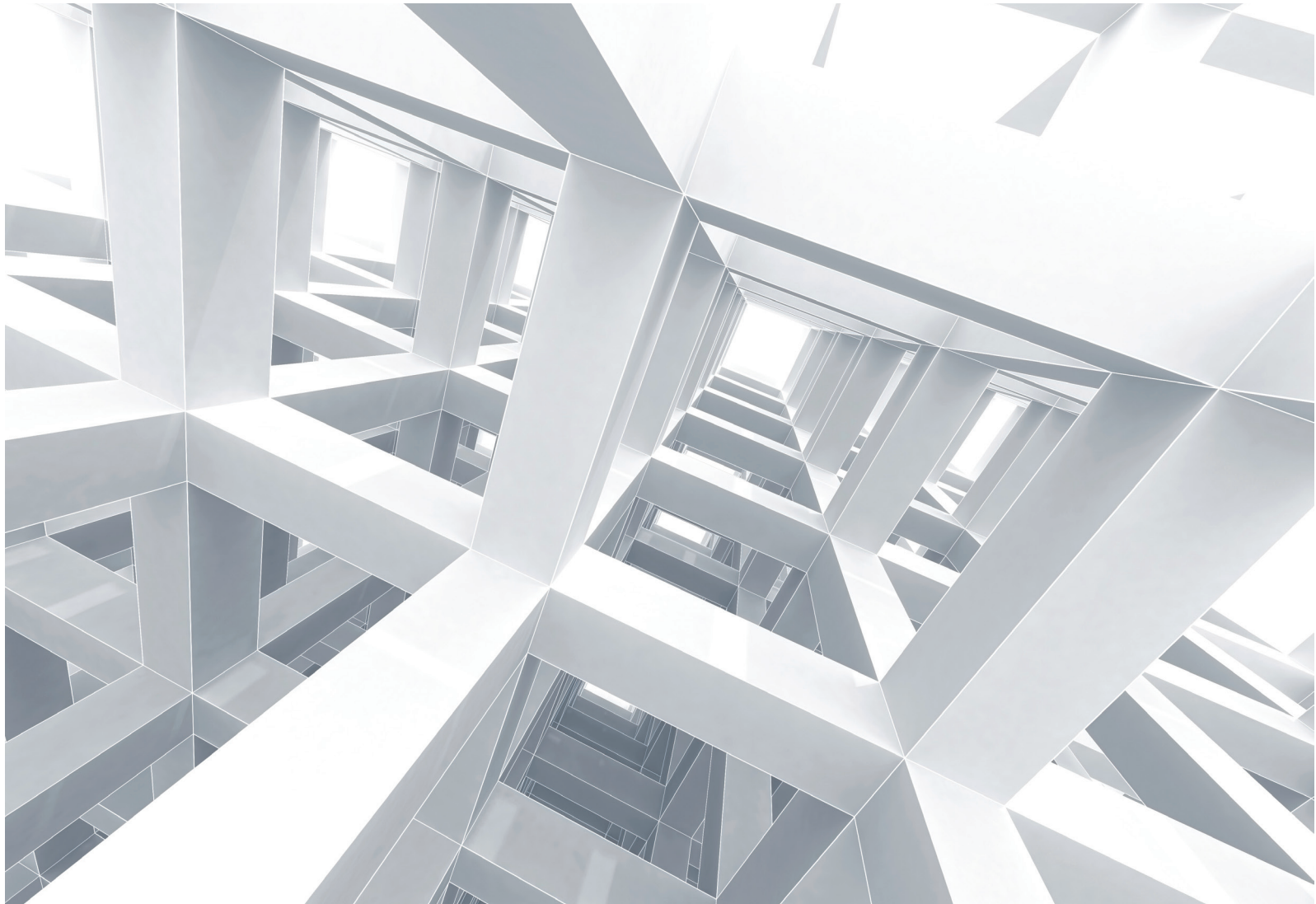




RICS professional guidance, France

Application of the RICS Valuation - Professional Standards in France

1st edition, October 2015



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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 which 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 guidance and standards documents. These have been defined in the table below. This document is a guidance note.

