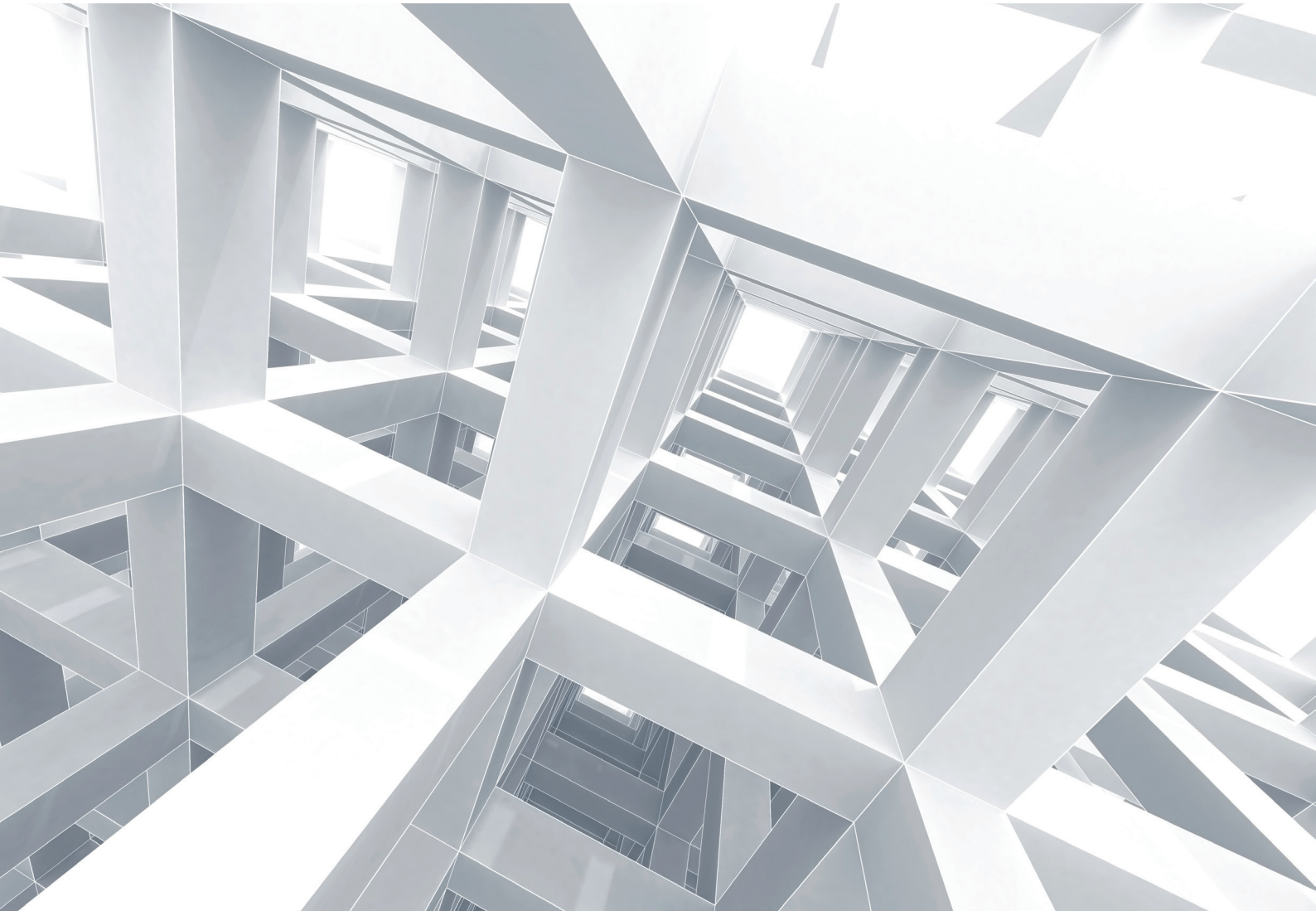




RICS professional guidance, Portugal

Application of the RICS Valuation - Professional Standards in Portugal

1st edition, August 2016



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RICS professional statement, Portugal

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Acknowledgments

Technical author

José Covas MRICS

Working group members

Rita Albergaria MRICS

Miguel Bacalhau MRICS

Frederico Borges de Castro MRICS

Marta Figueiredo MRICS

Marta Lourenço MRICS

João Nunes MRICS

Carlos Pereira MRICS

Nelson Rêgo, MRICS

Ricardo Reis FRICS

Vitor Soares MRICS

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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 professional statements

This is a professional statement, which RICS members must act in accordance with.

