RICS Jurisdiction Guide

RICS Professional Standards and Guidance, France

RICS Valuation – Global Standards 2017 Jurisdiction Guide: France

1st Edition, May 2019
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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

<table>
<thead>
<tr>
<th>Type of document</th>
<th>Definition</th>
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<tr>
<td>RICS Rules of Conduct for Members and RICS Rules of Conduct for Firms</td>
<td>These Rules set out the standards of professional conduct and practice expected of members and firms registered for regulation by RICS.</td>
</tr>
<tr>
<td>International standard</td>
<td>High-level standard developed in collaboration with other relevant bodies.</td>
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<tr>
<td>RICS professional statement [PS]</td>
<td>Mandatory requirements for RICS members and regulated firms.</td>
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<tr>
<td>RICS guidance note [GN]</td>
<td>A document that provides users with recommendations or an approach for accepted good practice as followed by competent and conscientious practitioners.</td>
</tr>
<tr>
<td>RICS code of practice [CoP]</td>
<td>A document developed in collaboration with other professional bodies and stakeholders that will have the status of a professional statement or guidance note.</td>
</tr>
<tr>
<td>RICS jurisdiction guide [JG]</td>
<td>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.</td>
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1 Background

France has a mature property market that attracts both local and international property investment, reflecting its position as a leading world economy. With a total estimated value of US$422bn, the French investment market ranked sixth in the world in the 2017 MSCI Real Estate Market Size survey.

The JLL Global Real Estate Transparency Index 2018 classified the market as ‘highly transparent’.
2 Legislation

2.1 Principal laws governing real estate

The following laws govern real estate in France:

- Civil code (Code civil) covering transfers of title and non-commercial leases.
- Commercial code (Code de commerce) for commercial leases including shopping centres.
- Construction code (Code de la construction de l’habitation) for construction and development. It prohibits certain changes of use, e.g. from residential to offices.
- Urban planning code (Code de l’urbanisme) for planning and development. This sets out the main zoning rules and classification of property.

2.2 Types of ownership

The following types of ownership occur in France:

- Pleine propriété – full ownership (equivalent to freehold) of real estate.
- Copropriété – co-ownership with private and common parts.
- Propriété en lots de volumes – co-ownership without common parts.
- Indivision – co-ownership with the same rights on the whole property.
- Long-term leases between 18 and 99 years. These are regarded as equivalent to full property rights during the lease period only. There are two types:
  a. Bail à construction – tenant is obliged to construct and maintain a predetermined building on the leased property.
  b. Bail emphytéotique – tenant is not obliged to construct on the leased property.
- Autorisation d’occupation temporaire (AOT) – a temporary occupancy right (no minimum; maximum 70 years).

2.3 Registration

All property must be registered at the Land Registry but property that has not changed ownership since 1955 will not be registered. In these cases, title is evidenced by demonstrating that the current owner has had valid title for over 30 years.

Easements, encumbrances, mortgages, finance leases and leases over 12 years must be registered.

2.4 Planning control

Zoning and urban planning is regulated by the Code de l’urbanisme and town planning (Plan local d’urbanisme). Planning is largely regulated by local authorities. Note that the Code de commerce and the Code de la construction de l’habitation also influence planning issues.
2.5 Commercial leases

The Code de commerce sets certain rules for French commercial property leases. In general, the principal terms are as follows:

- **Term**: the standard French commercial lease has a minimum length of nine years.
- **Breaks**: leases have a statutory tenant’s option to break every three years (commonly known as a 3/6/9 lease). Parties can also agree unbroken six or nine-year terms (sometimes more).
- **Rent**: usually payable monthly in advance.
- **Rent escalation**: annual indexation is common, in line with an index appropriate to the activity of the tenant in the premises. Open market reviews are less common.
- **Statutory rent control**: none.
- **Maintenance, operating expenses and repairs**: the landlord is responsible for the exterior, structure and common parts. The tenant maintains and repairs the interior of the leased premises.
- **Service charge**: for multi-let buildings a service charge will be levied to recover the landlord’s costs relating to common areas, equipment, services, land tax and insurance. Costs of major works cannot be recovered.
- **Assignment and subletting**: requires landlord’s consent. Subletting is not permitted unless authorised in the lease.
- **Termination**: office tenants have a statutory right to renew at the end of the lease at the then market rent. If the parties cannot agree, the rent can be set by the court. Renewal can be refused by the landlord, subject to the payment of compensation.

Other forms of lease:

- **Short-term lease** (Bail de courte durée/Bail dérogatoire/Bail précaire): not exceeding 36 months, where both parties agree not to be confined to the terms of a standard commercial lease.
- **Professional lease** (Bail professionnel): a six-year contract for members of the ‘liberal professions’, including lawyers, doctors, architects, chartered accountants, translators, etc. There is no right of renewal and the tenant may terminate the lease with six months’ notice.
- **Administrative lease** (Bail administratif): lease type reserved for local authorities and public health establishments.