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 encompasses practice statements, Red Book professional standards, global valuation practice statements, regulatory rules, RICS Rules of Conduct and government codes of practice.	Mandatory
Guidance		
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].
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.

Preface

The Royal Institution of Chartered Surveyors (RICS) is the world's largest professional organisation for property professionals. Currently, RICS has approximately 118,000 accredited professionals in 140 countries.

To assist RICS members to achieve and maintain defined levels of qualification, knowledge, skills and experience, RICS has been publishing valuation standards since 1980. The standards, *RICS Valuation – Professional Standards*, are usually referred to as the 'Red Book' and the latest edition came into effect on 6 January 2014. The global valuation standards have also been translated into French.

The Red Book, which is fully compliant with International Valuation Standards (IVS), is of mandatory application to RICS members who provide a written valuation report. RICS members who provide a valuation service in France are now obliged to join Valuer Registration in order to be RICS Red Book compliant and are entitled to use the term 'RICS Registered Valuer' (full details of the scheme are available from www.rics.org/regulation).

The Red Book (in PS 1 paragraph 4, Compliance with other valuation standards) recognises that local statute, or regulation, may have specific requirements that expand the global standards and that such requirements may be the subject of RICS national association valuation standards (PS 1 paragraph 5). Accordingly, the French RICS Valuation Professional Group has developed this guidance note, which covers mandatory application in France, where members must comply with, in addition to French regulations, the *Charte de l'Expertise en Evaluation Immobilière*, 2012 (the Charter). This is the national valuation standard.

While no contradiction has to date been identified between the Charter 2012 – which is considered of mandatory application in France – and the Red Book edition 2014, it is confirmed that in any case of doubt the Red Book requirement should be followed.

RICS is, with national associations, a co-signatory of the Charter and a member of the Committee for proper

enforcement of the Charter (Comité d'application de la Charte). It looks after proper application of the Charter within the limits of absence of any contradiction with the Red Book.

Where a valuation is for a purpose that is not included in these standards the global valuation standards are to be applied.

These standards reflect the requirements of the 2014 edition of the Red Book, which came into effect on 6 January 2014.

In this document these abbreviations are used:

- FRPS – this means French professional standard
- FRVPGA – this means French valuation practice guidance – application.

RICS France regularly reviews the content of this guidance. Amendments and additions will be issued from time to time as required. Any amendments and additions will be published by RICS on www.rics.org/redbook, which should be checked for any revisions of either the global or French Valuation Standards.

If this guidance note has been subject to any proposed amendments that may have a substantial effect, they will first be issued electronically in the form of exposure drafts, containing the texts approved for publication by RICS France and the RICS Valuation Standards Board.

The purpose of an exposure draft is to enable members to comment on the approved text, and possibly identify flaws, before its coming into effect. The text of an exposure draft will, after consideration of any comments made and upon proposal by the guidance note (GN) committee, be finally approved by RICS through the RICS France Board.

RICS France would be pleased to receive suggestions for inclusion of additional material or requests for clarification of the text at the following address: ricsfrance@rics.org

Introduction: national context

In France, certain valuations for specific bodies/vehicles are subject to regulations or guidance, mainly:

- regulations concerning
 - specific special purpose vehicles (SPVs): Société Civile de Placement Immobilier (SCPI), Organisme de Placement Collectif en Immobilier (OPCI) or other Alternative Investment Funds (AIF) governed by the AIFM Directive
 - insurance companies, mutual insurance companies and retirement benefit institutions
 - expropriation in the public interest
 - public entities
 - judicial assessments
- guidance or professional standards
 - The *Charte de l'Expertise en Evaluation Immobilière* (4th edition, October 2012)
 - Barthès de Ruyter report (2000) for 'Sociétés faisant appel public à l'épargne' (companies raising public funds): listed landholding trusts, OPCI, SCPI
 - The *Code de déontologie des SIIC* published by the Autorité des Marchés Financiers (AMF) and FSIF ('Fédération des Sociétés Immobilières et Foncières')
 - AMF guidance dated 8 February 2010.

