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MORTGAGE CREDIT DIRECTIVE – Valuation Provisions

Article 19
Property Valuation

1. Member States shall ensure that reliable standards for the valuation of residential immovable property for mortgage lending purposes are developed within their territory. Member States shall require creditors to ensure that those standards are used where they carry out a property valuation or to take reasonable steps to ensure that those standards are applied where a valuation is conducted by a third party. Where national authorities are responsible for regulating independent appraisers who carry out property valuations they shall ensure that they comply with the national rules that are in place.

2. Member States shall ensure that internal and external appraisers conducting property valuations are professionally competent and sufficiently independent from the credit underwriting process so that they can provide an impartial and objective valuation, which shall be documented in a durable medium and of which a record shall be kept by the creditor.

Recital:

(26) It is important to ensure that the residential immovable property is appropriately valued before the conclusion of the credit agreement and, in particular where the valuation affects the residual obligation of the consumer, in the event of default. Member States should therefore ensure that reliable valuation standards are in place. **In order to be considered reliable, valuation standards should take into account internationally recognised valuation standards, in particular those developed by the International Valuation Standards Committee, the European Group of Valuers' Associations or the Royal Institution of Chartered Surveyors.** Those internationally recognised valuation standards contain high level principles which require creditors, amongst others, to adopt and adhere to adequate internal risk management and securities management processes, which include sound appraisal processes, to adopt appraisal standards and methods that lead to realistic and substantiated property appraisals in order to ensure that all appraisal reports are prepared with appropriate professional skill and diligence and that appraisers meet certain qualification requirements and to maintain adequate appraisal documentation for securities that is comprehensive and plausible. In this regard it is desirable to ensure appropriate monitoring of residential immovable property markets and for the mechanisms in such provisions to be in line with Directive 2013/36/EU of the European Parliament and the Council of 26th June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms (OJ L 176, 27.6.2013, P. 338). The provisions of this Directive relating to property valuation standards can be complied with for example through law or self regulation.

TEGoVA's European Valuation Standards Embedded in EU Law

The European Parliament formally adopted the Mortgage Credit Directive at its Plenary of 10 December. The formality of adoption by the Council of Ministers is likely to take place this month followed in February or March by publication of the Directive in the Official Journal of the European Union. The Directive will enter into force twenty days later, triggering the two-year deadline for enactment by the member states into national law.

Following the vote, Internal Market Commissioner Michel Barnier said *"The European Parliament has today confirmed its willingness to make the mortgage credit sector subject to improved consumer protection measures at EU level …. Consumers have lost trust in the financial sector: these new rules will help rebuild that trust. Too often consumers took out mortgages without being fully aware of the risks …. When the crisis hit, many found it hard to meet their obligations and ended up losing their homes with the terrible consequences that entails. The consequences for the economy at large have also been serious. The aim of the Mortgage Credit Directive is to make responsible mortgage lending the norm across Europe. … Mortgages account for the entire outstanding debt of two-thirds of European households."*

The main objectives of the Mortgage Credit Directive may be summarised as follows:

- Better information, more time to decide, heightened credit worthiness assessment standards
- Business conduct rules
- A general right to early repayment
- EU passport: once authorised in a Member State, a credit intermediary will be allowed to provide services throughout the Single Market
- Arrears and foreclosures: the Directive encourages lenders through high-level

principles to apply reasonable forbearance when being confronted with consumers in serious payment difficulties.

- Valuation provisions requiring Member States to develop reliable property valuation standards for mortgage lending purposes having regard to internationally recognised standards developed by the IVSC, TEGoVA or RICS

The text of the valuation provisions of the Mortgage Credit Directive is set out in the adjacent table. It should be noted that since the original draft Directive was agreed on 3rd May 2013 (see REV Journal July 2013, Issue 4), the text including that relating to valuation provisions has been refined somewhat. ●

MCD – Supervisory Power Goes to European Banking Authority

The European Parliament has gotten the Council of Ministers to agree to give power to the European Banking Authority (EBA) to watch out for violations of the Mortgage Credit Directive and intervene to get the competent national authorities to fix them. This should make the process of implementation faster and more effective than by means of the traditional government friendly and tolerant directive infringement procedures.

