## Country-Specific Legislation and Practice

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* Denotes Country Chapter in preparation
Country-Specific Legislation and Practice

Introduction

One of the guiding principles of TEGoVA is to promote consistency of standard definitions of value and approaches to valuation trans-Europe. The publication of European Valuation Standards (EVS) provides the state, investors, the financial industry, valuers and their clients with a common benchmark which can be consistently applied, irrespective of the location of a real estate asset.

Whereas harmonisation of valuation standards enable recognised bases of valuation to be reported, the preparation and publication of a valuation must also respect client need, national legislation and custom. Customary differences, particularly in respect of valuation methodology, may result from the requirements of statute or regulation.

These Country Chapters illustrates differences that currently exist across Europe. The Country Chapters are not intended to provide definitive advice. The text that follows has been provided by TEGoVA Member Associations (TMAs) to outline country-specific legislation and practice.

These Country Chapters will be expanded during 2012 to include most European countries.

The European Group of Valuers’ Associations (TEGoVA)
Boulevard Saint-Michel 45
1040 Brussels
Belgium

Tel: +32 (0) 2 503 32 34 Fax: +32 (0) 2 503 32 32
Email: info@tegova.org Website: www.tegova.org
Country specific chapter on property valuation in Austria

by

Austrian Association of Real Estate Expert

The country specific chapter reflect the specificities of the national real estate market and the respective principles of the valuation methodology. It provides an overview about the valuation profession in Austria.
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REAL ESTATE MARKET

1.1. Real estate market in its aggregate - macroeconomic context

The usage of Austria’s total size of about 83,879 km² can be broken down as follows:

- 13% Buildings and improved land, bodies of water, barren land, other areas
- 43% Forest
- 10% Grass land
- 34% Agricultural land

With a population of about 2.4 million, the Vienna area is of prime importance not only within the Austrian society, also with regard to the real estate market. Due to the historical ties of the former monarchy, Vienna still serves as a hub for real estate investments in CEE and SEE countries. Its dominant role is reflected by the fact that Austrians have been involved in about 30% of all investments in this area.

By international comparison the Austrian real estate market is considered as a low-risk market in terms of volatility. This fact is also reflected by the comparably low initial yields in most segments.

Despite the fact that there are now numerous data providers, on-line portals and regular market reports, Austria is still lagging behind its German neighbour with regard to the transparency of market data.

As the market is regionally segmented and dominated by local players, only few international investors are perceived outside Vienna. If at all, their activities are usually limited to large retail areas, office buildings, occasionally to hotels and logistics premises as well.

Austria’s entire private real estate assets amount to about €880 billion, the average real estate value being about €250,000 per household. As many as 41% of private households have no real estate possessions at all and only 22% have a second property in addition to their primary residence. Primary residences account for about 52% of the total asset value, second residences for 28%.

According to the last census dated May 15, 2001, there were 3.86 million apartments and 2.05 million buildings in Austria. Three quarters of all buildings are one or two-family homes and every tenth building is an apartment building with three or more apartments. The share of non-residential buildings was 14%.

One and two-family homes are largely owned by private individuals, who also own 54% of the flats in apartment buildings, while the public sector holds over 16%, cooperatives and non-profit organizations 21%, and other legal bodies (in particular private companies) 9% of the flats. The distribution of owners is equally spread over all types of buildings, with the exception of community buildings (e.g. senior residences, student hostels) and non-residential buildings, such as office and cultural buildings and industrial plants; 27% of community buildings are...
owned by the public sector and 28% by other legal bodies, which also own almost 24% of the non-residential buildings.

1.2. Structure/s of the real estate market and its participants

The Austrian real estate market can be divided into a market for freehold and leasehold properties, and a market for investment properties. The breakdown of the whole market differs regionally. It is only in the Vienna region where there is an investment market with adequate transparency, market depth and liquidity by international standards.

Traditionally, the Austrian property market is characterized by a low owner-occupancy rate and a strong rental segment. With a 56% owner-occupancy rate, Austria ranks in the middle among European countries. The social housing market is characterized by subsidies and strict legal regulations and dominated by cooperatives and non-profit organizations.

Real estate as an own asset class has become increasingly important during the recent years. The sector benefited greatly from the boom in Eastern Europe and Austria’s close ties to this region which date back to the Austro-Hungarian Empire.

Contrary to Germany, there has never been a boom of open real estate funds, which became permissible only in 2003, after the Real Estate Investment Fund Act had gone into effect. Rather, Austria experienced a strong growth in the field of real estate corporations which had been established earlier and were largely financed by private investors. During the booming years, Austria’s real estate corporations were among the largest in Europe. It was during the economic crisis - which had curbed the short-term growth expectations for the CEE/SEE countries - that these corporations were heavily affected. In a period of increased insecurity, investors then focused on low-risk segments, accepting initial yields below 2.5% in good (historical) apartment buildings in the first district.

1.3. Relevant legislation and regulatory requirements

Substantial regulations for the property markets are laid down in the provincial building regulations which include planning codes and regional development principles.

In some areas there are still restrictions on the purchase of second homes. This has led to a new designation, i.e., holiday residences. Foreigners may acquire such holiday residences even in the absence of a primary residence in Austria. A primary residence, in turn, may always be established by European nationals.

The acquisition of farms / parts of farms is also partly regulated, e.g., the Land Transfer Commission in Tyrol has to determine whether the prospective buyer qualifies for the purchase of a farm. In the past, such determination proved to be a difficult and time-consuming process. The EU Commission has sued the Austrian government at the European Court, as this model favours farmers through granting preemptive rights which other individuals are not entitled to.
The legal definition of the market value and the general framework for valuation is laid down in the Property Valuation Act (Liegenschaftsbewertungsgesetz-LBG). Compared to other countries like Germany, the LBG is fairly brief but largely corresponds to the German system. Further technical provisions are provided in the ÖNORM B 1802-1 standard (valuations in general) and the ÖNORM B 1802-2 standard on DCF valuations. The assessment of the lending value of a property is regulated by the Austrian Mortgage Act (Hypothekengesetz).

The Austrian valuation profession is characterized by two types of real estate experts. The first group are accredited court experts, which are appointed by court upon passing pertinent exams and providing specific evidence. The second and more recent group of real estate experts are certified Valuers, such as MRICS and REV. Often Valuers are licensed for court valuations and are also active in the non-regulated private valuation segment.

The ownership of property in Austria is ensured by a title registration at the local court. The property register (Grundbuch) is a public register where the owners of properties, type and location of the properties, as well as all rights and obligations including encumbrances are registered. The cadastre includes the location and cartographic details as well as further information for each parcel of land. Land register and cadastral plans are available online.

Property sale contracts are only valid if recorded by a notary. The Austrian property tax regime is twofold. A property transfer tax has to be paid by the purchaser before ownership is recorded. The rate is 3.5 % of the sales price. Furthermore, an annual property tax (Grundsteuer) has to be paid by the property owner to the local municipality.

The applicable VAT rate depends on the type of service and ranges between 0 % and 20 %. A sales transaction is exempted from the VAT subject to certain criteria. If the vendor executes its right to charge 20 % on the sale, the purchaser is entitled to deduct the VAT input taxes from its VAT tax burden. This option is also applicable if properties are endowed as gifts.

Another important factor is the Austrian Tenancy Act (Mietrechtsgesetz - MRG) which puts lease agreements for apartments under tight control regarding maximum rents, rent increases, notice periods, etc. and strongly favours tenants’ rights.

Written lease agreements and lease renewals are subject to taxation pursuant to Sec. 33 of the Fees Act (Gebührenge setz). The lessor is obliged to calculate and collect the fee and to forward it to the tax authority.

A positive factor is the high professional level required to obtain a business license as an agent, developer or building manager. Due to the legal requirements, these professions require the evidence of specific qualifications, which has a positive overall influence on the quality of the business.
1.4. Market for residential property

The market for residential properties can be divided into newly built and existing freehold and leasehold apartments and residential building land. In urban areas, multi-storey residential buildings predominate while in rural areas detached single family houses are more common.

In many regions, such as Burgenland, the housing market is supply-driven, while only a few urban agglomerations in the western federal states like Tyrol and Salzburg and of course Vienna are characterized by a stronger demand-driven market. In total, there are about 3.5 million flats, approximately 1.355 million thereof are in urban agglomerations. The stock of living space amounts to more than 360 million sqm, equalling approximately 43 sqm per person.

In 2010, the purchase price for an average, detached single family house in Austria amounted to € 350,000. The average purchase price for a freehold apartment with two bedrooms was € 150,000. Of course, prices vary to a great extent between regions.

The predominant part of the Austrian population lives in multiple tenant buildings. The home ownership rate for residential purposes remains constantly at 56%. In urban areas, the home ownership rate is lower than in rural areas.

Many multi-tenant buildings are owned by cooperatives and only few by institutional investors. With a balance sheet total of over € 35 billion and an annual building volume of € 2.4 billion, the cooperatives are a significant commercial factor in Austria, securing employment for about 45,000 people in the building trades and related businesses. The cooperatives operate under special regulations and are not profit-oriented. As rents are subject to stringent regulations, governmental subsidies and grants play a major role in this sector. While these subsidies distort the market on the one hand, they also enable the middle class to acquire ownership on the other. This is particularly significant in some local areas, e.g. in the Tyrolean capital Innsbruck, were the price for a new flat was as high as € 4,000/sqm.

The ownership structure of apartments is as follows:

- 2.90 mill. are owned by private individuals
- 0.35 mill. by the public sector
- 0.42 mill. by cooperatives
- 0.22 mill. by other legal entities

In the last few years there has been a trend toward Vorsorgewohnungen, i.e., investment properties designed and purchased to supplement the state pensions at a later stage. In view of the ageing population there is also an overall trend toward flats which match the requirements of older people.

Traditionally there are also buildings owned by state-owned companies, such as BUWOG (Bauen und Wohnen Gesellschaft mbH), however, these buildings have partly been sold to previous tenants or institutional investors.

Due to rent controls, the rental market is heavily distorted. This leads to the fact that the rent in good apartments may be as low as € 3/sqm per month in certain buildings. In those buildings
where rent control does not apply, the rentals range within normal market rates. Rentals normally account for 30% of the household income.

1.5. Market for commercial properties

The commercial property market is characterized by a significant number of specialized participants. In recent years, the market has become more and more international and the approach to commercial real estate increasingly followed economic principles. Due to the financial crisis, the all-time high of institutional trans-boundary sales which accounted for 60% of all transactions has not been reached again. Traditionally, German investors play the foremost role among foreign players. Residents and owners of properties are often no longer the same. The most important segments of the commercial property market in Austria are office, retail, hotel and increasingly logistical properties.

The office market is concentrated in Vienna, for Austrian investors also in the regional capitals (Salzburg, Graz, Linz, Innsbruck etc.). A majority of the office real estate is meanwhile held by institutional investors, such as listed real estate companies, closed and open ended funds, pension funds, insurance companies, banks and high net worth individuals as well as family offices (both often structured as foundations for tax reasons). The stock of office space in the Greater Vienna area is at about 11 million sqm and relates to about 850,000 people employed.

The retail market in city centres is increasingly characterised by an accumulation of international chain stores. Shopping malls are more and more located in the centre of medium-sized and large cities. Smaller municipalities often become increasingly unattractive for shopping facilities. Supermarkets are frequently located in busy locations outside the city centre and situated in standardized buildings.

International investors are invested particularly in the field of shopping centres, specialty markets and Viennese high-street addresses. Austria ranks among the top five in Europe regarding retail space and has consequently reached market saturation. Thus the market is characterized by increasing competition and declining productivity per sqm.

The logistics sector benefits from the strong export orientation of Austria’s industry and its business relations with CEE/SEE. Logistics properties are concentrated at busy, central locations near sea and inland ports, at the junctions or motorways and railway stations as well as in close distances to production plants. Of great importance are also freight villages.