The valuation of investment properties owned through funds or listed companies (e.g. SIICs) are essentially regulated by the AMF (Autorité des Marchés Financiers). AMF rules state, for example, the basis of value to be adopted, the independence rules, the rotation rules if need be, etc. Specific regulations also apply to the valuation of the assets and real estate companies or landholding trusts owned by insurance companies, mutual insurance companies and retirement benefit institutions. These are regulated by the ACPR (Autorité de Contrôle Prudentiel et de Résolution), the authority that controls insurance providers and banks.

The valuation of properties owned by its occupiers usually follows French accounting principles and sometimes IFRS standards if applicable. There are no particular rules for the valuations for French banks. They issue specific instructions for each valuation.

The national standard in France is the *Charte de l'Expertise en Evaluation Immobilière*, 4th edition, October 2012 (the Charter). The Charter contains a summary of the French regulations that apply to property valuation in France. Members should be aware that, although an asset valued in compliance with the Red Book will generally comply with the Charter principles, the latter contains certain specific requirements that apply in France for specific vehicles or contexts.

The effective date of this guidance note is the date of publication.

French professional standards (FRPS): FRPS 1 The Charte de l'Expertise en Evaluation Immobilière

FRPS 1.1 Compliance with the Charte de l'Expertise en Evaluation Immobilière 2012

RICS members providing valuation services in France shall comply with the *Charte de l'Expertise en Evaluation Immobilière 2012*.

- 1 The *Charte de l'Expertise en Evaluation Immobilière*, 4th edition, (the Charter) came into effect on 24 October 2012 and constitutes the national standard for property valuation in France.
- 2 The Charter is co-signed by the main French associations representing property valuation experts. RICS is a co-signatory of the Charter.
- 3 The Charter defines the roles and duties of property valuers in France and outlines technical or regulatory aspects that are specific to the French real estate market.
- 4 RICS members providing property valuations in France must comply with the Red Book and also have regard to the additional requirements of the Charter. FRPS 1.2 contains guidance on the specific requirements of the Charter and its impact on the Red Book.

FRPS 1.2 Guidance for RICS members undertaking valuations in France

1 Contents of the Charter

The Charter is made up of five parts and six appendices. These are briefly summarised below.

Part I: General conditions of valuation practice

Part I sets out the minimum qualifications required to carry out valuations that meet the regulations defined in the Charter. It lists the conditions, sometimes regulatory, that govern certain valuation activities – particularly those undertaken for courts, by state valuers, for agricultural land or for fiscal matters.

In addition, this part defines the cases where valuations must be carried out while considering regulatory matters or

recommendations (insurance companies, mutual insurance companies, retirement benefit institutions, SPCIs, OPCIs and SIICs). It also presents the ethical rules that apply to property valuers when carrying out valuations in compliance with the Charter.

To ensure the correct application and to oversee any amendments of the Charter, the signatory associations have created an Application Committee of the Charter comprising the associations who are co-signatories of the Charter.

Part II: Valuation methodologies

Part II defines values, types of floor areas, rentals, rates (yield, capitalisation and discount) and valuation methodologies – of which some are specific to the French market.

Part III: Valuation instructions and due diligence

Part III sets out the types of valuation instructions that a property valuer can undertake in accordance with the Charter (including the provision of a full report, valuation update and critical reviews). It also sets out the minimum content for reports and engagement letters.

Part IV: Ethics and independence applicable to property valuers

Part IV sets out the ethical principles that must be followed by valuers in order to ensure their observance of confidentiality and their independence.

Part V: Impact of technical standards and sustainable development on the valuation of property assessment process

Part V aims to help valuers to consider the impact of environmental issues on the assessment of values.

Appendices

The appendices include technical information, such as specific weighting rules applying to retail areas in France and the Barthès de Ruyter report regarding the valuation of properties of companies raising public funds.

- Appendix 1 lists the main texts and bibliography.
- Appendix 2 lists the associations who are signatories of the Charter, the observing members and the editors who collaborated on its revision.
- Appendix 3 sets out a summary table of areas used in property measurement, according to a table from Juris Hebdo. This table is specific to the regulatory framework and French market.