Sections within professional statements that set specific mandatory requirements for members use the word ‘must’. Members must not depart from specific mandatory requirements.

Sections within professional statements that set an expectation or recommend best practice advice use the word ‘should’. Where members depart from these, they should do so only for justifiable good reason. Where, in the professional judgement of the member, the departure may have a material impact on the surveyor’s advice, the client must be informed in writing of the departure and the reason/s for the departure.

Any content that does not use the word ‘must’ or ‘should’ is information.

RICS considers that professional statements are technical standards for the purposes of Rule 4 of both the *Rules of Conduct for Members 2007* and the *Rules of Conduct for Firms 2007* (as amended from time to time).

Members should note there may be legal and/or disciplinary consequences for departing from professional

statements. When an allegation of professional negligence is made against a surveyor, the court is likely to take account of relevant RICS professional statements in deciding whether or not the surveyor acted with reasonable competence. Failure to act in accordance with professional statements may, accordingly, lead to a finding of negligence against a surveyor. In the opinion of RICS, a member acting in accordance with relevant professional statements should have at least a partial defence to an allegation of negligence.

In some cases there may be existing national standards that take precedence over professional statements. These can be defined as professional standards that are prescribed in law or federal/local legislation, or are developed in collaboration with other relevant bodies. It is the duty of members to be aware which standards apply.

Members should be up to date and have knowledge of professional statements within a reasonable time of their coming into effect. It is the member’s responsibility to be aware of changes in case law and legislation since the date of publication.

Document status defined

RICS produces a range of professional standards, guidance and information documents. These have been defined in the table below. This document is a professional statement.

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 information that provides users with the latest technical information, knowledge or common findings from regulatory reviews.	Information and/or recommended best practice. Usual principles apply in cases of negligence if technical information is known in the market.
RICS insight	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 report	A document usually based on a survey of members, or a document highlighting economic trends.	Information only.
RICS consumer guide	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: national context

1.1 RICS publishes, separately from the *RICS Valuation – Professional Standards* global (the ‘Red Book’), a number of RICS national association valuation standards (see Red Book global PS 1 paragraph 5) and national guidance material. They are designed to cover specific statutory or regulatory requirements in local jurisdictions, while being consistent with relevant international standards. This RICS national association valuation standard covers the application of the Red Book in Portugal.

1.2 Depending on the purpose for which it is intended, property valuation in Portugal may be subject to diverse local legislation and regulations that create specific rules, in particular, the following:

Law no. 153/2015 of 14 September	Valuations carried out as part of the Portuguese Financial System, including the areas of banking, real estate, insurance and re-insurance, and pension funds
Law no. 168/99, of 18 September, which approved the Expropriation Code in effect [CE]	Valuations for the purpose of determining the fair compensation due in cases of expropriation
Decree Law no. 287/2003 of 12 November	Establishes the rules for calculating the taxable asset value of properties

and all regulatory material in effect in the sector, namely and not exclusively:

CMVM Regulation no. 2/2015	With regard to collective investment organisations (movable and immovable assets) and marketing of open individually subscribed pension funds
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1.3 In addition to the applicable legislation and regulations, some guidelines and professional standards are published, notably the following:

- *Urban Properties Valuation Manual* – Department of Valuation Services – Ministry of Finance
- Criteria and technical standards to adopt in the valuation of properties within the responsibilities of the Directorate General for the Treasury and Finances

- *Accounting Normalization System (Sistema de Normalização Contabilístico – SNC)* – valuations for financial reporting.

1.4 Law no. 153/2015 of 14 September which entered into effect on 13 November 2015, regulated property valuation experts providing services to the Portuguese Financial System. This law establishes the Portuguese Securities Market Commission (CMVM) as the regulatory body, which, among others, regulates the following aspects:

- access to the activity
- exercising the activity
- supervision and regulation
- disciplinary regime and
- contents of the valuation report.