As a result, many governments are likely to farm out this hot potato to the central banks more used to dealing with the demands of an aggressive banking regulator.

The EBA, established in 2011, is an independent EU Authority working to ensure effective and consistent prudential regulation and supervision across the European banking sector. Its overall objectives are to maintain financial stability in the EU and to safeguard the integrity, efficiency and orderly functioning of the banking sector.

The main task of the EBA is to contribute to the creation of the European Single Rulebook in banking whose objective is to provide a single set of harmonised prudential rules for financial institutions throughout the EU. The Authority also plays an important role in promoting convergence of supervisory practices and is mandated to assess risks and vulnerabilities in the EU banking sector.

The conflict over supervision was the single impediment to an agreement that had been reached on all other points including valuation in May. ●

Message from the Chairman, Roger Messenger REV

It's a no-brainer that 2013 was TEGoVA's finest year ever, on all fronts: the largest year-on-year increase in membership ever, tremendous increase in REV-awarding member associations, significant and geographically balanced increases in numbers of REVs, record breaking attendance numbers at the superbly organised and executed Bruges and Lisbon General Assemblies, support and endorsement for REV from the European Property Federation representing a vast number of valuers' clients and, most important by far, EU imprimatur for TEGoVA and its European Valuation Standards enshrined in the Mortgage Credit Directive. We should celebrate all this … briefly, and then regroup to address unfinished business and new challenges.

The Chairman congratulates Lothar Jerzembek (VÖB), Reiner Lux (HypZert) and Wolfgang Kälberer (vdp) for their success in developing REV amongst German banking valuers

Breaking through the ceiling of 2000 REVs is a superb achievement but, even for the quality-obsessed professionals that we are, this figure is insufficient for an organisation that must now easily have topped 80,000 valuers among its 57 member associations! We must do better. We must attract more of the many highly proficient potential REVs that are out there. In that context, Hervé Wattinne's article on the future of REV in France highlights a semi-vicious, semi-virtuous circle: Many potential REVs will not make the jump until REV is better known, especially by clients, but the growing numbers of REVs are TEGoVA's best ambassadors!

2013 was also the year that real estate and valuation went from the margins to the heart of EU policy. We are only beginning to fathom the consequences for our industry of the break-neck integration of the Eurozone and all countries aspiring to join it, but already, beyond AIFMD and Mortgage Credit, there is the EU Construction 2020 initiative (read how TEGoVA had to fight, there too, to impose itself against certain forces that can't seem to accept our position as European standard and qualification setter) as well as the review of delegation by governments to professional associations of regulation of the valuation profession prompted by the new Professional Qualifications Directive. The Secretariat has drawn your attention to this and we shall return to it.

But for now, very best wishes to all for a healthy, prosperous and happy New Year! ●

EU Construction 2020 – TEGoVA Resets Valuation Provisions

TEGoVA has further consolidated its position as the European real estate valuation standards setter, this time in the field of construction, and what an interesting story this has been.

In 2012 the European Commission issued a Communication on the "*Strategy for the sustainable competitiveness of the construction sector and its enterprises*". It was accompanied by an Action Plan, '*Construction 2020*', for the implementation of which the Commission surrounded itself with a 'High Level Tripartite Strategic Forum' made up of various European construction and real estate federations and the RICS. There were no valuation aspects to the Action Plan.