- Appendix 4 gives recommendations for the calculation of weighted lettable areas for retail properties. This appendix describes the lettable areas weighted for all valuations dealing with retail to estimate market rent of retail premises (for example, rateable value, market value, right to lease value, compensation for eviction).
- Appendix 5 discusses the method and approach to applying discount rates used in property valuations (AFREXIM 2010).
- Appendix 6 sets out the report of the working group about property valuations for companies raising public funds (COB/AMF report or Barthès de Ruyter – February 2000).

2 Main differences between the Red Book and the Charte de l'Expertise

The Charter contains:

- valuation standards
- recommendations and
- information.

The content of the Charter differs from that of the Red Book on certain points, but there are no major differences that make the Red Book incompatible with the Charter.

The ethical requirements defined in the Red Book (PS 2: Ethics, competency, objectivity and disclosures) are more extensive than those in the Charter.

There are slight differences in the wording of the definition of market value between the Charter and the IVS/Red Book. However, the differences are minimal and have no impact on the value.

3 RICS members undertaking valuations in France

RICS members carrying out valuations in France must take into account the technical elements specific to the French market that are described in the Charter, particularly when they carry out valuations for the purpose of regulations (for example, for insurance companies, SCPIs and OPCIs).

A valuation carried out in accordance with the Red Book, having regard to the additional Charter requirements, will be compliant with the Charter.

4 Impact of the Charter on the global standards

Part I: General conditions of valuation practice

The principles of PS 2 in the Red Book (Ethics, competency, objectivity and disclosures) are generally the same as Chapters 1 to 4 of Part I in the Charter, with one exception. The Charter notes that 'A property valuation expert is either a physical person or an institution'. RICS does not allow a valuation to be prepared by a firm or

institution, but allows the use 'for and on behalf of' under the responsibility of the valuer who signs as an acceptable substitution (see PS 2 paragraph 1.3).

Chapter 5 relates to the maintenance of the Charter: ensuring its proper enforcement and the supervision of all amendments is the responsibility of the relevant committee (the Comité d'application de la Charte), which is comprised of the co-signatory associations of the Charter.

Part II: Valuation methodology

Chapter 1 provides definitions of market value, fair value and market rent, together with other related concepts. It is important that the valuer *specifies the definitions*, so that the advice being provided is clear. Although the wording in the Charter differs in detail from that in the Red Book regarding the definitions in VPS 4 Bases of value, assumptions and special assumptions, paragraph 1, it is considered that the resulting value will be the same.

Chapter 2 provides guidance on areas used in property measurement. The Red Book does not contain this information.

Chapter 3 details methods of valuation. The Red Book provides definitions of different methods but does not detail them, however, the principles set out are similar to those used in RICS professional guidance for valuation.

Chapters 4 and 5 provide information on rent, yield, capitalisation and discount rates. The Red Book does not include this information, but it is similar to what is used in RICS professional guidance for valuation.

Part III: Assignments and due diligence

Although requiring more specific detail, the principles in Part III are the same as those in VPS 1 and VPS 2. One additional requirement is that valuers must specify that they are insured to carry out the valuation. In the contract, valuers can specify the nature of their professional warranty offered (maximum PI limit and warranty period). This requirement is not expressly included in the Red Book because it is dealt with under the RICS Code of Conduct (see PS 2 paragraph 2.1).

Part IV: Ethical principles relevant to experts in property valuation

Part IV contains more detailed requirements concerning ethics than those set out in Part I. The requirements are similar to those in the Red Book PS 1 and PS 2.

Part V: Effect of technical standards and sustainable development on the expert property valuation process

Part V considers the impact of sustainability on the value. There is no equivalent reference in the Red Book (though members' attention is drawn to VPS 4 paragraph 2.5(g)).

French professional standards (FRPS): FRPS 2 Valuations for special purpose vehicles (SPVs)

FRPS 2.1 Organismes de placement collectif en immobilier (OPCI)

The Alternative Investment Fund Managers Directive (AIFMD) has been adopted into the French Code monétaire et financier.

