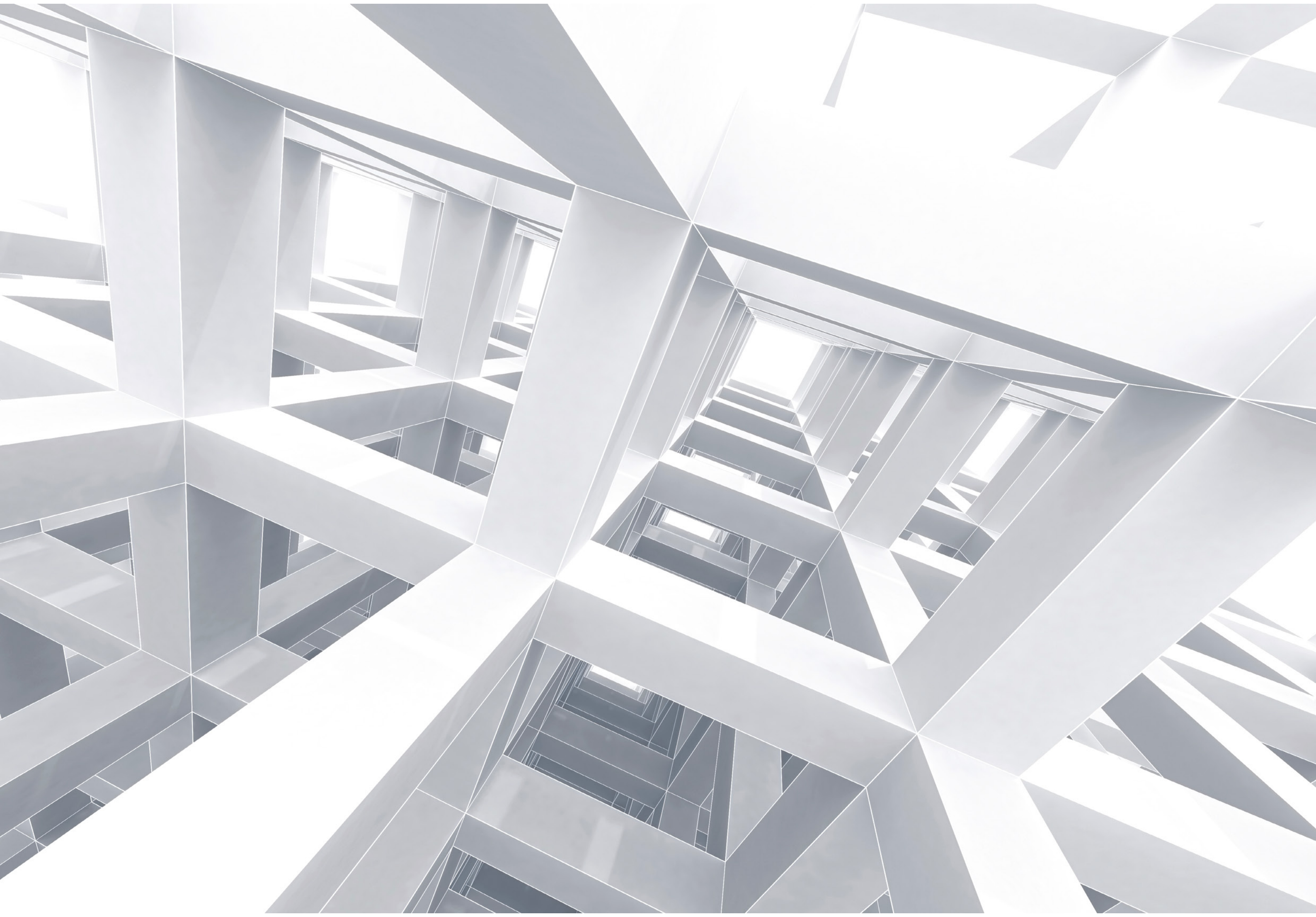
RICS professional standards and guidance, Indonesia

RICS Valuation – Global Standards 2017 jurisdiction guide: Indonesia

1st edition, May 2019



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RICS Valuation – Global Standards 2017 jurisdiction guide: Indonesia

RICS jurisdiction guide

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RICS jurisdiction guides

Since its first publication in 1976, the *RICS Valuation – Global Standards 2017*, generally known as the 'Red Book', has set standards for property valuation that are designed to ensure consistency, objectivity and transparency in the valuation process. The primary aim of these standards has always been to sustain public confidence and trust in a valuation undertaken by a member of RICS or a valuer working for an RICS regulated firm.