As a tourism nation Austria boasts of a well-established hotel sector in the cities and many resorts in holiday areas. The cities are dominated by international chains, but also private and institutional investors show significant interest in this segment, in particular also with regard to hotel management agreements. The tourist areas outside the cities are dominated by regional players, even in the case of large facilities, as these properties are often owned and operated by the same families.
1.6. Other real estate markets

An increasing part of the real estate market is characterized by the setting-up of special vehicles in order to develop and maintain facilities for public infrastructure. Of importance are public private partnerships. This cooperation often helps to develop large real estate projects. In Austria, the technical infrastructure is almost exclusively operated and financed by public institutions. Last year the highways were privatized to ASFINAG. So, only a few technical infrastructural facilities are in public ownership and maintained. One of the most important real estate companies, the Federal Real Estate Company (Bundesimmobiliengesellschaft – BIG) is also state-owned.

Due to the high importance of nature to Austrians and the high share of forest coverage, forestry plays a significant role in Austria. However, as in other countries, yields are very low in this segment. The market is dominated by private (family) foundations, the Federal Republic (Österreichische Bundesforste AG) and the Church.

1.7. Main customer groups requesting valuation services

The main customer groups requesting valuation services in Austria are:

- Banks (for lending purposes)
- Real estate funds and especially listed real estate companies (valuation for transactions & regular revaluation purposes)
- Other real estate investors (private & institutional, domestic & international)
- Auditors / accountants often acting for third parties (valuation for accounting purposes etc.)
- Courts for foreclosure sales
- Public authorities for taxation & land management purposes (e.g. capital transfer tax, land tax) and state-owned companies for performance measurement and accounting
- Real estate users

1.8. Real Estate Finance / Mortgage Lending

Besides savings institutions, which account for €21 billion mortgages, and commercial banks/listed banks, whose mortgage volume is €28 billion, also cooperative banks (€14 billion for Volksbanken and €27 billion for Raiffeisen) are important providers of residential property financing. Provincial mortgage banks (€13 billion) and building and loan associations (€15 billion) are also major players.

Most commercial banks have their own development and investment vehicles and are very active in the real estate market, providing both equity and loans.

Real estate finance in Austria is characterized by a high level of product diversity with varying interest rate, amortization and loan-to-value schemes. A variable interest rate based on the 3-6-9 month benchmarks is common. In the past, a number of private homes were financed through
foreign currency loans, which has led to heavy burdens on private households during the crisis. Therefore, variable interest rate agreements with caps are now increasingly replacing this type of financing.

Repayment of mortgage loans can be agreed in different ways. An initial repayment of 1 % of the principal is common. A conventional way is also a straight-line monthly/yearly repayment scheme covering both, interest and principal, the so-called annuity loans. Recently, more flexible solutions have been introduced. Many credit institutions now offer the opportunity to change the maturity during the term of the loan. In many cases, the right of early repayment is agreed, especially in the case of fixed interest rate agreements.

The third important parameter to characterize real estate finance is the loan-to-value ratio (LTV). In Austria, LTVs between 70 % and 80 % of the Mortgage Lending Value are common. For institutional investors other common covenants like the debt-service-coverage ratio (DSCR) are well known.

For the financing of commercial properties banks offer an even higher multitude of instruments, corresponding to those which are commonly available in the international finance business.

1.9. **Real Estate Capital Markets / Mortgage Funding**

Depending on the type of bank and business strategy, the traditional funding of mortgage loans through deposits is more and more replaced by refinancing on capital markets. Banks fund their business through the issue of different kinds of bonds, stocks or asset securitization. Typical for the Austrian market is the refinancing through *Pfandbriefe*, which are debenture bonds issued by a credit institution and which are subject to the Mortgage Bond Act (Pfandbriefgesetz). The aim of the law is to protect investors through mortgages on cover assets (i.e. by cover pools). In the event of an issuer’s insolvency, creditors enjoy a preferential right regarding the access to the proceeds from the cover assets. The total nominal value of *Pfandbriefe* in circulation must be covered by mortgages equalling the same amount or more and yielding the same or higher interest revenues. Financial institutions must satisfy stringent requirements in order to receive a license to issue these bonds.

A further opportunity for refinancing are mortgage-backed securities. As MBSs are not standardized, their market is less transparent. In Austria, funding of residential and commercial mortgage loans through MBSs or other real-estate-backed securities is still negligible in terms of volume.

**PROPERTY VALUATION**

The principles for assessing the market value of a property are laid down in Austria’s Federal Property Valuation Act (LBG), which has been in force since 1 July 1992.

**Sec 1 (1)** of this federal law applies to the valuation of properties, parts of properties and superstructures in the sense of Sec 435 of the Austrian Civil Code (ABGB), as well as to any
rights and encumbrances related to properties, parts of properties and superstructures which
are the subject of court proceedings.

Sec 1 (2) of this federal law also applies to the valuation of those objects mentioned in Sec (1)
which are the subject of federal administrative proceedings, provided that the decree whose
issuance is based on federal administrative regulations shall cease to be effective upon its
reference to the courts, unless provided otherwise in pertinent administrative regulations.

2.1. Definition of Values

There are different types of property value in Austria. The market value is the basis for decisions
on real estate transactions between sellers and buyers. It is defined in the LBG and generally
applies to valuations required in court proceedings. There are namely two values: Market Value
and the Fair Value, which actually represent the same value at a given value date; however, the
term Market Value is the more frequently used term internationally.¹

A distinction has to be made between the Market Value (which is identical to the Fair Value) and
the so-called Non Market Value.

2.1.1. Market Value

The Market Value of a property is defined in Sec 2 of the LBG as follows:

Sec 2 (1) LBG: Unless provided otherwise by law or legal transaction, the market value of an
object has to be calculated.

Sec 2 (2) LBG: The market value is the sales price which is normally achievable in an orderly
business transaction.

Sec 2 (3) LBG: The calculation of the market value must not take into account any special or
sentimental values which an individual person may attach to the object.

Pursuant to the LBG provisions, the market value may be derived from the cost value, income
value or comparative value; however, also other methods of calculation are permissible,
provided they are in accordance with the current state-of-the-art. The Austrian standard
ÖNORM B 1802 on the calculation of property valuations also includes definitions of valuation
terms.

2.1.2. Non-Market Values²

2.1.2.1. Lending Value in Accordance with the Austrian Banking Act (BWG)

¹ S. Bienert & M. Funk – Property Valuation in Austria (Immobilienbewertung in Österreich)
² S. Bienert & M. Funk – Property Valuation in Austria (Immobilienbewertung in Österreich)
The lending value is an independent value; it is not identical to the market / fair value which pertains to a specific value date. Rather, the lending value is based on a risk assumption and serves as a risk management tool for credit institutions, while also fulfilling the requirements laid down by the Financial Market Authority.

The lending value is defined in the Austrian Banking Act (BWG) and is almost identical to the definition of the lending value in the TEGoVA EVS 2009:

Sec 103 Z 10 l f bb BWG: The lending value is calculated by a Valuer upon careful consideration of the future marketability of a property in view of its long-term sustainable characteristics, normal and local market conditions, as well as the property’s current and appropriate alternative use. The assessment of the lending value shall not take into account any speculative elements and must be presented in a clear and transparent way.

2.1.2.2. Sales Value in Accordance with the Mortgage Banking Act (HypBG)

Sec 12 HypBG: The mortgage value of the property may not exceed the property’s sales value, which in turn shall be determined carefully and prudently; only the long-term, sustainable attributes of the object shall be taken into account, as well as the long-term, sustainable income which can be generated through its orderly operation by any owner.

2.1.2.3. Price

The price of an object lies between the differing values expected by the buyer and the seller. The final, actual price depends on the negotiating position of the respective parties and on other subjective factors, all of which reflect the current market situation. The price achieved is a fact which can be verified, and may be used as a basis for the sales comparison approach.

2.1.2.4. Subjective Value

Different commercial entities will attach different values to a property. Therefore, the amount any given individual is willing to pay will normally deviate from both the market value as well as the actual, achieved value. Thus, a subjective value reflects a specific (potential) investor's expectation of the achievable sales price.

2.1.2.5. Utility Value in the Residential Apartment Ownership Act (WEG)

The so-called Utility Value was introduced by the Residential Apartment Ownership Act in 1975. On the one hand, it measures and identifies the share in the overall property which is required to acquire ownership of a particular residential apartment, whilst on the other it is used to allocate the pro-rated service and maintenance expenses for the building to the individual owners.
Through establishing the utility value, the legislator does not institute the usable area as a key for allocating the property-related expenses, but only imposes it as a basis for evaluating the different possibilities for using the respective apartment. Such a utility value in the Austrian sense is not known in Germany or other countries.

Sec 2 (8) WEG: The utility value is a measure used to determine the value of a common hold apartment (condominium) in relation to the other apartments of the property. It is derived from the usable area of an apartment, adjusted by means of surcharges or discounts to reflect those criteria which may have a positive or negative impact on its value.

2.1.2.6. Forced Sales and Liquidation Value

The forced sales value is identical with the definition of the market value; however, it takes into account the factor that the time period available for the sale does not allow for adequate advertising and offering on the market, which would be necessary in order to achieve the best possible price on the market. Another point is the fact that the seller may be forced to sell.

2.1.2.7. Fair Value in the Sense of International Accounting Standards (IAS)

With regard to the monetary value, the fair value as referred to in the IAS is normally identical with the market value.

2.1.2.8. Company Value

The company value is determined on the exclusive premise of financial goals and is based on the cash value of the net revenues accrued by the company’s owners. This value principally derives from the net income that is anticipated from continued operations of the company into the future and the disposal of those assets that are not necessary for its operation. In the event of the total liquidation of the company, and given that the cash value of the net income exceeds the going-concern value, the liquidation value shall be considered to be the company value.

2.1.2.9. Book Value

The book value is the value displayed in the balance sheet, the annual financial statements, or in other documentation at a given date or the balance sheet date. It equals the value of the individual assets and liabilities as accounted for and may not necessarily reflect the actual, realistic value of the company.

The book value is defined in the Austrian Commercial Code (UGB):

Sec 203 (1) UGB: Assets must be recognized at acquisition or production costs, less depreciation in accordance with Sec 204 UGB.
Sec 204 UGB: The acquisition or production costs of those assets whose useful life is limited shall be depreciated following a schedule where the costs are spread over the expected (useful) economic life of the asset.

In the event that a permanent reduction in an asset’s value is expectable, regardless of whether its useful life is limited, its carrying value must be impaired to reflect the lower fair value as of the balance sheet date; in this process, the possibilities of utilizing the asset in the company shall be considered.

2.1.2.10. Insurable Value

The insurable value is essentially focused on the production costs, and is calculated using the cost method; however, without taking into account the value of the land. It is a basis for insurance agreements and policies.

The insurable value relates to the value of the insured interest\(^3\), and should represent the full and actual value of the insured object at the time it is damaged or lost, thus preventing its underinsurance. The insurable value normally equals the reproduction cost or the new replacement cost. Only in the event that - due to wear and tear - the present value of the object or building is lower than 40 % of the new value, shall the time value be calculated. With regard to buildings which are to be demolished, only the achievable sales price of the building shall be applicable.

2.1.2.11. Taxable Value

The taxable value is clearly distinguished from the actual market value. The taxable value (Einheitswert in Austria) - is used to assess the property tax. Valuers are rarely, if at all, requested to determine such a value, as pertinent valuation methods are based on the current regulations and guidelines issued by the tax authorities.

Taxable value is assessed for agricultural land and forests, as well as other land, together with properties which are held by companies. Taxable value provides the uniform basis for assessing property tax, property acquisition tax, inheritance and gift tax (the latter two of which were abolished on 31 July 2008). Furthermore, it is used to assess other levies and fees, such as social security contributions on agricultural income.

2.2. Valuation Methods

The choice of valuation method, or combinations thereof, is laid down in the Austrian Property Valuation Act (LBG) as follows:

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\(^3\) Sec 51 of Insurance Contract Act (Versicherungsvertragsgesetz)
Sec 3 (1) LBG: The methods used for valuation must conform to the current state-of-the-art. In particular, the most relevant methods are: the sales comparison approach (§ 4), the income value approach (§ 5) and the cost method (§ 6).

Sec 3 (2) LBG: If deemed required in order to fully account for all circumstances which are relevant for assessing a value, several methods shall be employed in the valuation.