1.5 With regard to regulation, it should be mentioned that RICS is the largest international organisation of real estate professionals, and provides a system of self-regulation for its members, producing standards, technical notes, and codes of conduct, among other items.

The process of regulating RICS members begins even before their admission, as the qualification process – Assessment of Professional Competence (APC) – implies that the future members have a detailed knowledge of the RICS Rules of Conduct, the system of regulation, and the professional standards to which they will be subject, namely the Assessment Standards, which they will have to follow.

The RICS Rules of Conduct are binding for all members – non-compliance may have disciplinary consequences. Their primary objective is to ensure that members act in an ethical, transparent and responsible way, and manage conflicts of interest.

The Portuguese legal system finds the RICS regulatory arrangements to be satisfactory for the purposes of Law no. 153/2015.

1.6 Members should be aware that PS 1 paragraph 5 of the Red Book global provides that ‘RICS national association valuation standards have mandatory status in the countries or states to which they apply and are intended to supplement the relevant global valuation standards to meet local statutory or regulatory requirements ...’.

1.7 The effective date of this RICS national association valuation standard is 1 September 2016.

2 Portuguese professional standards [PTPS]

2.1 PTPS 1: Compliance with Law no. 153/2015 of 14 September – Property Valuation Experts [Peritos Avaliadores de Imóveis – PAIs]

RICS members who carry out valuations for the Portuguese Financial System (*Sistema Financeiro Português – SFP*), must act in compliance with Law no. 153/2015.

- (a) Law no. 153/2015 of 14 September entered into effect on 13 November 2015, and currently constitutes the main regulations for valuations carried out in Portugal for the *SFP*.
- (b) Law no. 153/2015 regulates the access and exercising of the activity of property valuation experts who perform valuations for the *SFP*.
- (c) RICS members providing property valuations in Portugal must comply with the Red Book and also have regard to the additional requirements of Law no. 153/2015. PTPS 2 contains guidelines on specific requirements contained in the Law and their impact on Red Book valuations.

2.2 PTPS 2: Guidelines for RICS members who perform valuations in Portugal

2.2.1 Contents of Law no. 153/2015

Law no. 153/2015 is comprised of five chapters and an annex, briefly described below:

- Chapter I – General Provisions – establishes the scope of the material application of the law.
- Chapter II – Access to the activity
 - Section I – General Rules – defines the means of access to the activity of Property Valuation Expert (*PAI*), including registration, professional qualifications and experience, integrity, responsibility, civil liability insurance, and decision-making system, among others.
 - Section II – Professional practice – establishes the systems of policies and procedures, and of

associations of *PAI*s, and regulates the potential incompatibilities that may occur.

- Chapter III – Supervision and regulation – covers regulation and monitoring, communication and disclosure.
- Chapter IV – Disciplinary Regime – defines scope, disciplinary regime and powers.
- Chapter V – Final Provisions – establishes the situation of *PAI*s registered prior to the entry in force of the Law.
- Annex on the contents of the valuation report – defines the minimum content of the valuation report.

2.2.2 Compatibility between the RICS Valuation – Professional Standards and that determined by Law no. 153/2015 – Policies and Procedure

Article 17 – Policies and Procedures of Law no. 153/2015, determines that property valuation experts should adopt appropriate and effective written policies and procedures that specifically regulate:

- (a) the standards of ethics, of independence, of professional qualifications and of internal organisation that should be observed in the performance of their duties
- (b) the methodology and professional practices employed to guarantee the quality of their services
- (c) the terms under which they may carry out transactions in their own name on properties or anything else that might generate conflicts of interest
- (d) their policy in matters of conflict of interests and the method to determine remuneration that should be followed to guarantee the independence and objectivity of the valuation prepared
- (e) the rules regarding professional secrecy.

Following the Red Book global PS 2 (Ethics, competence, objectivity and disclosure) enables full compliance with the requirements established by Law no. 153/2015.