Over the past 40 years the Red Book has become global in its application, reflecting the growing internationalisation of the property market and its clients' requirement for worldwide consistency of standards. A Red Book-compliant valuation is consistent with the International Valuation Standards (IVS) and it is augmented in a growing number of markets by national supplements, which provide guidance designed to ensure that a Red Book-compliant valuation also meets local legal requirements, regulations and practice.

The global Red Book and, where they apply, the national supplements are written primarily for valuers. By contrast, jurisdiction guides will be of use especially to property owners and professionals who are involved in the valuation process, either by commissioning a valuation or by providing advice in relation to its outcome. Owners and their advisers do not usually need to know the full detail of the valuation process and the regulations that govern it (which are set out in the Red Book), but their understanding of the outcome of the valuation is likely to benefit from a better understanding of the key factors that will influence a valuer, and thus the value of the property.

These factors include:

- legislation governing the holding and valuation of real estate
- ownership structures
- lease terms
- planning regulations and development control
- taxation affecting real estate and
- valuation regulations, standards and the application of the Red Book.

These factors will vary significantly between one country and another. Jurisdiction guides therefore aim to examine each factor in its local context and to highlight those that are likely to have a significant impact on the valuation of a property located in the country concerned.

It is important to emphasise that jurisdiction guides are designed to provide a short overview of what in many cases and countries is a complex situation. They have been prepared by RICS and based on information from a variety of sources. The content of this jurisdiction guide is for general guidance only, and the reader is advised not to act on it without consulting an appropriately qualified and experienced professional.

Document status defined

The following table shows the categories of RICS professional content and their definitions.

Publications status

Type of document	Definition
RICS Rules of Conduct for Members and *RICS Rules of Conduct for Firms*	These Rules set out the standards of professional conduct and practice expected of members and firms registered for regulation by RICS.
International standard	High-level standard developed in collaboration with other relevant bodies.
RICS professional statement (PS)	Mandatory requirements for RICS members and regulated firms.
RICS guidance note (GN)	A document that provides users with recommendations or an approach for accepted good practice as followed by competent and conscientious practitioners.
RICS code of practice (CoP)	A document developed in collaboration with other professional bodies and stakeholders that will have the status of a professional statement or guidance note.
RICS jurisdiction guide (JG)	This provides relevant local market information associated with an RICS international standard or RICS professional statement. This will include local legislation, associations and professional bodies, as well as any other useful information that will help a user understand the local requirements connected with the standard or statement. This is not guidance or best practice material, but rather information to support adoption and implementation of the standard or statement locally.

1 Background

Indonesia has a rapidly developing economy, which is now the largest in South East Asia. It has seen increasing urbanisation over the past 30 years and, with it, a growing property market.

The property investment market is in the process of maturing. The **MSCI Real Estate Market Size 2017** survey placed Indonesia 31st of 32 countries, with a total value of $12 billion (US dollars). It was rated 'semi-transparent' in the **JLL Global Real Estate Transparency Index 2018**, 42nd of the 100 countries surveyed.

2 Legislation

2.1 Principal laws governing real estate

The principal law governing real estate in Indonesia is the Indonesian *Agrarian Law* (Law No. 5 1960), which authorises the state to determine the proper use of land. The Law classified land rights and introduced a land registration system to Indonesia.

Direct foreign ownership of real estate is restricted. Non-Indonesian owners can only hold certain rights in land (see section 2.2). Indirect foreign investment may be made through capital participation in a recognised foreign investment company (known as a PMA).

2.2 Types of ownership

The following types of ownership are recognised under the Agrarian Law and the government decree PP 40/1996:

- Right of ownership (Sertifikat Hak Milik – freehold equivalent). This is the highest category of ownership, where the owner has full rights to possess and dispose of the property. It is only available to Indonesian citizens and certain local legal entities.
- Right to build (Hak Guna Bangunan). This enables the holder to utilise the land to construct buildings or facilities for a maximum term of 30 years, extendable for up to 20 years and renewable. This right may be held by a foreign investment company and is transferable.
- Right to cultivate (Hak Guna Usaha). This enables the holder to use land for agriculture or plantation purposes for a maximum of 35 years, extendable for 25 years and renewable. It may be held by a foreign investment company and is transferable.
- Right of management (Hak Pengelolaan). A right obtained from the state to control land, which can be granted to certain government organisations and agencies.
- Right to use (Hak Pakai). A right to utilise land or collect products from it for a maximum of 25 years, extendable for up to 20 years and renewable. The term may be unlimited for certain users, e.g. embassies. Foreign residents may only own a property or a strata title unit if it is located on land under Hak Pakai.