2.2.1. Calculation of the Market Value

The fair value must be determined, i.e., the sales price of an object which is normally achievable in an orderly business transaction. The calculated value shall take into account any and all market circumstances known at the valuation date.

The value is determined by the price which is normally achievable in an orderly business transaction. In their assessment, Valuers must take into account all actual, legal and economic circumstances which may influence the price. Any extraordinary circumstances or personal interests are to be disregarded.

The provision of adequate marketing activities - primarily an appropriately long marketing period and a certain degree of publicity - are a precondition for achieving an appraised value. In order to achieve sufficient publicity it is necessary to exploit the full range of marketing opportunities, the costs of which are, however, not to be included in the value assessment.

2.2.1.1. Standard Methods

Sales Comparison Method

The structure of the sales comparison method is stipulated in Sec 4 LBG and Sec 10 LBG:

Sec 4 (1) LBG: When using the sales comparison method, the value of an object shall be assessed by comparing the object with the actually achieved purchase prices for comparable objects (comparative value). Comparable objects are those which essentially correspond to the valued object in terms of those aspects which may influence the value. Deviating properties or a changed market situation shall be considered to the extent they increase or decrease the value. Adequate adjustments (mark-ups / mark-downs) are to be made.

Sec 4 (2) LBG: The comparison is to be based on those sales prices which were achieved in orderly business transactions in comparable areas in the recent past. If the prices were agreed upon prior to, or after the valuation date, the respective value shall be increased or decreased to reflect the price fluctuations in orderly business transactions in the specific area.

Sec 4 (3) LBG: Those sales prices which were assumedly reached due to unusual circumstances or the personal situation of the parties to the contract, may only be used for
comparison if such circumstances or situations can be assessed in value and an adequate adjustment of sales prices can be made.

Sec 10 (1) LBG: When using the sales comparison method, the objects which were used for comparison must be cited, their value criteria must be described and their sales prices listed. Any mark-ups or -downs (Sec 4 (1)), revaluations or devaluations (Sec 4(2)) or other sales price adjustments (Sec 4 (3)) must be explained.

Income Capitalization Method

The structure of the income capitalization method is stipulated in Sec 5 and Sec 10 LBG:

Sec 5 (1) LBG: When using the income capitalization method, the value of an object is to be assessed by capitalizing the achieved or anticipated net yield at a reasonable interest rate over the expected useful life of the property (income value).

Sec 5 (2) LBG: The basis for calculation is the gross yield actually generated through operating the object. The net yield is then calculated by subtracting the actual operating, management and maintenance costs, as well as the depreciation, unless the later has already been taken into account during the capitalization process. When computing the net yield, the default risk and potential liquidation costs and revenues have to be accounted for.

Sec 5 (3) LBG: In the event that the actually achieved yields are not quantifiable due to the lack of records, or that they deviate from those yields which are achievable through an orderly operation of the object, then the calculable long-term sustainable yields that could have been achieved through orderly operation, minus those expenses that would have been incurred during such operation, shall instead be used. The yields of comparable objects or generally recognized statistical data shall be specifically used for such a purpose.

Sec 5 (4) LBG: The interest rate for assessing the income capitalization value is based on the interest on capital normally achievable for objects of that kind.

Sec 10 (2) LBG: The choice of any interest rate used in capitalizing income should be substantiated.

Depreciated Replacement Cost

The structure of Depreciated Replacement Cost is stipulated in Sec 6 LBG:

Sec 6 (1) LBG: When using the Depreciated Replacement Cost, the value of an object is assessed by aggregating the value of the land with the replacement value of the building less deduction of physical deterioration and (where applicable) the value of other accessories (cost value).
Sec 6 (2) LBG: The land value shall usually be calculated by comparing the land with purchase prices for comparable unimproved properties; any changes in value that may result from an improvement to the valuation property or its connection with other properties, shall be taken into account separately.

Sec 6 (3) LBG: The replacement value equals the total value of all building structures on the land. It is generally based on construction costs, less technical and economic depreciation / obsolescence. Other changes in value or circumstances which may influence the value, such as the location of the property, restrictions in terms of public law or building regulations, together with any substantial deviations from the usual building costs, shall be considered separately.

DCF Method

Since the coming into force of the Austrian standard ÖNORM B-1802-2 on 1 December 2008, DCF methodology has been recognized as a standard method, although it had been used by Valuers for certain valuations even before that date.

2.2.1.2. Non-standardized Methods

The methods described below are not defined by law; they are used to calculate the market value and may be used subsidiary to, and - in the sense of Sec 3 (1) LBG - in the event that standardized methods in the sense of item 2.2.1. may not appear reasonable.

In addition to the standardized methods listed explicitly in the LBG, other methods may therefore be used, if required, to the extent they meet the current state-of-the-art.

Residual Value Approach

The residual value approach is used, in particular, to appraise land with or without buildings which are facing redevelopment.

Profits Method

The profits method is a very special income value assessment, primarily for properties which are used by their owners, or for leased agricultural or other commercial areas; such properties are characteristically operator-managed real estate.

When assessing the value, the central question is the profit which can be generated from operating the property. When using the profits method, the Valuer determines the sustainably attainable annual revenues (income) from the operation of the property, applying economically reasonable and feasible lease rates. As a next step, the lessor’s operating costs are subtracted to calculate the annual net yield, in much the same way as in a classical income value method. Then the net yield is capitalized over the anticipated remaining life of the property. The result is the market value based on the land yield value.
2.2.2. Calculation of Non Market Values

For details please refer to item 2.1.2.

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**VALUATION IN AUSTRIA**

3.1. Legal Basis

Rules and regulations for the work as a Valuer cannot be found in a special domain of law, but they originate from various fields of law, especially the codes of civil and criminal procedure, administrative procedure law, the civil law and the material criminal law.

The work as a Valuer, thus, denoting him- or herself as such, does not require any special licence, trading authorization, etc., nor does it involve an exam to give proof of the relevant expert knowledge. It is, however, illegal (therefore, prosecutable based on civil or criminal law) to refer to “accredited court experts”, if legal requirements for such denomination are not met. The professional denomination “expert” is not protected by law; however, misleading use will be prosecuted.

3.2. Accreditations

3.2.1. Accredited court experts

Accredited court experts are persons, who have to pass a special accreditation procedure to be registered in the list of court experts http://www.sdgliste.justiz.gv.at maintained by the presidents of the respective Provincial Courts.

The Federal Law for Accredited Court Experts and Sworn Interpreters (Sachverständigen- und Dolmetschergesetz – SDG) provides for accreditation by means of the certification of persons including a quality assurance exam to ensure that only highly qualified, reliable experts of high integrity have access to give witness before Courts.

3.2.1.1. Prerequisites for registration in the list

Section II of the SDG stipulates as follows:

Prerequisites for registration in the list of accredited court experts and sworn interpreters

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5 Source: Bienert Funk (Publisher), Immobilienbewertung Österreich; Edition ÖVI 2009, 2. Edition
Article 2.

(1) Accredited court experts are to be registered in the electronic list of the accredited court experts and sworn interpreters (list of court experts and sworn interpreters) by the presidents of the Provincial Courts (Article 3) in their function as accreditation bodies.

(2) To be registered in the list of accredited experts and sworn interpreters for a special domain, the following requirements have to be met:

1. Requirements to the applicant
   a) Expert knowledge on and understanding of the most important rules and regulations of the procedural law, the work as a Valuer, fact finding and on how to elaborate a conclusive and clearly understandable appraisal;
   b) ten years of professional experience as a senior executive, preferably in the domain in question or a related field immediately prior to registration; five years of professional experience if the applicant has a university degree, or other recognized vocational academic certification relevant to this profession;
   c) Full legal capacity;
   d) Physical and psychical aptitude;
   e) Trustworthiness,
   f) Have Austrian citizenship or of any other member state of the European Union or of contractual partners of the European Economic Area or the Swiss Confederation;
   g) Be a resident of the Province or practise as a Valuer in the Province of the Court where application is submitted, and
   h) Sound financial conditions;
   i) take out liability insurance according to Article 2a;

1a. they have to dispose of the equipment necessary for appraisal in the respective special domain;

2. There is a need for accredited court experts in the corresponding special domain of the applicant.

Article 2a.

(1) Before registration in the list of accredited court experts and sworn interpreters, applicants are obliged to prove to the responsible President of the Province Court (Article 3) that they maintain a professional indemnity insurance sufficient to cover all claims which may arise from their work as an accredited Valuer obtained by any insurance company authorized for coverage in Austria. Applicants shall maintain the insurance throughout their registration in the list and give prove on the valid insurance policy upon request.

(2) Minimum coverage shall be € 400,000 per insured event.

(3) Exclusion or limitation in time of the liability by the insurance company is not permissible.

(4) Insurance companies are obliged to notify the respective President of the Provincial Court (Article 3) as included in the list unsolicited and without delay from each and every change of circumstances which is a termination, limitation or modification of insurance cover or may be deemed as such and they have to provide information about above mentioned circumstances upon request.
3.2.1.2. Limitation of registration

Section II of the SDG stipulates as follows:

Limitation of registration

Article 6.

(1) Registration in the list for accredited court experts and sworn interpreters is initially concluded for a limited term of five calendar years following registration for the respective domain and may be extended for a periods of five years upon request (re-accreditation).

(2) Application for re-accreditation shall be submitted at the latest three months prior to expiry of the period but not earlier than one year (Article 4, paragraph 1, sentence 1). Registration of accredited court experts shall remain in force exceeding the registration period, until decision on the due time of application for renewal is taken. Re-accreditation may take place if the applicant continues to meet the requirements as stipulated in Section 2, paragraph 2, except of clause 1 lit. b and clause 2, and Section 2a. Applicants are not entitled to re-accreditation.

(3) The application has to include expert reports for court procedures with file numbers and the respective Court, carried out as of start of registration; in case of frequent consultation, reports from a significant period of time immediately prior to reapplication have to be included. Moreover, the application has to comprise reference to continuing professional development and training. If skills and qualifications of the applicant were unknown to the decision making body, the application shall include copies of the request for collection of samples submitted to heads of court departments, who have or had been assigned for the handling of court procedures lead by the applicant, to give a written statement on the appropriate qualification, in particular whether the facts have been ascertained correctly, whether the expert report has been delivered in time and, whether conclusions drawn are clear and cogent, and whether expert reports are well structured, unless applicants have been consulted repeatedly in court procedures, hence, being known to the decision making body. The decision making body has to verify qualification of the applicant on the basis of submitted reports and the proof on continuing professional development. During this verification the decision making body may carry out further investigation and it may request an expert opinion of the Commission (Article 4a) or a statement of a qualified member of this Commission.

3.2.2. Certification of persons according to ISO/IEC 17024

3.2.2.1. General remarks to the certification of persons

On 23 June, 1989 the Joint European Committee for Standardization (CEN / CENELEC) with its Central Secretariat in Brussels published the European standard EN 45013 “General Criteria for Certification Bodies Operating Certification of Personnel”. This standard (at present superseded by ISO / IEC 17024) was intended to create confidence in certification bodies certifying personnel within the member states of the European Union. The intended harmonization of

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6 Source: Bienert Funk (Publisher), Immobilienbewertung Österreich; Edition ÖVI 2009, 2. Edition
Exams and certifications within the European Union should be the basis for mutual recognition of certifications in the member countries.

For this purpose the standard establishes general criteria for the certification of personnel. These criteria have to be fulfilled by certification bodies in the member states if they want to be acknowledged as a competent and reliable authority for certification of personnel at national and European level.

The terms “certification” and “accreditation” are crucial in certification procedures. Certification is a measure carried out by impartial third parties confirming that adequate confidence can be set in a duly specified service (the work as an accredited court expert) as it is carried out in accordance with a standard. Hence, certification means that the certificate documents that the accredited court expert meets determined prerequisites on training and requirements. However, said standard certifies the certification body and not the individual accredited court expert. Accreditation bodies, on the other hand, verify whether particular certification bodies fulfil the requirements. In Austria the Federal Ministry of Economy and Work (new: Federal Ministry of Economy, Family and Youth) is the accreditation body responsible. This accreditation acknowledges that the respective certification body is able to carry out determined tasks.