These valuations must be carried out in accordance with articles L214-24-13 to L214-24-18 and L214-33 to L214-70 of the French Code monétaire et financier, and with AMF's instruction (21 December 2013 Instruction 2011-23 and its subsequent amendments). The regulatory authority is the AMF (Autorité des Marchés Financiers).

- 1** An OPCI is a non-listed investment vehicle, mainly comprising real estate assets. The investment management company of the OPCI is required to publish the net asset value ('valeur liquidative') at least:
 - once every six months when the OPCI investors are professionals ('OPCI professionnels' or OPPCI)
 - once every three months when the OPCI investors are individuals ('OPCI grand public').
- 2** The General Rules of the AMF require the appointment for four renewable years of:
 - two valuers for 'OPCI grand public': one ('Expert A') to value the property and the other ('Expert B') to carry out a critical review ('examen critique') of that valuation with an annual role change
 - one valuer for 'OPCI professionnels'. Nevertheless the investment management company can require two valuers (one to value and the other to carry out a critical review).

The rules state that:

- each property must be valued (initial valuation with inspection and updates) at every date of establishing net asset value and
- each property must be the subject of a valuation report, with inspection, by a valuer at least once a year.

3 When appointed, each valuer must submit a formal letter ('engagement de l'expert' and 'présentation de

l'expert') to the AMF, via the management company, in order to receive its approval, confirming (among other things) that:

- they have the necessary experience and qualification to value the property assets concerned and that their main activity is real estate valuation
- they are independent from the OPCI, its portfolio management company, its investors and the other valuer
- they have sufficient human and technical resources to carry out the instruction.

4 Each valuer is required to put in place procedures enabling him or her to identify any difficulties encountered in carrying out the instruction.

5 The General Rules of the AMF require that the properties be valued at their market value.

6 The AMF requires that, in the context of the critical review, the second valuer has to:

- validate the list of information communicated to the first expert
- validate if the first expert carried out the visit (if applicable)
- validate the consistency of methods and assumptions, as well as the conclusions of the first expert
- approve the conclusions. It is nevertheless specified that the second expert must validate the value reported by the first or, if not, state the value that they consider appropriate.

A valuer responsible for submitting a critical review of another valuer's opinion of value will have to comply with PS 2 paragraph 9.

7 The reports of the critical reviews of these members should contain:

- comments on the adequacy of the information received by the first principal valuer
- comments on the investigations carried out by the first valuer
- comments on the valuation methods employed by the first valuer and their pertinence to the type of properties valued

- a statement as to whether they confirm the first valuer's value. If this is not so, the second valuer must state the value he or she reports.

8 At the end of each year, the General Rules of the AMF require the valuer (or the two valuers) to produce a (joint) report ('rapport de synthèse'), summarising all of the works over that year and the procedures the valuer(s) put in place. This report is not a valuation report, rather, it is intended to confirm that the year's valuation assignments were carried out correctly or, on the contrary, point out any difficulties encountered by the valuers in carrying out their respective assignments.

FRPS 2.2 Sociétés civiles de placement immobilier (SCPI)

The valuations for SPCIs must be carried out in accordance with the Alternative Investment Fund Managers Directive (AIFMD), which has been adopted into the French *Code monétaire et financier*.

These valuations must be carried out in accordance with the law of 4 January 1993 and AMF regulation of 9 September 1994. The main differences for valuation purposes with the OPCIs are related to the frequency of the valuations and the number of valuers. The regulatory authority is the AMF.

- 1 An SCPI is a non-listed real estate investment vehicle. The tax regimes for SCPIs and OPCIs are different.
- 2 The General Rules of the AMF require the appointment of one valuer for five years (renewable): one initial valuation with inspection and four updates.
- 3 As for OPCIs, when appointed, each valuer must submit the formal letters ('engagement de l'expert' and 'présentation de l'expert') to the AMF, via the management company, in order to receive its approval.

FRPS 2.3 Insurance companies, mutual insurance companies and retirement benefit institutions

Valuations for these entities must be carried out in accordance with the articles R 931-10-42 of the *Code de la sécurité sociale*, R 212-54 of the *Code de la mutualité* and R332-20-1 and follow the *Code des assurances*. The regulatory authority is the ACPR (Autorité de Contrôle Prudentiel et de Résolution).