2.3 Registration

The *Agrarian Law* makes provision for registration of title. About 50 per cent of land is currently registered. Title certificates are issued by the National Land Agency (**Badan Pertanahan Nasional** – BPN). Details of the land and its ownership, historic transfers and encumbrances are listed, and records are publicly available. There is no state guarantee of title.

2.4 Development control

Overall responsibility for planning and zoning lies with the Ministry of Public Works. Implementation is devolved to regional governments.

Buildings are classified into five types:

- **a** residential
- **b** religious
- **c** business
- **d** social and
- **e** cultural.

Owners need to ensure a building and any proposed development complies with local zoning and spatial layout plans. A permit is required from the regional government for the construction and operation of all buildings, as well as for land use.

2.5 Commercial leases

The Civil Code sets out provisions regarding lease contracts but these can be waived by mutual agreement. Therefore, lease terms are, in practice, freely negotiable. Common terms for commercial property are:

- Term: this is subject to negotiation – typically three to five years, longer for larger tenants.
- Breaks: these are rare, but they may be negotiable (with penalties).
- Rent: this is payable three months in advance. Rent is paid in Indonesian rupiah (Rp).
- Rent escalation: usually, no rent escalation is allowed during the lease term, but five-year rent reviews may be found in longer leases. Stepped rents may be found in leases for new premises.
- Statutory rent control: none.
- Payment for operating expenses: the landlord's costs (excluding property tax) are usually recoverable via a service charge.
- Maintenance and repair: the tenant is usually responsible for repair of the demised premises. The landlord maintains the structure and common parts, etc.
- Assignment and subletting: these require the landlord's consent.
- Termination: this has to be by mutual consent. Leases often include a right for the tenant to agree an extension of the term.

2.6 Residential leases

With the exception of state-controlled apartments, there are no restrictions on residential leases.

Leases are generally for one year, but shorter or longer terms can also be offered. Rent is usually paid annually in advance, plus a service charge to cover the landlord's costs of insuring, maintenance, provision of services, etc.

2.7 Property measurement

International Property Measurement Standards (IPMS) for Office Buildings, Residential Buildings and Industrial Buildings were published in 2014, 2016 and 2018 respectively. RICS members must adopt IPMS in line with the RICS professional statement **RICS property measurement** (2nd edition). RICS members are expected to advise their client or employer on the benefits of using IPMS, unless there is a significant reason for departure. It is accepted that in some circumstances IPMS may not be suitable. If IPMS are not to be used, RICS members must document the reasons for departure.

IPMS for other asset types will be published in due course. In the interim all RICS members must follow *RICS property measurement* (2nd edition) Section 1 *Application of the professional statement*. In some instances other measurement standards can be used, such as the RICS guidance note **Code of measuring practice** (6th edition), providing the reason for departure is stated.

There is no Indonesian measurement standard but BOMA (Building Owners and Managers Association International) standards have been adopted in some cases, and IPMS is gradually being implemented for commercial office buildings.

Floor areas are expressed in square metres.

3 Taxation

3.1 Value-added tax (VAT)

VAT is payable on rent and on new building sales.

3.2 Final income tax (PPh)

PPh is paid by the seller and based on the higher of the transaction cost or its sale value (NJOP) for transactions over a set minimum amount.

3.3 Land and building acquisition tax (BPHTB)

BPHTB is paid by the purchaser and subject to regional variation. It is based on the higher of transaction cost or NJOP.

3.4 Land and building tax (PBB)

PBB is payable annually by the owner (unless agreed otherwise, e.g. in the lease). It is based on the value of the property over a set threshold.

3.5 Luxury tax

Luxury tax is payable by the purchaser on high-value houses and apartments with an NJOP over a set amount.

4 Regulation and standards

4.1 Regulation of valuation professionals

All public valuers practising in Indonesia must by law pass a valuer certification test (USP) administered by the **Indonesian Society of Appraisers** (MAPPI). Successful candidates can apply for a Public Valuer Licence from the Ministry of Finance (MoF), providing they:

- are resident in Indonesia
- have a recognised bachelor's degree
- are a member of MAPPI and
- have appropriate working experience.

