example, they explain different aspects that should be considered when adopting the approach.

4.3.7 In regards to the above, both Polish law and the Red Book have similar foundations for the comparison approach. Evidence of comparable transactions is a base in both cases. However, when adopting that valuation methodology, RICS members are advised to clearly classify and indicate in the report the exact type of method used for the valuation in line with the classification presented in the Polish law. Also more

detailed considerations regarding features differentiating the subject property with comparable properties and their impact on the property value is recommended.

4.4 ‘Mixed’ approach

4.4.1 According to Polish law the mixed approach is applicable when current circumstances do not allow the application of the sales comparison or income approach [article 152.3 of the Property Management Act and Ordinance]. The result of a mixed approach is market value [article 152.3 of the Property Management Act and Ordinance].

4.4.2 The **Mixed approach** contains elements of comparison, income and/or cost approach [art. 152.2 of the Property Management Act and Ordinance].

4.4.3 The mixed approach recognises three different valuation methods, that is, the ‘residual’ method, the ‘liquidation cost’ method and the ‘estimated land indicators’ method [§15 of the Ordinance].

4.4.4 The **residual valuation** method is applied to report the market value when the property is to be a subject of development, redevelopment, extension, modernisation, etc. [§16.1 of the Ordinance]. The value in that method is calculated as a difference between a value on completion and average development costs and developer’s profit [§16.2 of the Ordinance]. The method can be adopted only if the following items are met:

- comparison and income approaches cannot be applied due to existing circumstances
- the type and scope of development is known and
- the adopted valuation elements correspond to market conditions [§16.3 of the Ordinance].

The reason for applying the residual method requires appropriate commentary in the valuation report [§16.4 of the Ordinance].

4.4.5 The **liquidation cost** method is applicable when on-site constructions are designated for demolition [§17.4 of the Ordinance]. The method is based on a deduction of appropriate demolition costs corresponding to on-site constructions from the land value [§17.1 of the Ordinance]. Any potential benefits from the value of demolition’s rubble is added on top of the value [§17.3 of the Ordinance]. The reason for applying the liquidation cost method requires appropriate commentary in the valuation report [§17.5 of the Ordinance].

4.4.6 The **estimated land indicators** method applies to valuation of rural or forest land where comparable sales transactions are not available [§18.1 of the Ordinance]. The method is based on relevant indicators presented in the Ordinance, as well as the prices of rye or timber.

4.4.7 When adopting the residual method for valuations for secured lending ‘an illustration of the sensitivity of the

valuation to any assumption made' has to be presented. More detail can be found in the International Valuation Standards. However, general understanding of the residual method principles based on the internationally recognised practice is in line with the Polish law guidance.

4.5 Valuation for specific purposes

Valuation for specific purposes such as right of perpetual usufruct payments, master plan changes, listed properties, etc. are defined by Polish law [Ordinance] but are not recognised by the Red Book.

RICS members are required to follow Polish law regulations if instructed to value properties for such purposes in Poland.



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