

A response to the questions posed by the European Banking Authority  
concerning the regulatory technical standards on independent valuers  
(supplementing Directive 2014/59/EC)

**A response by RICS**  
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## Background

RICS is the world's leading professional body on all aspects of property, construction and land use. An independent, public interest organisation, we regulate, represent and promote over 118,000 individually qualified professionals in 140 countries worldwide. RICS promotes and enforces the highest professional qualifications and standards in the development, management and valuation of land, real estate, construction and infrastructure. Our name promises the consistent delivery of standards – bringing confidence to the markets we serve.

We believe that standards underpin effective markets. With up to seventy percent of the world's wealth bound up in land and real estate, our sector is vital to economic development, helping to underpin stable, sustainable investment and growth around the globe. We have a strong interest in promoting more transparent, consistent and high quality property valuations that strengthen market discipline and contribute to financial stability.

RICS welcomes the opportunity to contribute to the public consultation initiated by the European Banking Authority (EBA) on draft Regulatory Technical Standards (RTS) setting out the general criteria for the independence of valuers performing valuation tasks with respect to banks under resolution.

We support the view that for the purpose of ensuring fair, prudent and realistic valuation, uniform rules should apply to determine the circumstances in which a valuer should be considered independent (*Recital 2 of the draft RTS*). RICS valuers meet the same professional, ethical and business standards irrespective of their nationality or place of residence based on the principle of adequate consistency. RICS has a principles-based Code of Conduct, that applies consistently to both individual members and firms (RICS Registered Valuers and RICS Regulated Firms) throughout Europe and, indeed, the world.

We believe that qualifications, experience, knowledge and expertise are essential to further reinforce the independence of valuers (*Recital 3 of the draft RTS*). RICS ensures that valuers are properly qualified and demonstrate the required professional experience as well as have the detailed local knowledge of the market in which they operate. RICS imposes mandatory requirements of Continuing Professional Development as a key part of demonstrating ongoing professional competence and expertise. Furthermore, all RICS valuers are required to comply with the RICS Valuation Standards (the 'Red Book') which guarantees consistent valuation approaches and reporting worldwide in line with the International Valuation Standards (IVS)

For clients and users of RICS valuations, these professional standards mean:

- Consistency in approach and reported value;
- Credible and consistent valuation opinions by suitable trained valuers with appropriate qualifications and adequate experience for the task;
- Independence, objectivity and transparency in the valuer's approach;
- Clarity in the reporting and disclosures to be made.

We trust that the EBA will take our opinions into consideration. We stay at your disposal for more information and happy to provide further support if required.

**Q1 Do you agree that the approach followed in the draft RTS to determine and identify conflicts of interest is the appropriate one?**

Overall we believe that the current proposal is too restrictive and may have the effect of discouraging the best valuers to undertake valuations of the assets and liabilities of institutions under resolution.

Introducing a general criteria to assessing independence might exclude professionals which are not necessarily in a situation of conflict of interest, e.g. when a valuer might have had carried out a single minor appointment to the bank. Exclusions should be fair and based on a system which requires valuers to have clear policy guidelines on how to manage conflicts of interests.

Valuers should at all time be aware and assess whether or not there is a potential conflicts of interests. Valuers should demonstrate that conflicts are avoided and managed when instructed and appointed.

RICS is willing to cooperate with the EBA and provide examples of how our registered valuers manage conflicts of interests.

As a basic condition, we consider that an independent valuer should:

1. Possess the necessary qualifications and
  2. Be sufficiently regulated
1. For RICS, a valuer is appropriately qualified to accept responsibility for a valuation when satisfying following criteria:
    - appropriate academic/professional qualification, demonstrating technical competence;
    - membership of a professional body, demonstrating a commitment to ethical standards;
    - sufficient knowledge of the asset type and its particular market.
    - compliance with any country or state legal regulation governing the right to practice valuation.
  2. The valuer should be sufficiently regulated to ensure that the highest level of professional, ethical and business standards are met and maintained. This can be achieved either by statutory regulation or self-regulation. RICS has developed a regulatory monitoring system – Valuer Registration – to provide quality assurance and ensure the consistent application of the International Valuation Standards (IVS) and best practice professional guidance (RICS Red Book).

The importance of a valuer's professional qualification and regulation has already been acknowledged by the property investment sector. The recently updated member guidelines of the European Association for Investors in Non-Listed Real Estate Vehicles (INREV) state the following:

*“The external valuer must have the appropriate professional qualifications and competence to perform the property valuation. The external valuer should have a local and/or international professional appraisal accreditation, and should be authorised or regulated to undertake valuations in the country concerned for the intended purpose. [...] It is also important that the valuer is regulated by the local and/or international professional appraisal accreditation, for example through RICS valuer registration.”*

RICS advises the banking sector to adopt the same approach and recommends the EBA to take over the above as appropriate.

Finally, we would like to draw your attention to the EU Directive 2014/17/EC regulating residential mortgage credit agreements, published in the Official Journal of the European Union on 28 February 2014. For consistency purposes, any references to standards, qualification and regulation in terms of valuation should take into account article 19 and recital 26 of this Directive which requires EU Member States to:

- develop valuation standards, and advised to do this on the basis of existing international ones such as IVS, RICS and TEGoVA;
- ensure valuers are professionally competent and sufficiently independent;
- comply with these requirements through statutory or self-regulation.

The full text of article 19 and recital 26 can be found in Annex I.

## **Q2 Do you agree that three years is the appropriate period of time for the purpose of Article 4(5)?**

We believe that three years is too long period of time and would restrict the participation of the big valuer firms which regularly conduct businesses with banks. In small markets, it is standard practice that valuers and valuation firms often cooperate with banking institutions either as associates in carrying out valuation reports for mortgage lending purposes, or as customers (depositors/lenders). Therefore, it is unavoidable that valuer would have had frequent appointments with banks and therefore they shouldn't be excluded.

As measure to deal with these cases, we would recommend a stricter monitoring of these valuers (e.g. through RICS Valuer Registration) and a requirement to demonstrate that valuers or valuation firms have a clear policy stating the independence, objectivity, conflict of interest and disclosure of the valuation process. RICS believes that assessing how valuers manage conflicts is more important than setting an artificial date of three years. We would however recommend a one year period as the appropriate period of time for the purpose of Article 4(5).

A number of terms require further clarification to better explain what is included in 'offered any services' or 'had business or other relationship with the bank'. For example whether holding an account with the bank would qualify as a 'business relationship' or carrying out a small number of valuations for mortgage lending purposes would be deemed as 'offering services'.

## **Q3 Do you agree with the possibility to task the temporary administrator as an independent valuer, subject to the condition set forth in the above provision?**

Bank resolution and recovery should be carried out swiftly so that confidence in the failing institution is not damaged or lost. Preventing the temporary administrator the possibility to carry out valuation might delay the process of resolution, therefore we would advise a more flexible approach whereby administrators could be allowed if circumstances necessitate an immediate opinion on value. However, we recognise that this depends on the individual circumstances and thus it is very difficult to set out clear criteria covering all situations. Nonetheless, we agree that the temporary administrator should fulfil the criteria set forth in the draft Regulation for the independency of valuer.

**Q4 Do you reckon there are other cases of where independence should be ruled out in any case?**

We consider that independence should be ruled out if a valuer is not a member of and regulated by a professional body which has a clear policy of managing conflicts of interest.

**Q5 Do you agree with the approach outlined in the impact assessment and more specifically, with the elements included in the assessment of costs and benefit.**

We agree.