The MoF can issue a full property valuation licence, a simple property valuation licence (for bank mortgage work and/or property valued at less than Rp5 billion) or a business valuation licence. Valuers with a full property valuation licence are also licensed to undertake other work, such as property development consultancy, asset information system design, property management, business feasibility studies, property agency, project financing monitoring, remaining economic life studies, highest and best use studies and asset optimisation studies.

Licensed business valuers may also undertake business feasibility studies and corporate financial advisory work.

4.2 Membership organisations

MAPPI is the principal membership organisation for property and business valuers in Indonesia. It is the only valuers' association recognised by the government, so all valuers must be registered with MAPPI. Its aims include:

- ensuring the professionalism of its members
- organising professional education, training and assessment and
- liaising with government, society and global appraisal bodies.

MAPPI is a member of the **International Valuation Standards Council** (IVSC), the **ASEAN Valuers Association** and the Pan-Pacific Congress.

4.3 National valuation standards

The **Indonesian Assessment Standards Committee** (KPSPI), established by MAPPI, is responsible for drafting valuation standards in Indonesia. The **Indonesian Valuation Standards** (SPI) (6th edition) was published in 2015 and took effect from 1 January 2016. SPI is mandatory for all valuers conducting appraisals in Indonesia. In summary, the principal objectives of SPI are to:

- ensure the valuer understands the requirements of the client and is equipped to meet those requirements
- promote a consistent approach to the basis of valuation and assumptions made

- ensure appropriate standards of professional competence and performance
- ensure appraisal reports are comprehensive, unambiguous and comprehensible and
- ensure references in the report are clear, accurate and not misleading.

4.4 International standards

- **International Valuation Standards (IVS)** – published by the International Valuation Standards Council (IVSC), which comprises about 100 member organisations dedicated to setting generic global standards for valuation practice and valuation professionals. RICS is a member of IVSC.
- **RICS Valuation – Global Standards 2017 (the Red Book)** – the Red Book sets out global valuation standards for valuations undertaken by RICS members and regulated firms. It adopts and applies the IVS and imposes certain additional requirements with particular reference to ethics, competency, objectivity and disclosures.

5 Application of the RICS Valuation – Global Standards 2017 in Indonesia

5.1 User's perspective

Global standards

- The Red Book is written to ensure that valuation assignments undertaken by RICS members and RICS regulated firms (see PS 1 sections 1 and 2) are fully in accordance with the IVS. Its aim is to engender confidence and to provide assurance to clients and users that a valuation provided by an RICS-qualified valuer anywhere in the world will be undertaken to the highest professional standards overall. The Red Book complements the IVS by providing detailed guidance and specific requirements regarding the practical implementation of the IVS.
- All valuations provided in writing by RICS members and RICS regulated firms must comply with the requirements of the Red Book. Valuers must be suitably trained and have appropriate qualifications and adequate experience for the task.
- Valuers must be independent, objective and transparent in their approach.
- The adoption of the Red Book ensures consistency of approach and aids understanding of the valuation process and the value reported.
- A Red Book-compliant valuation must provide clarity regarding terms of engagement, basis of value (including any assumptions or material considerations taken into account) and reporting.

National supplements

National supplements of the global Red Book are published by RICS in a growing number of countries to ensure compliance with local legal requirements, regulation and practice.

5.2 Red Book – implementation in Indonesia

The Red Book is written from an international perspective, in accordance with the IVS. It expressly recognises (in PS 1 section 4) that in individual jurisdictions, compliance with specific statutory, regulatory or other authoritative requirements is necessary, and doing so does not preclude a valuation from being declared as performed in accordance with the Red Book.

A valuation compliant with the Red Book and undertaken by a member of RICS or a valuer working for an RICS regulated firm who has the necessary experience in the market will accord with the IVS.

A valuation of a property in Indonesia has to comply with SPI (MAPPI) standards and be undertaken by a MAPPI-registered valuer. A valuation undertaken in accordance with SPI will meet the requirements of the IVS. The report has to be signed by an MoF-licensed public valuer.

A valuer instructed to undertake a Red Book-compliant valuation of an Indonesian property must ensure that it meets the requirements of both SPI and the Red Book.

Confidence through professional standards

RICS promotes and enforces the highest professional qualifications and standards in the valuation, development and management of land, real estate, construction and infrastructure. Our name promises the consistent delivery of standards – bringing confidence to markets and effecting positive change in the built and natural environments.

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