At present, there is only one accredited certification body in Austria for certification of persons working as property Valuers in accordance with the standard. This is the ImmoZert GmbH in Vienna.

3.2.2.2. Tasks and objectives of the ImmoZert GmbH7

Main task of the ImmoZert GmbH is to maintain professional competence of property Valuers for appraisal of property at European high-quality level by fulfilling requirements of the certification scheme developed by ImmoZert (as per 23 February, 2009). The certification procedure comprises putting into practice the essential textual and technical parts of the international standard ISO/IEC 17024. This serves as a prerequisite for proving that the expert can verify professional competence in a certification carried out by ImmoZert and the general certification scheme according to the standard.

The result of a successfully completed certification is the certificate issued on the name of the corresponding expert. The certificate - issued by ImmoZert as an independent third party - confirms high quality standard of personal and professional skills of the expert, which on its turn creates confidence in the professional competence and ability to meet the demands of his tasks among clients and market participants. One of the principal tasks of ImmoZert is to support said confidence and to boost a widespread acceptance of the certificate. The certification body with its rules and procedures ensures that the certified experts fulfil the following quality criteria:

- high-levels of professional background and expertise
- continuous vocational training
- consistent application of methods and procedures for property appraisal

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7 Source: http://www.immozert.at
professional attitude towards his or her work
To meet the requirements of the code of conduct.

ImmoZert GmbH has been accredited by the Ministry for Economy and Work by means of the ordinance dated December 15, 2005 (Federal Law Gazette II 2005/422) upon request.

3.2.2.3. Certification procedure

The following procedure applies:

- Application for certification and submission of expert's reports carried out (to give proof of the work to date)
- Processing of the application and assessment of expert reports (carried out by the certification body)
- Decision on admission to exam (decision made by the examining board)
- Written exam
- Oral exam
- Issuing of the certificate (valid for 5 years)
- Monitoring of the certificate owner (Proof of vocational training and expert reports during period of validity)
- Renewal of certificate (expert talk prior to expiry of the certificate)

3.2.2.4. Prerequisites for certification

To be admitted to certification, the applicant has to fulfil certain requirements. In terms of educational background and professional practice, Valuers have to fulfil criteria of one of the four below stated groups:

Professional practice with specific vocational training
This comprises a specific, property related vocational training finished successfully. Fields of professional education in particular may comprise:

- education in architecture, construction, surveying and property related fields
- real estate management and business administration
- loan and insurance management
- Commercial vocational training.

In this case applicants have to give proof of at least eight years of property related practical work in a leading position, with at least three years of experience in appraisal of properties. Up to three years of training of a successfully completed vocational training in one of the above mentioned domains may be credited to the period for property related practical work, especially after successful completion of a course in a domain specific training institution. Moreover, excellent knowledge of spoken and written German is required.
Graduates
If the applicant has a degree of an officially recognized university, a vocational college or a Fachhochschule (university of applied sciences) in a field related domain, such as architecture, civil engineering, economics or law, he or she has to give proof of at least five years of property related practical work in a leading position, with at least three years of experience in appraisal of properties. Moreover, excellent knowledge of spoken and written German is required.

Accredited court experts
Court experts accredited according to the provisions of the Federal Act as of 19 February, 1975 on accredited court experts and sworn interpreters (SDG), Fed. Law Gazette No. 137/1975 as amended, accredited court experts of professional group 94, expert fields 94.10, 94.15, 94.17, 94.20, 94.23, 94.30, 94.35, 94.65 and 94.80 (according to the list of accredited court experts and sworn interpreters as of 11 July, 2008), whereby the period of practical work after ending the education of 5 years and after obtaining a degree of a university, Fachhochschule or a technical university - specialization in real estate management or a period of 10 years of practical work without above mentioned graduation can be proved. Moreover, excellent knowledge of spoken and written German is required.

Chartered Surveyor
- Member of the Royal Institution of Chartered Surveyors
- Professional Associate of the Royal Institution of Chartered Surveyors (ARICS) or
- Fellow of the Royal Institution of Chartered Surveyors (FRICS)

and
- excellent knowledge of spoken and written German
- at least five years of practical work appraising properties before applying for certification.

3.2.2.5. Proof of practical work
“Property related practical work in leading position” may comprise working in the following fields:
- an office of experts dealing with property valuation
- at authorities specialized in valuation
- in loan and insurance management
- in accounting firms or as an economic adviser
- at real estate companies, for real estate funds, etc.
- at a property or real estate management firm
- at a civil engineering office (architect or construction engineering)
- as a real estate agent, property developer project developer or
- in the construction industry.

The following documents shall be submitted together with the application documents to give proof of practical work:
For employees: An attestation on practical work in the field of property management issued by the employer

If the applicant is self-employed, he has to give credible proof of relevant activities.

### 3.2.2.6. Authorization of certification

Moreover, applicants have to submit 3 expert reports assessing the market value of a property coming from the following fields as a prerequisite for authorization to certification exams:

- one-family homes, semi-detached houses or condos or undeveloped properties,
- residential properties
- commercial properties or properties of mixed use.

At least one of the expert reports has to deal with properties which include encumbrances or similar rights (such as rights of residence, easements, recurrent charges on real estate, and the right to construct) or encumbrances under public and private law or similar rights.

- The applicant shall submit his or her expert reports in an anonymous way (by blackening all personal data). As an alternative to blackening explicit written consent of the person affected may be submitted together with the report.
- The expert reports submitted may not be older than five years. They form the prerequisite to be accepted for certification exams (expert reports have to be evaluated prior to the written exam).
- The examination board has to verify whether the reports submitted are suitable.
- Each expert report which does not meet the requirements with regard to structure, form and content, has to be replaced by another expert report (after request by the certification body) for the same kind of property which on its turn will be evaluated according to the above mentioned procedure.
- In case of methodical mistakes in various expert reports the examination board may resolve to request submission of a corresponding expert report.
- If after this repeated evaluation the requirements on expert reports still are not met, the prerequisites for admission to the exam are not fulfilled, i.e. admission to the exam is denied giving the reasons for non-admission.

### 3.2.2.7. Certification exam

**Written exam**

During the written exam the applicant shall show that he or she is able to solve problems from a subject matter with limited resources in a restricted time applying the common methods.

The exam is structured in the following way:
Part I: Valuation of residential properties, and / or commercial properties or properties of mixed use applying standardized or non-standardized procedures and methods. For this purpose the applicant is given a verbal description of a property, further details (maps or diagrams, etc.) where applicable and an expert report form. Maximum duration of the exam: 3 hours.
Part II: Plausibility check of difficult expert reports containing errors according to given specifications. Maximum duration of the exam: 1.5 hours.

Part III: Answering of individual questions deriving from various topics included in the examination material, whereas one third of the questions may be asked via multiple choice test. For this purpose the applicant is given about 15 to 30 individual questions (divided into special domains and difficulty level of the examination material). Maximum duration of the exam: 2.5 hours.

The exam is evaluated by the examination board. The applicant has successfully passed the written exam if he or she reaches at least 50% of the corresponding maximum score of each of the three parts, having an average score of the total of the three parts of at least 70% of maximum score. The certification body will then inform the applicant about passing or failing of the written exam, and admission to the oral exam, if applicable.

**Oral exam**
The applicant has to pass the written exam before being admitted to the oral exam. The oral exam will be carried out by an examination board consisting of 3 persons (minimum two persons - in this case the decision of the chairperson will prevail). Representatives of the certification body (for example other examiners) may also be present.

The exam is not publicly accessible. However, when approved by the examination board, observers may attend the exam.

The exam may be carried out as an individual exam or a group exam with a maximum of three applicants.

Maximum duration of the oral exam shall not exceed 35 minutes in case of individual exams and 65 or 90 minutes in case of group exams with two or three applicants, respectively. Duration of the exam may be extended or shortened by 5 minutes.

Special fields of the exam are based on the examination material provided by the certification body. The questions shall be taken from different fields included in the examination material. The oral exam will be passed if the applicant reaches a scoring of at least 70% of the total maximum scoring.

**Passing the exam, repetition of the exam**
A certification exam has been passed if the written **and** the oral exam have been passed with the minimum score required.

The applicant has failed if his or her performance during the written exam was insufficient (in this case the applicant will not be admitted to the oral exam). If the applicant fails to pass the written exam, he or she can repeat the exam not earlier than 6 months after the first exam or at the corresponding date appointed.

If the applicant fails to pass the oral exam, he or she can repeat the exam not earlier than 3 months after the first exam (there might be exceptions from this rule provided that the certification body disposes of free capacities for further exams), whereby the written exam will
be eligible for approval of the whole exam. The oral exam may be repeated once. The applicant has to repeat the oral exam not later than 18 months after the first exam, otherwise the positive result of the written exam will be declared forfeit.

A maximum of two repetitions of the whole exam is permissible within five years.

### 3.2.2.8. Monitoring

Once the certificate is issued, the person certified is subject to continuous monitoring by ImmoZert. He or she has to continuously update his or her qualifications and give proof of continuous professional development. In addition to this, the certification body will request to submit expert reports to verify whether the required quality standards are met.

The certified Valuer has to give proof of the attendance of at least 15 course days of professional training or of own publications and lectures given within the period of validity of the certificate. The required content of this vocational training has to be related with the work as a Valuer of properties.

Moreover, he or she has to submit three expert reports prepared by themselves upon request of the certification body; personal data included in the reports have to be blackened for privacy reasons. During validity of the certificate, the certification body will request up to two times from the Valuer to submit expert reports which will be examined by the examination board according to minimum requirements for certification. The expert reports submitted have to be evaluated and considered to be suitable. If the certified Valuer does not comply with above mentioned requirements, corrective measures will be prompted. This may lead to an additional audit on site.

### 3.2.2.9. Renewal of certificate

Recertification leads to a renewal of the certificate, extending its validity. Condition sine qua non for a recertification is the positive result of continuous monitoring of the certified Valuer, that is to say he has to give proof of the training measures required per year, the expert reports submitted have to be approved and, where applicable, the interim audit has to be concluded successfully.

Application for recertification has to be submitted at least six months prior to expiry of the certificate. Thereupon, the certification body sets a date for an expert talk with the certified Valuer to receive evidence that his or her expertise is state of the art and in line with the domain certified. Main content of the expert talk will include the most recent innovations in the respective certification domain in correspondence with the examination material and the expert reports submitted.
Czech Republic

Professional body represented on TEGoVA: Czech Chamber of Appraisers (CCA)

History

The Czech Chamber of Property Appraisers (CCA) was established in compliance with the Act No. 83/1990 Coll. dated 27 March 1992 as an independent and non-profit-making association of persons and legal bodies involved in the profession of the valuation of property. The statutes of the CCPA were approved on the same date.

The principal objective of the CCA is to act as an association for appraisers from Bohemia, Moravia and Silesia operating in the property market, to establish principles and methodology for the valuation of property, to disseminate information from related fields among its members and to improve their qualifications.

Historical background of the property valuation profession

The Czech Republic was established on 1st January 1993 when Czechoslovakia split into the Czech Republic and the Slovak Republic.

The Czechoslovak Republic as an independent state was formed on 28 October 1918 on a part of the territory of the former Austro-Hungarian Empire and took over the existing Austro-Hungarian legal framework.

The Austro-Hungarian administration and building regulations (i.e. the building regulations valid for Bohemia), including land records in land registry maps were adopted and property price was determined by appraisers in accordance with the valuation rules of 1897.

The Appraising Rules required that appraisers should state specific values for fixed assets as specified in entries in the accounting books which were accessible to the general public.

If the property was not entered in the accounting books, the property had to be appraised according to its marketable components.

The value had to be fixed as a market (selling) price, taking into consideration the area or cubic volume, or alternatively the yield.

Appraisals were distinguished not only by their purpose but also by the period of time they covered (the present, past or, in the case of loans, the future). The economic function of the price was restricted in the command economy by the premier's decree No. 175 Coll. of 20 June 1939 (which can be compared to the "Stoptag" in Germany).
After the Second World War both property ownership and ownership rights were restricted in three waves of nationalizing in the years 1945, 1948 and 1959.