However, in October 2013, a group working on 'Better Regulation' considered "defining the principles of property valuation that would consider the degree of obsolescence of real estate assets". Consulted by the European Property Federation, TEGoVA explained the central importance of market value, stressing that although European Valuation Standards contain obsolescence-relevant concepts such as Depreciated Replacement Cost this is only "*recognised as a method to address market value in the absence of better evidence.*" As a result, the Commission dropped the whole concept only for one of the Forum participants to then propose a new text:

"**Encourage the valuation industry to adopt internationally recognised valuation standards such as those developed by the International Valuation Standards Council** *and collect information to properly assess the impact of sustainability on market expectations and the future risk to current market value and fair value…*"

Note that the proposer was not the IVSC.

This time, TEGoVA intervened directly, with Michael MacBrien pointing out the absence of reference to standards developed by TEGoVA, particularly strange for a text partially copy-pasted from the Mortgage Credit Directive, and that the impact of sustainability on market expectations is not a 'risk' to current market value; it is a potential positive impact on market value.

Following an excellent meeting – with the Commission particularly impressed by EVS's EU focus and sustainability guidance – TEGoVA received assurances that proper reference would be made to TEGoVA and its standards and that its other remarks would be taken on board as well. ●

From the Editor

Krzysztof Grzesik REV

A Bright Future for European Valuation Standards

In his message on page 2, Roger Messenger outlines TEGoVA's success last year in establishing itself as Europe's real estate valuation standards setting body when *"real estate and valuation went from the margins to the heart of EU policy."*

That said, TEGoVA, which started off as The European Group of Valuers of Fixed Assets (TEGoVoFA), has been developing European Valuation Standards for 37 years. Its track record as an international real estate valuation standards setter is second to none. Yet there are a few "one size fits all" globalists out there who see no room for European standards or standards exclusively focused on the valuation of real estate. Indeed some would like to see a global "valuation of everything" profession run by the corporate and regulatory world of finance and accountancy. I sense that the next big battle ahead will be to protect the real estate valuation profession from the predators.

European Valuation Standards, in providing guidance to about 80 000 valuers across Europe are not dissimilar in purpose to the Uniform Standards of Appraisal Practice (USPAP) followed by 83 000 licensed appraisers in the USA. Certainly the Appraisal Foundation will not give up its US focused standards any time soon.

Today, under the Mortgage Credit Directive, the emphasis has shifted to ensuring reliable National Standards for real estate which have taken into account internationally recognised standards (IVS, EVS or RICS).

In this connection TEGoVA is ready to assist its 57 member associations to help develop such standards in their respective countries. ●

IsIVI, CCS and ASSOVIB Help Italian Valuers Gain European Recognition

By Silvia Cappelli, Vice President, ASSOVIB

A partnership of three of TEGoVA's Italian members namely Istituto Italiano di Valutazione Immobiliare (IsIVI), CRIF Certification Services (CCS) and the Association of Property Valuation Companies for the Banking Sector (ASSOVIB) has made a significant contribution to the Recognised European Valuer (REV) mark of excellence. At the last TEGoVA General Assembly in Lisbon in November, 44 valuers from Italy were awarded REV status as a result of the partnership.

Real estate valuation is a non-regulated activity in Italy. Traditionally valuation reports have been entrusted to architects, engineers and geometri (surveyors). However, there being over half a million of these professionals, it is impossible to guarantee that each is adequately trained and monitored in this specialist field. Indeed only a fraction of these individuals has the necessary training and experience in valuing real estate.

For this reason IsIVI has been active in promoting best practice training and seminars across the country, as well as the adoption of European Valuation Standards. More recently IsIVI has been diligently working on promoting and granting REV status to its members, through a series of training programs and events in collaboration with the Chamber of Commerce of Milan. At the same time CCS has been awarding ISO 17024 accredited certification to property valuers in Italy since 2008, testing them according to International and European Valuation Standards as well as to the guidelines issued by the Italian Banking Association, and monitoring them over time. To date CCS has awarded some 350 certificates. Working together, IsIVI and CCS are now awarding REV status to all those who have ISO 17024 accredited certification, replicating the successful German HypZert model.