With regard to issues of independence and incompatibilities, particularly in terms of potential conflicts of interest (terms under which valuers can perform transactions on properties on their own behalf) and the calculation of fees (prohibiting the remuneration of real estate valuers from depending, directly or indirectly, on the valuation or value of the property), the following should be noted:

- RICS has procedures for managing potential conflicts that aim to safeguard the integrity of the work undertaken. Members are required to demonstrate independence and objectivity in all their work. Members must always act with integrity and avoid any actions or situations that are incompatible with their professional obligations. When a conflict or potential conflict is identified, it should be a determining factor in accepting or declining the work. Property transactions in one's own name fall within this scope, and under PTPS 1 RICS members **must demonstrate an adequate system for managing conflicts of interest, whenever this type of operation arises as mentioned in PS 2 of the Red Book, and if it is not possible to resolve the conflict, the work should be refused.**
- Although the Red Book does not set strict rules on matters of fees (see Red Book global VPS 1 Minimum terms of engagement, paragraph 3(m) the basis on which the fee will be calculated), under PTPS 1 **members cannot make their remuneration, directly or indirectly, dependent on the valuation or value of the property.**

In compliance with PS 1 paragraph 8 (Regulation: monitoring compliance with these professional standards

and valuation practice statements), regarding supervision and regulation, the current monitoring system should be noted. With effect from 1 January 2017, all members carrying out valuations must be registered with the RICS Valuer Registration Scheme – which becomes mandatory on that date – enrolling as 'RICS Registered Valuers'. From that moment, RICS members are subject to a monitoring system for all stages of the process:

- terms of engagement and report templates
- confirmation of the qualification of the valuer and demonstration of experience and expertise in their areas of specialisation, knowledge and location
- confirmation of the verification process for potential conflicts of interest
- notes on inspections
- registration and analysis of comparables
- quality of reports – meeting the RICS Valuation – Professional Standards Global and/or the specific requirements of clients
- document management
- implementation of quality control processes
- linking comparables to the valuation values
- valuation calculations and methodology.



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.

United Kingdom RICS HQ

Parliament Square, London
SW1P 3AD United Kingdom

t +44 (0)24 7686 8555

f +44 (0)20 7334 3811

contactrics@rics.org

Media enquiries

pressoffice@rics.org

Ireland

38 Merrion Square, Dublin 2,
Ireland

t +353 1 644 5500

f +353 1 661 1797

ricsireland@rics.org

Europe

[excluding UK and Ireland]

Rue Ducale 67,
1000 Brussels,
Belgium

t +32 2 733 10 19

f +32 2 742 97 48

ricseurope@rics.org

Middle East

Office G14, Block 3,
Knowledge Village,
Dubai, United Arab Emirates

t +971 4 446 2808

f +971 4 427 2498

ricsmenea@rics.org

Africa

PO Box 3400,
Witkoppen 2068,
South Africa

t +27 11 467 2857

f +27 86 514 0655

ricsafrica@rics.org

Americas

One Grand Central Place,
60 East 42nd Street, Suite 542,
New York 10165 – 2811, USA

t +1 212 847 7400

f +1 212 847 7401

ricsamericas@rics.org

South America

Rua Maranhão, 584 – cj 104,
São Paulo – SP, Brasil

t +55 11 2925 0068

ricsbrasil@rics.org

Oceania

Suite 1, Level 9,
1 Castlereagh Street,
Sydney NSW 2000. Australia

t +61 2 9216 2333

f +61 2 9232 5591

info@rics.org

North Asia

3707 Hopewell Centre,
183 Queen's Road East
Wanchai, Hong Kong

t +852 2537 7117

f +852 2537 2756

ricsasia@rics.org

ASEAN

10 Anson Road,
#06-22 International Plaza,
Singapore 079903

t +65 6635 4242

f +65 6635 4244

ricssingapore@rics.org

Japan

Level 14 Hibiya Central Building,
1-2-9 Nishi Shimbashi Minato-Ku,
Tokyo 105-0003, Japan

t +81 3 5532 8813

f +81 3 5532 8814

ricsjapan@rics.org

South Asia

48 & 49 Centrum Plaza,
Sector Road, Sector 53,
Gurgaon – 122002, India

t +91 124 459 5400

f +91 124 459 5402

ricsindia@rics.org