The first wave of nationalisation was launched by President's decrees Nos. 100, 101 and 103 dated 24 October 1945.

The second wave was instigated on 28 April 1948, by a series of nationalization acts passed by the National Assembly, and ended in 1951.

The price was based on the real value of a specific property.

The property valuation according to a point allocation method, as required by the above mentioned decrees, became more and more complex, and therefore property valuation transferred to sworn experts in economies specialising in property valuation.

The sworn experts (official referees) are appointed in agreement with Act No. 36/1967 Coll. on experts and interpreters and in agreement with the implementing decree No. 37/1967 Coll.

Official referees within the scope of their expert activities fixed and administrative price according to the valid price regulations. Until 1990 this price was officially considered to be the maximum price.

**Relevant national legislation**

At present the issue of valuation methodology is partially solved by Act No. 151/997 Coll. on property valuation, but only for determination of an administrative price, or “a recognised price”.

The property valuation on a market or non-market base is realised according to methods generally accepted on the European territory.

The base is EVS (European Valuation Standards) adapted for economical conditions of the CR.

At present preparation works to change the Act on Property Valuation are being carried out on the basis of the EVS.

**Qualifications of judicial experts and appraisers**

The valuer must be an experienced expert-valuer, well-informed on current economic trends, supply and demand in the market and actual legal regulations.

Their professional knowledge must be inter-disciplinary and include technology, economics and valid legislation.
CCA provides the necessary qualification level of their members by means of various educational projects where prominent experts of the field lecture on actual problems in the property market, including updating guidelines for market property valuation.

**National standards**

Within the scope of specialized departments of CCA standards and guidelines for property and land valuation, business valuation, financial property valuation (stock bonds, shares, etc.), movable property valuation, intangible property valuation and raw material resources valuation have been developed.

The mentioned documents are continuously adapted as necessary.

**Status of standards**

All members of CCA are obliged to observe the Standards when carrying out market valuation of the above mentioned kinds of property.

**Regulatory requirements**

Compliance with the Standards of CCA is required by a number of banking institutions in the CR. The standards and methodological procedures of the CCA are accepted and implemented e.g. by GE Money Bank Prague, Credoma Prague, HYPO Bank Prague, etc.

**Key purposes of valuations**

Under the present conditions of the Czech Republic the market valuation is used mainly by corporate companies (especially banks), but also by state organizations.

Valuations are carried out by means of the CCA methodological procedures primarily to enable:

- establishment of the market price.
- determination of the value of manufacturing corporations and companies;
- agreements of loans with collateral concluded with banking institutions (determination of the collateral value for credit procedure);
- inheritance and other property settlement;
- liquidation (cessation of business);
- property execution;
- insurance;
- property transfers and mergers;
- courts and other judicial bodies.
Main differences between national Standards and EVS

Continuous application of the EVS resulted at present in very small differences between national Standards and valid version of the EVS.

Possible variations from the EVS arise from transformation from the previous centrally planned economy to an open market economy which has been launched in the CR after 1990.
Denmark

Professional body represented on TEGoVA: Danish Association of Chartered Estate Agents (DE)

The Real Estate Market
The Danish real estate market can in broad outline be divided into the following segments:

1. Owner-occupied dwellings and second homes
   ▪ 80,000 subjects sold per year
2. Co-operative apartments/houses
   ▪ 2,000 subjects sold per year
3. Commercial properties
   ▪ 5,500 subjects sold per year
4. Agricultural properties
   ▪ 4,500 subjects sold per year

The market for owner-occupied dwellings, second homes, and co-operative apartments are subject to a very strict and consumer-friendly legislation: The Law Regulating Real Estate Transactions (LOFE in Danish). The law sets up strict demands on the activities of the real estate agents and among these, their duty of information towards the consumers. Furthermore, demands are made as to who is allowed to work within the real estate market. To work as a mediator of owner-occupied dwellings, second homes, and co-operative apartments you have to be a qualified and trained real estate agent or lawyer and you have to be registered in a public real estate register. This does not count for valuers. Anyone and everyone can, in theory, legally take on the practice of valuing owner-occupied dwellings etc. but it naturally follows that only those who act within the real estate market are capable of performing this task.

The market for commercial properties and agricultural properties are not subject to the same legislation and is therefore more liberal. Accordingly, there are no requirements of education within this field. Everyone can take on the task to sell, let or value commercial properties.

Within the market of owner-occupied flats, the demand for valuations is limited (leaving out of account the sales valuation which is made when the property is set for sale). Valuations like these are typically a consequence of a division of property, the handling of an estate of a deceased person, bankruptcy, or lending purposes.

Within the market of commercial property, the field of valuation is considerably larger. In this field, valuations are made for the purpose of being included into the annual report and for transactions between involved interest parties etc.
Real estate is mostly funded through mortgage credit institutions. The principal rule is that the mortgage credit institutions can only finance 80% of the purchase price when it comes to owner-occupied dwellings. They can finance 60% of the purchase price when dealing with second homes. When dealing with an all commercial property they can finance 60% while rental properties and co-operative apartment/houses can be financed with 80% from a mortgage credit institution and agricultural properties with 70%, with respect of the actual positive cash-flow.

The rest of the purchase price is, in most cases, financed by a loan in the bank or through private mortgage deeds.

When financing rental properties there is to some extent a special opportunity for cheap funding through “the landowners’ investment fund” (in Danish “Grundejernes Investeringsfond”).

The mortgage credit market generally offers the cheapest type of funding. This is primarily due to the fact that mortgage credit institutions are refinancing by selling bonds to private or institutional investors through the Stock Exchange. These bonds have a very low risk since they have an indirect security in all the properties to which a loan is given within the series of bonds in question. Because of the high degree of security the investors accept a relatively low interest rate.

**Property Valuations**

Valuations on the Danish market can be divided into the following categories (valuations made by public authorities excluded):

- Sales valuations (valuations made to determine the supply price in case a property is to be sold).
- Valuations for lending purposes (is used for the lender’s valuation of the security’s value).
- Valuations for annual reports.
- Valuations for creditor’s valuation on his position in case of a compulsory sale of the real estate.
- Valuation for the intending purchaser’s possible bid at a foreclosure auction.
- Valuation for the housing co-operative’s fixing of the co-operative’s value (Danish law has set that co-operatives cannot be sold at a price that surpasses the estimated maximum prices. This calculation might include a valuation of the housing cooperative’s property which has to be carried out by a real estate agent who is also a valuer).
- Other valuations
- Valuations for the division of property and partner withdrawal.

Valuations of real estate – for any other purpose than sale – are made primarily by real estate agents, who are also valuers, but other professionals are also employed for this purpose, for example Danish registered land surveyors or RICS accredited Chartered Surveyors.
There are no norms made by public authorities as to how a valuation has to be performed, accept in a few specific situations. This could be in case of valuation of real estate owned by a financial institute in which case the Danish Financial Supervision (Finanstilsynet) has worked out a valuation norm.

The Danish Association of Chartered Estate Agents has worked out a guide for valuation of housing cooperative’s housing properties. This guide is being broadened with an actual norm.

When valuing owner-occupied dwellings no fixed principles for valuation are set. These are valued individually with regard to similar properties with similar position, furnishing, building material, etc. In this matter a detailed knowledge of the local tendencies is extremely important as the prices can vary greatly from one area to another – also within the same city.

On the other hand, the valuation of commercial property’s primary point of reference is the principle of yield calculation; that is which amount of yield a given investor will claim for his investment when purchasing the property in question. In this context the ever-lasting annuity method, also referred to as the first years yield method, is usually used. When valuing larger commercial properties the DCF method or the like is used.

When valuing stock- and production properties an appraisal on the basis of the “brick method” is used too; i.e. how much would it cost to establish a similar building and plot. For this purpose, an adjustment taking changes into account, such as potential defects compared to the requirements of today etc., is made.

Often you will have to add a building licence if the site area allows for it. This counts for the yield method as well as the brick method.

In that way, the value is the highest value of the two methods.

In certain areas – primarily in Copenhagen – a tendency to focus more on square metre prices than on the yield when dealing with rental properties is showing amongst e investors. This happens because they have an understanding that the profit made on the property lies more in the long-term perspective than in a yield here and now. The long-term perspective relies upon the expectation that the property can be improved which will make it possible to increase the rental income and/or that the legislation will be liberalized so that higher rental incomes will be possible, as rental units, build before 1966, are under rent control.

**Types of valuers**

The primary organization for valuers is The Danish Association of Chartered Estate Agents (DE). The majority of Danish estate agents are members (95%).

As mentioned earlier Land Surveyors are to a certain extent also used for the valuation of real estate.
In addition to this, there is another influential player on the market; RICS-Denmark, who organizes the Danish Chartered Surveyors.

A few valuers are ISO-certified. These were earlier organized in the Danish Association of Valuers but the organization no longer exists and neither does registration of these valuers.

The education for valuers used to be an education conducted by the commercial schools and controlled by the Ministry of Education. This education was closed down a couple of years ago and for the present no formal education for valuers exists in Denmark. The Danish Association of Chartered Estate Agents works hard to establish a new education for valuers under the control of the Ministry and is hoping to make this possible by August 2009, at a Bachelor level.

The valuers are selected by the client, their advisers or appointed by DE. If the valuer is to be used as an expert witness, he will be appointed by the court of justice, often on DE’s proposal.

**Future prospects**

DE understands that continuous valuations will play a larger role. This has to be seen in the light of the global crisis as to which the association’s point of view is that it could not have been avoided but that it could possibly have been reduced to a certain extent when it comes to a few loan suppliers if, for example, external valuers had been appointed instead of the loan institutes’ own internal valuers.

The Danish Association of Chartered Estate Agents is aware of the fact that valuers will very easily find themselves in a state of dependence to the client, due to the small domestic market. This problem, we probably find the largest challenge for the valuation organization in the years to come.
France

Professional bodies represented on TEGoVA:

ASSOCIATION FRANCAISE DES SOCIETES D’EXPERTISE IMMOBILIERE (AFREXIM)
French Association of Property Valuation Companies

CONFEDERATION DES EXPERTS FONCIERS (CEF)
Confederation of Land Owners

CHAMBRE DES EXPERTS IMMOBILIERS DE FRANCE (CEIF-FNAIM)
Chamber of Real Estate Valuers of France

CONSEIL SUPÉRIEUR DU NOTARIAT (CSN)
High Council for the Notarial Profession

INSTITUT FRANCAIS DE L’EXPERTISE IMMOBILIÈRE (IFEI)
French Institute of Real Estate Valuation

SYNDICAT NATIONAL DES PROFESSIONNELS IMMOBILIERS (SNPI)
National Association of Real Estate Professional
1 – Real estate market

1.1 Housing stock

At mid-2009, the housing stock in France consisted of 33.145 million dwellings. This number includes 10% of secondary homes and 7% vacant units. 58% of main residences were owner-occupied, 19% repaying a home loan and 38% without home loan; 37% were rented, 17% social and 20% private.

The remaining 5% were occupied free of rent, rented furnished or sublet.

Home-ownership rapidly increased in the 1980s (from 46% in 1978 to 54% in 1988) but remained stable during the first part of the 1990s. On the contrary, the private rented sector decreased in the 1980s and has since recovered whereas the social rented recently stopped increasing.

1.2 House prices

The main source of national house price data is the “INSEE-Notaires” house price index, published by INSEE (www.insee.fr).

It concerns changes in residential property prices and are based on transactions on the second-hand market. The “INSEE-Notaires” house price index provides quarterly series from 1980 for Paris, 1994 for regions other than Paris, 1998 for whole France. Various levels are available, including regions and major cities.

There has been only one full boom and bust period that could be observed by the index. It was between 1987 and 1995 and it mainly affected the Paris region and the Riviera. Since 1998 until 2008, prices have been rising in most regions and the rate of increase has been about 10% in average. During the recent crisis, prices slightly decreased in 2009 and recovered unevenly. In Paris they went up by 22% much more than on any other market.