In 2010 the industry took another step forward with the establishment of the Association of Property Valuation Companies for the Banking Sector (ASSOVIB) whose goal as an association of valuation companies is to promote and spread professional standards for the valuation of properties for mortgage lending, to improve the quality services offered to banks, to set a code of conduct and to support initiatives in relation to valuation studies and methodology.

ASSOVIB unites the main property valuation companies in Italy which carry out over 60% of all valuations for banks. ASSOVIB is promoting the above mentioned agreement between IsIVI and CCS by facilitating access to the ISO 17024 accredited certification process for the 1200 valuers working for the association's member companies.

Thanks to the collaboration between these three bodies, a total of 56 "Recognised European Valuers" in Italy are contributing to the promotion and adoption of European Valuation Standards in the country. Valuation companies and banks are already benefitting from the experience of a growing base of internationally recognized and ISO certified valuers who can demonstrate a high level of competence in real estate valuation, independence, participation in lifelong learning and adherence to a code of ethics. ●

More TEGoVA Members and REVs Admitted at Lisbon General Assembly

TEGoVA's Autumn General Assembly in Lisbon on 16th November broke all attendance records with over 80 registered delegates from 22 countries including Richard Borges, Lance Coyle and Frederick Grubbe, the President, Vice President and CEO of the USA's Appraisal Institute.

The Assembly also welcomed delegates from 5 new member associations namely the Union of Expert Geometers of Brussels (UGEB-ULEB), the Institute of Certified Valuers of Montenegro (IOPCG), the Association of Real Estate Agents and Valuers of the Netherlands (VastgoedPRO), the Chamber of Valuers of the Republic of Macedonia (KPRM) and the Spanish Association of Value Analysis (AEV), taking the membership of TEGoVA to 57 Associations from 31 countries.

The delegates also celebrated the passing of a significant milestone with the award of certificates to 242 new Recognised European Valuers taking the total of Recognised European Valuers to above 2000, awarded by 24 TEGoVA member associations.

The General Assembly was hosted by the Professional Association of Valuation Companies of Portugal (ASAVAL) which on the previous day organised a European Valuation Conference on "*Raising the Standards for the Valuation Profession*" attended by some 200 valuers, other real estate professionals and representatives from local banks and institutions interested in property valuation. The conference was chaired by Roger Messenger and speakers included Adriano Calle Lucas, President of ASAVAL and several members of TEGoVA Boards. There were also notable presentations by Professor Artur Bezelga, Chairman Associação Portuguesa de Avaliadores de Engenharia (APAE), Silvia Cappelli, Vice President, Association of Property Valuation Companies for the Banking Sector (ASSOVIB, Italy) Pat Davitt, CEO, Institute of Professional Auctioneers and Valuers (IPAV, Ireland), Reiner Lux, Managing Director, HypZert (Germany), Hans van der Ploeg, Managing Director, Dutch Association of Real Estate Agents and Valuers (VBO Makelaar), and Denis Podshivalenko, Vice President, Intra Regional Appraisers Association, (NP), Russia.

The message underlying most of the speeches and presentations at both the Conference and General Assembly was that the standard of valuation practice in Europe has improved significantly over the last few years thanks largely to European Valuation Standards and the development of a successful Recognised European Valuer programme.

A full report of the TEGoVA General Assembly in Lisbon may be found on the TEGoVA web page ***www.tegova.org.*** ●

The Future of REV in France

By Hervé Wattinne REV, TEGoVA Board Member (CEIF-FNAIM)

Although there are now 216 Recognised European Valuers in France, this represents only 10% of the valuers belonging to TEGoVA's 6 French member associations.

At TEGoVA's General Assembly in Lisbon last November, 57 French valuers were awarded REV certificates, representing a 36% increase in the number of French REVs in the last 6 months, proof that the scheme is developing well in the country.