- 1 The valuation contract is for a five-year period:
 - initial valuation with inspection
 - four updates.

The valuer provides a valuation report to agree on with the principal. Furthermore, the ACPR asks for a special report ('fiche de résumé conclusif V-1').

The client can change valuer during the period of five years subject to ACPR agreement on the new valuer.

The valuer must be changed at the end of the five-year period.

2 As for OPCIs and SCPIs, when appointed, each valuer must submit the formal letters ('engagement de l'expert' and 'présentation de l'expert') to the ACPR, via the concerned proprietary entity, in order to receive its approval.

3 Furthermore, the regulation indicated above requires not only the valuation of the real estate properties, but also the valuation ('expertise centrales') of the real estate companies' shares or non-listed landholding trusts that own the assets (i.e. when the insurance company owns the assets through another real estate company).

FRPS 2.4 Sociétés d'investissement immobilier cotées (SIIC) (listed REITs)

Valuations for these entities must be carried out in accordance with IFRS, which are mandatory for the consolidated accounts of European listed companies, but other companies can adopt them. The regulatory authority is the AMF.

- 1 The national guidance mainly includes:
 - Barthès de Ruyter report (2000) for 'sociétés faisant appel public à l'épargne' (companies raising public funds): listed landholding trusts, OPCIs and SCPIs
 - the *Code de déontologie des SIIC* published by AMF and FSIF (Fédération des Sociétés Immobilières et Foncières)
 - AMF recommendation dated 8 February 2010.

These refer to valuation standards, such as the Charter, the Red Book or the Blue Book published by TEGoVA.

- 2 There is no required AMF agreement for valuers.
- 3 There is no regulation for the relations between the valuer and the client. The contract is generally for three to six years (but can be sometimes for one-off valuations), with an initial valuation with inspection, and annual or bi-annual updates.
- 4 AMF guidance note dated 8 February 2010 recommends that:
 - bi-annual updates are undertaken and
 - a report ('rapport condensé') is provided that can be prepared by the client (based on the valuations) or

jointly by the valuers. It is not a valuation report but presents the context, the role of the valuers, investigations undertaken, the sources of information, the guidance/standards, and the total fair value.

5 The Barthès report adopts the use of two valuation methods:

- the income approach (capitalisation or update of future treasury flows – Discounted Cash Flows/DCF) and
- the comparison approach.

However, if the valuer can use only one method, it has to be explained why.

French valuation practice guidance – application (FRVPGA): FRVPGA 1 Weighted lettable areas for retail

In France the lettable areas are weighted for all valuations dealing with retail to estimate the market rent of retail premises (for example, rateable value, market value, right to lease value, compensation for eviction). The weighting of areas for retail allows a comparison of the commercial interest for areas that are not necessarily directly comparable (for example, window or façade shelf space, levels, premises of a different nature, etc.).

The rules for the weighting of areas are defined in the Charter and must be applied by all valuers in the French market.

These rules apply mainly to high-street retail, but also to shopping centres and retail parks.



Confidence through professional standards

RICS promotes and enforces the highest professional qualifications and standards in the development and management of land, real estate, construction and infrastructure. Our name promises the consistent delivery of standards – bringing confidence to the markets we serve.

We accredit 118,000 professionals and any individual or firm registered with RICS is subject to our quality assurance. Their expertise covers valuation and commercial property practice; property finance and investment; project management, planning & development; quantity surveying as well as facilities management.

From environmental assessments to real estate transactions, if our members are involved the same professional standards and ethics apply.

We believe that standards underpin effective markets. With up to seventy per cent of the world's wealth bound up in land and real estate, our sector is vital to economic development, helping to support stable, sustainable investment and growth around the globe.

With offices covering the major political and financial centres in the world, we are ideally placed to influence policy and embed professional standards. We work at a cross-governmental level, delivering international standards that will support a safe and vibrant marketplace in land, real estate, construction and infrastructure, for the benefit of all. We are proud of our reputation and we sustain it, so clients who work with an RICS professional can have confidence in the quality and ethics of the services provided.

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