Prices in the city of Paris and its close suburbs are much higher than in the rest of the country; next comes the Riviera and cities near the Swiss border (Annecy and Geneva area). At mid-2011, average prices per square meter for second-hand apartments reached 8,400 € in Paris and 3,800 € in Nice. These areas are in favour with national and foreign investors; the prices are thus more volatile than in the rest of the country.

1.3 Transactions

The numbers of transactions on the second-hand market at the national level, they are estimated using tax data. The average number of property transactions is about 0.8 million per year over the last 10 years. This translates into an average turnover of around 3% of the dwelling stock belonging to individuals.

The only official data on house purchase activity concern sales of new housing by developers. They average 100,000 per year. In the recent years, due to generous tax incentives, the share of sales to (individual) investors was estimated to be close to two-thirds.
1.3 Mortgage market

At mid-2011, the total value of outstanding housing loans to households was 832 billion euros. This is equivalent to 46% of GDP. Loans secured by a mortgage cannot be isolated. The value of outstanding housing loans to households was multiplied by three in ten years. This increase can be explained by the historically low interest rates and a longer duration of the loans which contributed to maintain affordability in spite of the rise of housing prices.

Funding

The main funding instrument used by the banking system is deposits, among which “Epargne-Logement” (housing savings schemes) still has a large share in spite of a constant decline. Long-term finance (bonds, including mortgage bonds) is developing and Basel III rules will push to increase it even more. Securitisation of housing loans (MBS) has been introduced in 1991 but has not much developed.

Covered bonds were introduced in (1999) but they have taken an important share of the funding only among specialist lenders.

1.4 Government

The State supports home-ownership of moderate-income households through:

1/ a subsidised loan (PTZ – “Prêt à Taux Zéro”) which has 0% interest rate and delayed amortization: 100%, 75% or 50% (depending on income level) is repaid after the main loan (up to 18 years); its maximum amount is 20% of house price (up to a maximum price variable with family size and region). Conditions are: first-time buyers, maximum income, newly built or renovated housing.

2/ Launched in 2011, PTZ + is a loan whose interests are covered by the State, without fee, to buy a first principal residence (limited to persons who have not owned their primary residence since at least two years).

Loan amount and repayment terms that are granted, take into account income level, size of the family, geographical location of future housing, its type (new or old) and its energy performance.

Social rented housing programmes benefit from:

- direct State subsidies (between 2.5% and 20% of the investment cost),
- VAT reduced rate (5.5% instead of 19.6%),
- 15 year property tax exemption (instead of 2 years),
- long-term off-market loans (currently 3.45% for 35 years) funded by tax-exempt deposits on savings account and guaranteed by local authorities.

Private landlords investing in newly-constructed or heavily renovated housing benefit from “accelerated depreciation”: they may deduct from their taxable income up to 65% of the purchase price: 8% during each of the first five years, then 2.5% per year during four to ten
years. As a counterpart, the standard deduction on rental income is brought down from 14% to 6%. Since April 2003 (Robien), only has rent ceilings, approximately 10% under market rent, and no income ceiling for tenants.

Scellier BBC law is a tax system applicable to new housing available for rent, in anticipation of the 2012 thermal regulations that will require the BBC. Launched in 2011, Scellier BBC provides investors with a tax reduction of 22% of the property value to be divided up to 15 years.

1.5 Market for commercial properties

Like all mature western European economies, France has a widely-developed range of non-residential properties, from office, retail and industrial premises through to more specialised sectors such as hotels and conference / exhibition centres. As the world’s leading tourist destination, the hotel and conference sector is particularly important, particularly in the capital.

We will concentrate here on the three most commonly studied user types, offices, retail and logistics warehousing.

1.5.1 The Office Market

As a result of the heavily centralised nature of business and government in France, its office market is heavily concentrated in the Paris region, which comprises more than 52 million sq.m., equivalent to 25 – 35% of the country’s office total stock. The largest regional conurbations, Lyon, Marseille and Lille, each have less than 10% of the Paris region’s total.

The Paris region’s office market is therefore, with London, one of the two largest in Europe, outstripping the nearest contenders by a considerable distance. The most important Parisian sub-markets are:

- **The Central Business District**, formed by the 1st, 2nd, 8th, and parts of the 9th, 16th and 17th arrondissements, where the supply constitutes predominantly classical 19th century stone-fronted buildings, generally described as *haussmannien* after the man who planned the layout of the city in the mid-19th century.
- **La Défense**, the largest de-centralised business district in Europe. This area was developed from the 1950s onwards to provide high rise office buildings close to the city without spoiling the low-rise nature of much of central Paris.
- **The 12th and 13th arrondissements** either side of the River Seine to the east of central Paris, where office development was focussed round the Gare de Lyon railway station and the 1990s new district Seine Rive Gauche. The latter provides large floor areas in a low-rise environment, in contrast to the high-rise nature of La Défense.
- **The western inner suburbs**, of which the primary markets are the Neuilly-Levallois area and the area within the southern river loop in the towns of Issy-les-Moulineaux and Boulogne-Billancourt. These areas were both developed as office and residential centres after heavy industry moved further away from the city centre from the 1980s onwards.
• New areas of development have emerged since the beginning of the 90’s, particularly along the Périphérique inner orbital motorway at towns like St Denis, St Ouen and Montruel.

The metro and RER transport systems and the motorway network, centring on the Périphérique and the A86 middle ring road, are the main infrastructure elements that drive occupier location choices.

Statistics for the Paris region office market are arguably the most reliable in Europe, as four of the largest property firms jointly set up Immostat, a statistical gathering body, several years ago to analyse the market and publish agreed office take up, supply and investment volume figures for the region. Immostat has since been taken under the wing of IPD.

Annual take up in the Paris region has varied since 2000 between 1.7 and 2.8 million sq m, or around 3.5 – 5.5% of the total stock, according to the position in the property cycle. The two main markets, the CBD and La Défense, typically account for around 12 - 20% and 7 - 10% of total take up, respectively. The region offers a wide range of rental levels, with new buildings letting from over €800 per sq m in the CBD to around €200 in the outer suburban markets.

However, there are also well-developed office markets in the regions outside Paris and Lyon, Marseille and Toulouse are the most dynamic markets. Also worthy of mention are the towns of Nantes and Lille. Nevertheless, the market in France remains very concentrated in the Parisian region: take up in Ile de France typically represents 8 to 10 times that recorded in Lyon and over 20 times more than that of Marseille.

1.5.2 The Retail Market

France has one of the most mature retail markets in Europe, offering a full range of outlets – high street shops, shopping centres, out-of-town “big box” units, factory outlet centres and retail parks. An ORIE study in 2010 estimated the total retail area in France at 64 million sq m, with around 23% of space in shopping centres, 27% in town centres and 50% in out-of-town retail parks and strip development.

The country was one of the first in Europe to develop American-style shopping centres and saw a strong boom period in the construction of out-of-town shopping centres in the 1970s and 1980s. There was also a lot of strip development of out-of-town retail units during this period as well.

The 1990s and 2000s saw a backlash against this in the form of restrictive planning rules that today require special planning consents for retail units of more than 1,000 square metres and in some cases more than 300 sq m. As a result existing buildings and particularly very large shopping centres enjoy a certain scarcity premium.
Not surprisingly, the most prestigious retail streets are located in Paris, led by the Avenue des Champs Elysées, which achieves some of the highest rents in the world. The French capital has a highly-developed luxury retailing industry, centred on streets such as Avenue Montaigne, Rue du Faubourg St Honoré, Place Vendome and Boulevard St Germain.

Nevertheless, retail property more than any other asset class also sees a strong demand from landlords and tenants alike for property in the regional cities and zone A rents in towns like Lyon, Toulouse or Bordeaux can achieve €2,000 per sq m Zone A and yields of close to 5%. Some of the best performing shopping centres are also located in the regions, such as Lyon Part-Dieu and Cap 3000 (in Nice).

It is essential for valuers of French retail property to have a detailed knowledge of the complex landlord and tenant law, see 1.3, above. In particular, the rent-capping rules on lease renewal, which can limit rent increases to annual indexation, can have a major effect on the chances of a landlord realising a shop’s theoretical reversionary potential.

1.5.3 The Logistics Warehousing Market

France is strategically placed in Western Europe, having frontiers with seven other countries. As such, goods passing from one country to another within the continent very often pass through France. The Rhone corridor has been a natural north-south trade route for centuries and today the A1, A6 and A7 motorways form the backbone of the country’s road network, linking the main logistics centres of Lille, Paris, Lyon and Marseille.

The total warehouse stock in France was estimated to be around 95 million sq.m in 2010, of which less than 40% is comprised of large warehouses built less than 30 years ago. The greater Paris stock accounts for 29 million sq.m, representing about 32% of French warehouses.

The stock of buildings of more than 10,000 sq.m in the Paris region amounts to around 10 million sq.m. The Lyon region is the second largest logistics pole, with a warehouse stock (buildings over 10,000 sq.m) of around 4 million sq.m. The region around Lille, in the north, Marseille / Aix in the south each have some 2 million sq.m.

Other logistics centres have been developed, either around other major population centres, such as Metz or Toulouse, or elsewhere along the main A1/A6/A7 corridor, but have not met the same level of tenant or investor demand as the four traditional markets.

Of special interest for valuers of logistics warehouses is the strict ICPE health and safety regulations. Any storage space of over 50,000 cubic meters is required to have a use permit before it can be occupied. This permit will specify the type of product that can be stored. A new permit will be required before articles from a different use class can be stored.

In order for a permit to be granted the property must satisfy a number of criteria, including minimum distances from roads and adjoining properties. Generally speaking individual fire-
protected cells must not exceed 50,000 cubic meters, so larger spaces will have to be sub-divided by fire-resisting walls.

The value of a logistics warehouse can be seriously affected by the existence or otherwise of the necessary permit and by the works that might be required to obtain a permit if the property does not currently have one. Valuers of such properties must therefore have an appropriate level of knowledge of this system.

2 – Real estate valuation

2.1 terms of/for value

2.1.1 market value

2.1.1.1 The dominant type of value is market value: “The estimated amount for which the property should exchange on the date of valuation between a willing buyer and a willing seller in an arm’s length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion”.

In France, the common repository of real estate appraisers is the charter of the valuation in real estate (Charte de l’expertise en évaluation immobilière). The charter is being updated and its fourth edition to be published in 2012. The Charter adopts the definition of the market value of IVSC. The market rental value is a form of market value.

The market value is implemented in two cases: in pursuit of use and if used alternative.

2.1.1.2 The Fair Value is considered an accounting concept. In practice for investment property, it is equated with the market value. For operating properties, the fair value is deemed to be the market value in its existing use.

2.1.2 non market value

2.1.2.1 Replacement cost: This value is used to determine the replacement value of a building in an identical or equivalent. By deducting depreciation into account the age and obsolescence yields the depreciated replacement cost.

2.1.2.2 Reinstatement value: This value is defined as the cost of reconstruction of buildings and facilities to property, fees, expenses and technical off cost of demolition of existing.

2.1.2.3 Mortgage lending value: it corresponds to a value that must be assessed conservatively in order to eventually sell the building. It can not be greater than the market value. It provides the basis for refinancing mortgage.
2.1.2.4 Compensation for expropriation: is equal to the harm caused to the expropriated by the loss of the building. It is paid to the landlord as the tenant.

2.1.3 other terms of/for value

2.1.3.1 : insurance value: it is equal to the value at which property is insured by an insurance company. It can cover two concepts: the replacement value and replacement cost depreciation deducted.

2.1.3.1 : realizable value (valeur de réalisation) : it is the market value in the context of valuations and updated for the insurance company and mutual insurance companies as well as for real estate investment company (SCPI).

2.2 Valuation methods

2.2.1 Methods applied for calculating market value

Two main methods are typically used to estimate market value. The first consists of using comparables to the market as regards the property to be estimated. The main limit for this method is that it does not take potential income from the property into account. Hence the second method, called investment approach, is based on the income stream, compared with market value, and capitalised with capitalisation rates depending on the kind of property and market knowledge.