The key to such progress lies in the lack of legal protection of the title of 'real estate valuer' in France for anyone other than sworn-in valuers and agricultural valuers. This exposes valuers to excessive competition, in particular for independent experts who do not benefit from a renowned company or group brand.

In such circumstances our main valuer associations have been working together for many years in developing a common Valuation Charter, (La Charte de l'Expertise),which sets out common rules and obligations applicable to the profession, concentrating primarily on a moral code and professional ethics.

It also specifies the professional experience and training necessary for an expert's admission into these associations, as well as the requisite lifelong learning and the recognised valuation methodologies.

Some of our associations provide their members with a single insurance policy against civil liability. In such cases, the Valuation Charter also becomes the reference document for the insurer.

How can such a situation favour the development of REV in France?

When we asked our French member associations of TEGoVA why they were promoting REV, the most common answers were:

- REV is a tool for the professional development and recognition of motivated experts.
- REV is set to become a distinguishing mark of quality vis-à-vis clients.
- REV is a tool which anticipates future European regulation having a bearing on valuation practice.

The development of REV in France is dependent on its promotion amongst our valuers because despite its good progress we cannot yet be certain that it will be taken up in high numbers. All will depend on the reputation that REV gains amongst both clients and valuers.

Clients of big firms are not yet familiar with the REV mark of excellence and those of independent valuers even less so. Our associations' efforts to promote REV among their members will be crucial. Our Recognised European Valuers themselves will be the best ambassadors. Whilst the promotion of REV as a mark of quality and excellence is imperative, we should also ensure that it is not rendered excessively elitist.

TEGoVA has set minimum REV qualification rules allowing its "awarding member associations" to add further criteria. Thus, the shared responsibility for quality is placed upon each of our "awarding member associations" in a manner suited to that particular association. Nevertheless all of our associations need to offer a long-term training scheme for Recognised European Valuers. Such training can be developed jointly by our associations, by opening some modules to all certified valuers.

As well as sharing common values implicit in such training, this structure could also facilitate a network of Recognised European Valuers, crossing the 'divide' between associations. This should add value in terms of solving complex real estate valuation problems and create a platform for sharing information on admission procedures and the content of the training schemes offered.

It is not easy, indeed it may be inappropriate, to set a medium term target for the number of Recognised European Valuers, given that the recognition process must be led by a quest for excellence. However having regard to the number of current applications from prospective candidates it would appear that the future of REV in France is very promising. ●

First Recognised European Valuers in Ireland

Irish Minister of State, Brian Hayes and Roger Messenger presenting IPAV CEO, Pat Davitt with REV Certificate at the Institute of Technology, Tallaght

Members of the Institute of Professional Auctioneers & Valuers (IPAV) were awarded REV status at a function in the Institute of Technology, Tallaght earlier this month. The REV certificates were co-presented by the Minister of State at the Departments of Finance and Public Expenditure & Reform, Brian Hayes TD and TEGoVA Chairman, Roger Messenger.

Minister of State Hayes stressed the importance of having the highest possible standards of valuation and he was delighted to see IPAV now able to provide 'Blue Book' valuations. Roger Messenger reminded everyone that valuers had a major role to play in Ireland's economic recovery as well as in other countries in Europe. He was pleased to see so many IPAV members taking up that challenge.

IPAV Chief Executive, Pat Davitt explained that IPAV had become a member of TEGoVA because the latter " *... is headquartered in Brussels at the cutting edge of policy-making. It is thus able to advise and influence European legislation such as the Mortgage Credit Directive, that affects our lives as property professionals. Financial Institutions can take comfort from the fact that all of IPAV's Recognised European Valuers must sign up to an ad hoc inspection of their valuation work.*" He added "*IPAV and TEGoVA will continue to monitor and tweak valuation reporting standards through compulsory Continuous Professional Development of at least 20 hours per year and regular 5 yearly audits.*" ●