2.6 Residential leases

The French legal system regulates residential lettings, principally in favour of the tenant. Leases differ according to whether it is let unfurnished (vide) or furnished (meublée). The standard lease contract for unfurnished property is for three years (when the landlord is an individual or a société civile immobilière familiale), or for six years (where the landlord is a legal entity), but it can be terminated by notice served by the tenant during this time. Furnished properties have a standard minimum contract period of one year. In both cases, leases are renewed automatically unless notice is served. The tenant’s standard notice period is three months for furnished or unfurnished properties. The landlord’s notice must give reasons for the termination.
Major repairs to the property, and payment of the land tax (impôt foncier) are the responsibility of the landlord. The tenant is usually responsible for minor repairs and maintenance. Regulation introduced in 2015 has codified responsibilities to ensure consistency across the country.

Rent increases are usually annual and indexed in line with inflation. Since 2014, the new lease rent has been capped in locations with a strong demand for rental property.

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.

In France, the main measurement standard is provided by the Ordre des Géomètres-Experts (OGE). Four methods of measurement are recognised but the most commonly used for lettings, agency and valuation of workspace (offices, laboratories, meeting rooms, etc.) is net lettable area (surface utile nette – SUN).

For shop units, a weighting system is often used based on 10m zones extending back from the shop front (zone A). The second zone will be valued at 50 per cent of zone A, with retail basement and upper floor space at 30–50 per cent of zone A. For shopping centres and retail parks an overall rate is usually applied. Rules for weighting are defined in the Charter, section 4.2 (a).

Areas are expressed in square metres.
3 Taxation

3.1 Value added tax (VAT)

VAT is paid on rent for commercial but not residential property and on service charges, design fees, and construction costs.

3.2 Office tax (Taxe sur les bureaux)

This tax applies to the Paris region only. It is paid by the landlord and usually reimbursed by the tenant. The amount of tax varies by district. Some properties are exempt, including office space smaller than 100m², properties located in a ‘zone de redynamisation urbaine’, or a ‘zone franche urbaine’ and properties used by associations, social, educational or cultural organisations.

3.3 Land tax (Impôt foncier)

This tax is paid by the landlord and usually reimbursed by the tenant (except for residential property). The level varies according to location, specification and level of equipment in the building.

3.4 Contribution économique territoriale (CET)

This includes the following taxes:

- Real estate tax: CFE (Cotisation foncière des entreprises), based on the rental tax value of used buildings (local tax rate).
- Corporate tax: CVAE (Cotisation sur la valeur ajoutée des entreprises), based on the corporate added value, excluding companies with an annual turnover below a defined threshold.

3.5 Development tax (Taxe d’aménagement)

This applies to all building work including any construction, reconstruction and expansion of buildings or facilities that require planning permission.

3.6 Redevance de création de bureaux (in Île-de-France)

Tax applied on construction, renovation or extension of office, commercial and storage buildings.
4 Regulation and standards

4.1 Regulation of property professionals

Real estate valuation professionals are not subject to statutory regulation in France, with the exceptions referred to in section 4.4. However, a well-established professional structure exists. Local French real estate organisations representing professional valuers are listed in Appendix A. Members are subject to regulation by the organisations to which they belong.

RICS has been active in France since the 1990s and has over 1,400 members in the country. RICS was established in 1868 in London and is now the largest international regulator of property professionals, with 125,000 members worldwide. RICS valuers must be registered and are subject to regulatory monitoring.

4.2 French national valuation standards

a The Charte de l'Expertise en Evaluation Immobilière (the ‘Charter’) is the recognised national standard for property valuation in France. The fifth edition took effect from March 2017. It defines the roles and duties of valuers in France and outlines technical and regulatory aspects. Its application is mandatory for members of the associations who are signatories of the Charter.

The Charter is co-signed by the main French associations representing real estate valuation experts, including RICS. It covers:

i general conditions to undertake valuations – qualifications, regulations, ethics
ii methodologies, types of rents, types of yields and discount rates
iii due diligence, instructions and reporting
iv technical standards and consideration of environmental issues impacting on the valuation process.

b Barthès de Ruyter report (2000) for Sociétés faisant appel public à l’épargne (companies raising public funds) including listed landholding trusts, Organismes de placement collectif en immobilier (OPCIs), and Sociétés civils de placement immobilier (SCPIs). It requires the valuer to use both the income approach and comparison when valuing property owned by these organisations.

c Code de déontologie des SIIC – code of ethics for listed real estate investment companies published by AMF and FSIF (‘Fédération des Sociétés Immobilières et Foncières’: French Federation of listed REITs).

d AMF guidance (8 February 2010) – recommendations published by the French financial markets authority, which refer to the Charter and the international standards.
4.3 International standards

- **International Valuation Standards (IVS)** – published by the International Valuation Standards Council (IVSC), which comprises approximately 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 standards for valuations undertaken by RICS members and RICS regulated firms. It adopts and applies the IVS and imposes certain additional requirements with specific reference to ethics, competency, objectivity and disclosures.