2.2.2 Methods applied for calculating non market values

The “non market value” is calculated on the basis of various methods. The comparison method, income method and replacement cost method can be used in determining a mortgage value. The insurance value can also be approached by the replacement cost method, as well as by an indexing method.

Concerning “non market value”, the terms of the valuation agreement should clearly state whether these values are required. The valuation report should also state whether they were used and should include the market value to identify the difference between those two types of value.

2.2.3 Regulatory / non-regulatory methods (if applicable)

In France, compulsory purchase is governed by a procedure detailed in laws and regulations where the property surveyor is not involved.

In most instances, the use of specific government agencies is required and in particular the Service des Domaines (property agency) for valuations for itself or for public bodies. The Service des Domaines uses its own specific appraisal method.
The rest of the procedure takes place under the control of a judge, who will be entirely free to assess concerning the most appropriate method of calculating the loss. However, although the judge’s margin of assessment remains entirely within the limits of the parties’ statement of claim, even so he must follow a number of rules from which he may sometimes vary on condition that the amount of compensation is reasoned.

**Valuation methods used in France Add the definitions in the charter**

- Comparison method
- Income capitalisation method
- Method of updating future cash flows – Discounted cash flow method
- Developer assessment method
- Land and construction method
- Rental saving capitalisation method
- Discounted rental saving method
- Business ratios method
- Replacement cost method

**Comparison method**

This fundamental principle of valuation, by means of benchmarks provided by recent comparable property transactions and bids proposed in sales, enables the market value of a property to be assessed. The valuation is made by comparing the property with other similar transactions on the market, meeting the category of value criteria required.

This method, which has a number of variations depending on the type of property, consists of starting directly from data from transactions on the property market for properties with features and a location comparable to those of the property being assessed. It is also called the market method or direct comparison method.

According to the case, this method is used to value a property or property right by assigning it a value deduced from analysing sales of similar or analogous properties.

Depending on the type of property, the measurements used may be the habitable, useable or weighted useable area (HA, UA or WUA), or the unit (parking space, bedroom, bed, seat, hectares, etc.)

**Income capitalisation method**

This method consists of taking as a basis, either an ascertained or existing income, or a theoretical or potential income (rent received or market rental value), then dividing it by a rate of return, thus capitalising it.
This method is an approach via the income from the property. Income methods are also called "income capitalisation" or "yield" methods.

It can be calculated in various ways depending on the basis of the income in question (actual rent, market rent, net income), for which there are distinct rates.

In France, the basis generally consists of either the net annual rent before tax and before rental charges, mainly in commercial property, or the annual market rental value before tax and before rental charges, mainly in residential property.

In this instance, it is necessary to determine:

1- The income:
This method, as it is based on an actual or potential gross income, is consequently only applicable to property that is rented or likely to be.

2- The rate of return:
This is essentially a comparative method and must refer to actual local property market data.

It must also take account of:

The geographic situation.
The business sector concerned.
Features specific to the property.
The state of maintenance and dilapidation.
The use.
The positioning of the rent on the market.

**Discounted cash flow method**

The Discounted Cash Flow (DCF) method is frequently used for valuing assets and shows financially what an asset is likely to generate in terms of income.

It is still used as regards development property, property being restructured, and as regards property that is manifestly under-valued. The length of the period used enables variations to be smoothed out and gives a longer term view. Depending on the type of owner, the period used is between 7 and 10 years.

This method consists of discounting future income produced from all property after deducting any charges (taxes that are not taken into account by the tenant, unoccupied periods with work,
marketing expenses, cost of non-occupancy, etc.) over a long period (we shall be using 10 years) including the sale of the whole at the end of the 10 years.

**Developer assessment method**

Also sometimes called the property recuperation, operator countdown or developer appraisal method.

These methods are currently used to estimate the market value of building land in urban environments. They can also be applied to determine the value of an existing building that is going to undergo major restructuring or reconstruction.

They consist of starting from the forecast sale price for a planned scheme, reconstituting the various costs affecting the scheme (building costs, financial charges, fees, margin) to ultimately reach, by subtraction, the value of the land or building in question. The calculation of the exit value for the programme must be based not just on benchmarks from transactions for properties comparable to those in question, but also on an analysis of normally foreseeable supply and demand up to the marketing date of the planned scheme.

**Land and construction method**

These methods consist of separately assessing two components of the property: firstly the land and secondly the buildings.

Depending on the way in which they are deployed, these methods are similar either to comparison methods or replacement cost methods.

**Discounted rental saving method**

In order to find the value of lease-right, this financial method prefers the saving in rent generated by the protective status of commercial leases. The value of lease-right is established by finding the current value of a flow or income corresponding to the saving in rent over a period to be determined using the formula:

\[
DAB = e \frac{(1 - (1 + i)^{-n})}{i}
\]

Where \( e \) = saving in rent – \( i \) = discount rate – \( n \) = flow period.
Business ratios method

This method applies to a number of properties of a specific character and in particular a “monovalent” character.
Under the terms of article 23-8 of France’s 30 September 1953 decree, the following properties are monovalent: ones built with a view to a single use or that under case law have been assigned by modifications to a single use such that it would be necessary to undertake considerable work to assign them to another use.
The Paris Appeal Court states “major structural modifications to volumes, internal distribution, internal modifications”.
Thus hotels, garages, cinemas, theatres, clinics and a bar-dance hall have been considered monovalent by construction or modification.

So the method termed “business” applies to specific categories of property or ones of monovalent type, when their use is maintained.

It is actually a derivative of the income capitalisation or comparison method.

However it takes into consideration the actually achieved or potential turnover and gross margin of the business undertaken on the premises, and a percentage of the turnover admissible in rent.

The rental value of monovalent premises is not usually straightforward because there are particular practices that consist of using a portion of receipts that can be very variable depending on the nature of the premises.
And also, as with shops, whether it is the initial rental or a renewal of the lease.

Rental saving capitalisation method

This method consists of multiplying the difference between the market rental value and the rent by a marketability coefficient.
It involves calculating the difference over a year between the market rental value and the rent currently paid, then capitalising the amount thus obtained, called the rental saving.

So if the rent is the market rental value, there is no lease-right value by this method.
If there is a difference between the market rental value and the current rent, it should be capitalised.

The coefficient of capitalisation is a marketability coefficient related to the commercial location and to the only market prices, and not to the length of the lease remaining to run.
For shops there are new leases without payment of a premium and a genuine “lease-rights market”, with numerous transfers. Analysis of transfers enables coefficients to be ascertained making it possible to reconstitute the market rental value.

The coefficients are determined by the market rental value used if the premises were untenanted for the most appropriate shop.

It is found that the coefficient varies according to the weighted unit rate per m². This is because the higher the unit rate, the more the coefficient increases.

The coefficient is thus obtained, initially, by analysing the commercial rental market and transfer rates, then adjusted it according to length and especially to the various conditions of the lease in question.

In determining the lease-right, two problems can arise: the cessation of specialisation and removal of limits.

So if one of these two instances arises, it is necessary to be careful and adapt the valuation method accordingly.

**Replacement cost method**

The replacement cost is both a value in itself (replacement value) and also a calculation method. As a calculation method, the replacement cost of a building incorporates both the taxation basis, the buildings and the equipment related to them.

**It can be calculated in three different ways:**

1) either the cost of like-for-like replacement: in this case it will be the market value of the land, plus the cost of like-for-like reconstruction of buildings and facilities, incidental expenses for the operation and irrecoverable VAT. This calculation method is used little, or not at all, for going concern value. On the other hand it is used for insurance values for buildings.

2) or the cost of an equivalent replacement, in other words the market value of the land, plus the cost of equivalent reconstitution of buildings, starting from the principle that if the property was rebuilt today, it would be in accordance with the standards for areas, materials and equipment different from the existing building in question.

3) or the market value of the building taken overall, plus purchase costs and charges, and any conversion work necessary to run a specific business. This approach is generally used when a current or standard building is being assessed where the equivalent may be available on the same market.
3 – Types of real estate valuers

Institut Français de l’Expertise Immobilière (IFEI)

The IFEI was founded in 1979. As we will see below, it is an unusual association in France, as its aims are not merely to defend the interests of real estate valuers. The IFEI is an association (260 members as at today) whose purpose is to promote expertise in real estate valuation by promoting exchanges between valuers and valuation users (investors, legal professionals, developers, brokers, ...).

In order to achieve this, the association is composed of two types of members:

- **“Titulaires” members**: they must be practising real estate valuers who are able to demonstrate, firstly, at least seven years experience in real estate appraisal and, secondly, an appropriate level of higher education.

- **Associate members**: they are users or prescribers of property valuation. Their total numbers may not exceed two fifths of the members of the Institute and an Associate member may not chair the IFEI.

The advantage of this unusual arrangement is that valuers cannot simply exchange between themselves, as they constantly have to take account of the views of stakeholders in the valuation process. The IFEI features regional divisions that conduct local reflection and training activities outside the Paris region.

The IFEI was instrumental in the enshrining of the general concepts of valuation in the *Charte de l’expertise en valeur immobilière*, the first valuation standards published in France. A monitoring committee makes sure it is respected and kept up to date. The *Charte* has become the repository of practice and standards in France for property valuers. The *Charte* is updated regularly, amongst other reasons, to ensure that it is in accordance with TEGoVA’s EVS.

3.1 organisation of the profession (organisations / associations of valuers)

AFREXIM (l’Association Française des Sociétés d’Expertise Immobilière) is an association of 8 of the principal real estate valuation companies in France. The association was created in 1995. It is unusual in France in being an association of valuation companies, rather than of individual valuers.

The current members are: BNP Paribas Real Estate Valuation, Catella Valuation FCC, CB Richard Ellis Valuation, Credit Foncier Expertise, Cushman & Wakefield Expertise, DTZ Eurexi, Icade Expertise and Jones Lang LaSalle Expertises.
Thanks to the work of its members over the years the association has become a key contact point between valuers and regulators, a driving force in the French valuation profession and one of the major defenders of the interests of valuers.

AFREXIM is the only association in France to organise an annual quality control of its members’ work. The association also publishes papers on important technical questions and has a role of thought-leadership on key valuation issues in France.

Finally, AFREXIM is a member of the FFEE, a recently-formed French association composed of both real estate and financial valuers, which has a seat on the IVSC.

4 - Outlook

Commercial property markets

After the roller-coaster ride of the first decade of the millennium, European commercial property markets face a potentially long, challenging period in the first half of the second one and France will be no exception. Doubts over European sovereign debt and national debt levels, and the potential wider financial fall-out in case of default, are likely to reduce economic activity and make access to debt more difficult. France is not alone in having brought in austerity measures in 2011 and it is not government spending that is likely to drive the economy for the next few years.

Occupational markets are likely to experience lower demand as activity slows and prospects for rental growth are not good in the short to medium term in either the office or warehouse markets. As so often in the past, prime retail may buck this trend, although more secondary retail streets, shopping centres and retail parks are expected to come under pressure, particularly as internet, social network sites and other technologies change the face of retailing.

This slowdown is likely to play out against the background of an increasing emphasis on sustainability in buildings. Whereas at end 2011 only the market for new offices has wholeheartedly taken green factors on board, EU and national legislators will press for progress in reducing energy consumption in second-hand buildings. Indeed, by early 2012 the French government should have issued regulations defining improvements that will be required to the existing stock by 31st December 2019.

While this may bring welcome employment possibilities to the construction sector, it is likely to increasingly focus attention on capital expenditure required to bring older buildings up to standard and will result in an acceleration of obsolescence, with a probable knock-on effect on asset values. As regards new and recent, “green”-labelled buildings, it is likely that the market will become more discerning as regards the differences between the different grades within the labelling systems and value differences can be expected to become apparent, with premium
values for the best performing buildings... as long as they satisfy standard occupier requirements of location, comfort and flexibility.

While the twenty-teens are therefore starting on a difficult note for most actors in the property market, France, and the Paris region in particular, remain and are likely to remain favoured destinations for real estate investors. As the largest single market within the Euro zone, Paris is a “must have” in every Euro-denominated property portfolio and it seems unlikely that this will change.