- **European Valuation Standards (EVS, the Blue Book)** – published by the European Group of Valuers’ Associations (TEGoVA), an umbrella organisation of European national valuers’ associations whose objective is to promote and harmonise European valuation standards.

4.4 Regulated valuations

Although the work of valuers in France is not subject to statutory regulation, valuations of property assets held in certain financial institutions must be undertaken in accordance with the requirements of those institutions, which are listed below.

- Organismes de placement collectif en immobilier (OPCI) regulated by the Autorité des Marchés Financiers (AMF). Valuations must be carried out in accordance with the *Code monétaire et financier* and with AMF’s instructions.

- Sociétés civiles de placement immobilier (SCPI). Valuations must be carried out in accordance with the Alternative Investment Fund Managers Directive (AIFMD).

- Insurance companies, mutual insurance companies, retirement benefit institutions. Valuations must be carried out in accordance with relevant articles of the *Code de la sécurité sociale* and the *Code de la mutualité* and follow the *Code des assurances*.

- Les Sociétés d’investissement immobilier cotées (SIIC) (listed REITs). Valuations must be carried out in accordance with International Financial Reporting Standards (IFRS). The regulatory authority is the AMF.

Further information on the specific requirements of each may be found in the French national chapter of the Red Book (see section 5.2.3).
5 Application of the RICS Valuation – Global Standards 2017 in France

5.1 User’s perspective

Global standards:

• The Red Book is written to ensure that valuation assignments undertaken by RICS members and regulated firms (see PS 1 sections 1 and 2) are in accordance with International Valuation Standards (IVS).

• The Red Book complements the IVS by providing detailed guidance and specific requirements regarding the practical implementation of IVS.

• All valuations provided in writing by RICS members and 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.

• Adoption of 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 (sometimes referred to as national chapters) of the 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 France

5.2.1 Red Book translation

An official translation of the RICS Valuation – Global Standards 2017 is available in French and is supplemented by the French national valuation supplement referred to in section 5.2.3.

5.2.2 Red Book application in the French context

Red Book is written from an international perspective, in accordance with the International Valuation Standards (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.

Valuations in France must comply with the requirements of the Charte de l’Expertise en Evaluation Immobilière (‘the Charter’) (see subsection 4.2 1 of this guide) and RICS members and valuers working for an RICS-regulated firm in France must also comply with the Red Book for all written valuations. There are some differences between the
Charter and the Red Book, but these are relatively minor, and a valuation carried out in accordance with the Red Book will be compatible with the terms of the Charter. If in doubt, a valuer who is an RICS member must follow Red Book requirements.

5.2.3 Red Book national supplement for France

The French national supplement for the Red Book is the RICS guidance note Application of the RICS Valuation – Professional Standards in France (1st edition), published in October 2015. The document summarises the national context for valuation and provides detailed comment on how RICS members undertaking valuations in France can comply with the Charter in FRPS1. In addition, FRPS2 includes guidance on valuation for special purpose vehicles (SPVs).

Note: As the French national supplement predates the 2017 edition of the Red Book, it will be updated to take account of changes in this edition.
Appendix A: Other professional organisations representing property valuers in France

- **AFREXIM** – Association Française des sociétés d’Expertise Immobilière – 91 rue du Faubourg Saint-Honoré, 75008 Paris
- **CEEICAP** – Compagnie des Experts en Estimations Immobilières Notariales et Copropriété près la Cour d’Appel de Paris – 38 rue Marbeuf, 75008 Paris
- **CEF** – Confédération des Experts Fonciers – 6 rue Chardin, 75016 Paris
- **CEICE** – Compagnie des Experts en Immobilier Commercial et d’Entreprise près la Cour d’Appel de Paris – 11 boulevard Malesherbes, 75008 Paris
- **CEIF FNAIM** – Chambre des experts Immobiliers de France – 129 rue du Faubourg Saint-Honoré, 75008 Paris
- **CNEFAF** – Conseil National de l’Expertise Foncière, Agricole et Forestière – 6 rue Chardin, 75016 Paris
- **CNEIF** – Compagnie Nationale des Experts Immobiliers – 18 rue Volney, 75002 Paris
- **CNEJI** – Compagnie Nationale des Experts de Justice Immobiliers – 10 rue du Débarcadère, 75017 Paris
- **CSN** – Conseil supérieur du notariat – 60 boulevard de La Tour-Maubourg, 75007 Paris
- **EEFIC** – Fédération Nationale des Experts et Experts de Justice Evaluateurs Fonciers Immobiliers et Commerciaux – 3 rue Joseph Autran, 13006 Marseille
- **EFF** – Experts Forestiers de France – 6–8 rue Chardin, 75016 Paris
- **IFEI** – L’institut Français de l’Expertise Immobilière – 26 rue de la Pépinière, 75008 Paris
- **OGE** – Ordre des géomètres-experts – 40 avenue Hoche, 75008 Paris
- **SNPI** – Premier Syndicat Français de l’Immobilier – 26 avenue Victor-Hugo, 75116 Paris
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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