Indeed, if, as seems likely at least in the short term, investors remain highly risk-averse, values of prime Paris property, as a rare and tangible asset, could hold up quite well compared with those of secondary stock. The same rarity factor is likely to apply to properties that are structurally in short supply, such as prime shopping centres. In contrast, poorer properties may be more difficult to trade, especially the larger lot sizes, and this will prove a challenge for valuers and their clients.
Germany

Professional bodies represented on TEGoVA:

- **Bund der Öffentlich bestellten Vermessungsingenieure e.V. (BDVI)**
  German Association of Publicly Appointed Surveyors
- **Bundesverband öffentlich bestellter und vereidigter sowie qualifizierter Sachverständiger e.V. (BVS)**
  Association of Publicly Certified and Qualified Experts
- **Immobilienverband Deutschland IVD Bundesverband der Immobilienberater, Makler, Verwalter und Sachverständigen e.V. (IVD)**
  German Real Estate Professional Association
- **Verband deutscher Pfandbriefbanken e.V. (vdp)**
  Association of German Pfandbrief Banks
- **Bundesverband Öffentlicher Banken Deutschlands e.V. (VÖB)**
  Association of German Public Sector Banks

1. **The Real estate market**

1.1 **The real estate market in its aggregate/ macroeconomic context**

A slightly larger part of Germany’s surface is used for agricultural purposes (approximate 53 %). Forestry uses cover approximately 30 %. Settlement and traffic uses represent approximately 13 % of the surface.

In 2003, the value of all properties of the German real estate market was estimated at 7 000 billion Euro. The value of buildings represents approximately 85 % of the value of real estate. About 1.100 billion Euro remain for the value of the ground. In national balance sheets, buildings take more than 85 % of all net fixed assets. Hereof, residential real estate represents more than 51 % of all net fixed assets.

1.2 **Structure of the real estate market and its participants**

In 2006, approximately 185 700 companies were operating in the service sector related to the property and housing market. These companies acquired a gross income of 110 billion Euros.

The German real estate market can be divided in a market for renting, a market for owner-occupation and a market for real estate investment. Additionally, a small market for construction exists. The breakdown of the whole market differs regionally. In metropolitan areas, a real estate investment market is emerging.
Real estate as an own asset class became increasingly important during the recent years, particularly real estate located in good and profitable areas. Traditionally, the German property market is characterized by a low owner occupation rate and a strong rental segment. During decades, the residential owner occupation rate was and still is below 50%. In the year 2008, real estate for over 160 billion Euro was sold on the German real estate market.

A detailed breakdown and the relevance of the German real estate market will be disclosed in a study of the Universities of Mannheim and Cologne, which is expected to be published in 2009. (Title of the study: “Die Immobilie aus gesamtwirtschaftlicher Perspektive”.)

1.3 Relevant legislation and regulatory requirements

Substantial regulations for the land and property markets are provided by the German federal building code (BauGB). These regulations include the planning law, the principles of the general town-planning law, urban renewal and regeneration rules as well as the legal definition of the market value. Additional provisions applying to the calculation of the market value as well as valuation methods are contained in the German federal valuation decree (Immobilienwertermittlungsverordnung - ImmoWertV). Further technical provisions are provided by the “Wertermittlungsrichtline” (German administrative regulation for valuation).

The German valuation profession is supported by specific expert bodies regulated by the German federal building code. They are called ‘municipal committees of valuation experts’ (see also below 3.1.).

The estimation of the lending value of a property is regulated by the German Pfandbrief Act (Pfandbriefgesetz) and the Regulation on the Determination of the Mortgage Lending Value (Beleihungswertermittlungsverordnung). For the tax value, separate value definitions are existing and specific provisions have to be applied.

The German valuation profession is characterized by two types of real estate experts. The first group is composed by “öffentlich bestellte und vereidigte Sachverständige” (publicly appointed and sworn valuers). They are governed by public Chambers (Chambers of Commerce, Chambers of Engineers).

The second and more recent group of real estate experts is consisting of ‘Certified Valuers’. They are governed by Certification Bodies which are appointed and supervised by an accreditation body. This regime follows the European regulation DIN EN ISO/IEC 17024.

The ownership of property in Germany is assured by a title registration at the local court. The property register is called ‘Grundbuch’, where the owner of the property, the kind and the location of the property, all rights and liabilities of the property including all land charges are
registered. The property register differs from the German cadastre. The cadastre is managed by the land surveying offices, describes the location and provides cartographic details and further information of each parcel of land.

Property sale contracts are only valid when they are recorded by a notary.

The German property tax regime is twofold. A property transfer tax has to be paid by the property purchaser before the registration of his ownership. The rate is different in each federal state and ranges between 3.5 and 4.5 % of the sales price. Furthermore, an annual property tax (Grundsteuer) has to be paid by the property owner to the municipality.

The value added tax (VAT) amounts to 19 % of the purchase price in Germany. Individuals do not have to pay VAT on the purchase of existing buildings. But VAT is to be paid on the value of vacant land, construction works and newly built property. This also applies when a vacant property is acquired and future construction works are stipulated in a “uniform agreement”. A double taxation including property transfer tax and VAT should be avoided.

1.4 The market for residential property

The market for residential property can be divided into newly build and existing residential properties for owner-occupation and rent, rented dwellings, condominiums and vacant land for housing. In urban areas, multi-storey residential buildings predominate; in rural areas detached single family houses are common.

In many cities, the housing market is supply driven, only a few urban agglomerations in the western federal states are characterized by a stronger demand driven market. In the year 2006, the German residential property market consisted of 17.7 million residential buildings including 38.9 million units. The stock of living space amounts to more than 3.4 Billion square meters.

In 2007, the purchase price for an average, detached single family house in Germany amounted to 161.000 Euro. The average purchase price for a condominium was at 125.000 Euro.

The predominant part of the German population lives in multiple tenant buildings. The home ownership rate for residential purposes remains constantly at 42 %. In urban areas, the home ownership rate is lower than in rural areas. Many of the privately owned condominiums are rented. Many apartments and multi tenant buildings are owned by cooperatives or by institutional investors. Real estate companies and real estate funds, which manage real estate portfolios of private or semi-public stakeholders, are among the most important investors.

The payment of rents represent in average 22.8 % of the household income. Small households are more affected than larger ones.
The demographic effects have a substantial influence on real estate values. Since 2008, owner-occupied residential property is promoted by the government in pension plans.

1.5 The market for commercial property

The commercial property market is characterized by a significant number of specialized participants. In the recent years, the market became more and more international and the approach to commercial real estate increasingly followed economic principles. The occupier and the owner of the real estate in many cases are no longer the same. The most important segments of the commercial property market in Germany are office, retail, hotel and increasingly logistical properties.

The office market concentrates on large, coherent office locations in different cities all over the country. A majority of the office real estate is held meanwhile by institutional investors. The historical office centers are Berlin, Düsseldorf, Frankfurt, Hamburg, Cologne, Munich and Stuttgart besides many other smaller cities. Overall, there were about 12.5 million office employees in 2006, corresponding to 32 % of the whole working population.

The retail market of city centers is increasingly characterized by an accumulation of international chain stores. Shopping centers are more and more located in the center of medium-sized and large cities. Smaller municipalities often become more and more unattractive for shopping facilities. Super markets are frequently located in traffic-favorable locations outside the city-core and situated in standardized detached buildings.

The logistic real estate market benefits from the strong export-orientated industry and the central situation in Europe and the EEC of Germany. Logistics real estate concentrates at central, traffic-favorable locations in close distances to sea and inland ports, at the networks of motorways and railway stations as well as in close distances to production plants. Of great importance for logistical services are freight villages.

1.6 Other real estate markets

An increasing part of the real estate market is characterized by the setting-up of special vehicles in order to develop and maintain facilities for public infrastructure. Of importance are public private partnerships. This co-operation often helps to achieve large real estate projects. In Germany, the technical infrastructure is almost exclusively operated and financed by public institutions. Only a few technical infrastructure facilities are privately owned and maintained.

1.7 Main customer groups requesting valuation services

The main customer groups requesting valuation services in Germany are:
1.7.1 Real estate finance / mortgage lending

1.7.1.1 Residential property

In 2006, investments in construction of residential properties increased by approximately 5.6%. In 2007 however, there was a comparatively very modest development. Investments in residential construction showed a yearly growth of only 0.3%. A slight increase could be recorded in 2008, investment volume was 0.8% higher in real terms than the year before.

Due to the unfavourable macroeconomic situation, leading institutions for economic research expect decreasing investment in housing construction for 2009 (-3%). In 2010 the housing investment will see a slight growth; construction is expected to increase by 1.4%.

In recent years, special effects led to substantial fluctuations regarding the demand of new residential building. Thus, the subsidy in favour of low-income first-time homebuyers ("Eigenheimzulage") has been abolished on January 1, 2006. This subsidy triggered a strong rise in building permit applications towards the end of 2005. The effect on investments following these applications was felt in particular during the course of 2006, and to a certain extent in 2007. Furthermore, the increase of the German VAT from 16 to 19% as from January 1, 2007, also gave added impetus to building investments in 2006, especially in construction work on existing buildings. Many homeowners decided to pull modernization work forward to 2006 in order to avoid the higher VAT rate.

1.7.1.2 Commercial property

The positive development in investments in non-residential construction continued in 2008. In 2006, growth was recorded for the first time following an unbroken downward trend lasting six years. Investment volume in 2007 was 3.8% higher in real terms than one year before. In 2008,
investments in the construction of commercial properties posted a growth of 5.9%. According to the pessimistic expectations for the GDP, investment in construction of non-residential buildings is expected to decrease by 5% in 2009. Intended by economic stimulus packages, investments are likely to increase by 2.7% in 2010.

1.7.2 **Volume of real estate finance**

1.7.2.1 **Residential property finance**

According to Deutsche Bundesbank’s figures, residential property loans to domestic individuals and companies totalled 1.093 billion Euro as of end-2008. Thus, total lending by all banking groups was 0.7% lower compared to the previous year’s level. Total residential property lending includes mortgage loans on real estate (907 billion Euro) and other residential property loans (186 billion Euro).

1.7.2.2 **Commercial property finance**

For the year 2008, Deutsche Bundesbank reports total domestic lending – including all credit institutions operating in Germany – for non-residential properties of 250.3 billion Euro.

1.7.3 **Supplier of real estate finance**

1.7.3.1 **Residential property finance**

Besides savings banks (28%), important providers of residential property finance are cooperative banks (18%), commercial banks (12%), mortgage banks (9%) and building and loan associations (10%). Pfandbrief Banks within the Association of German Pfandbrief Banks (vdp) are recruited from different private and public banking groups. As at end of 2008, they represented a total of residential property lending of 306 billion Euro, equating a 28% market share.

1.7.3.2 **Commercial property finance**

In 2008, savings banks (23.6%), cooperative banks (21%) and mortgage banks (21.9%) are the most important providers of commercial property finance in Germany, followed by public Landesbanken and private commercial banks that have a market share of 18.5% and 11.0% respectively. Pfandbrief Banks within vdp represent a market share of 60.6% (151.6 billion Euro).

1.7.4 **Types of real estate finance**
Real estate finance in Germany is characterised by a high level of product diversity, coupled with variables concerning fixed interest rates, amortisation and loan to value covenants. A fixed interest rate for five, ten or fifteen years is common.

Fixed interest rate mortgages are widespread in Germany. In 2006, around 70% of buyers of residential homes chose a period of fixed interest rate of more than five years. More than 96% of all outstanding mortgage loans have an initial period of fixed interest rate of more than five years. In many cases, the right of early repayment is agreed in the terms and conditions for loans with a very long period of fixed interest.

During recent years, suppliers of property finance developed new products, trying to combine the advantages of loans with fixed and variable interest rates, so called cap loans. These loans with a variable rate of interest include an adaptation of interest every three or six month respecting an upper limit.

Redemption of mortgage loans can be agreed in different ways. An initial redemption of 1% of the credit amount is common. A conventional way for the repayment of the loan is the agreement of constant monthly/yearly payments for interest plus redemption, so called annuity loans. Recently, more flexible solutions regarding redemption have been introduced. Beside the agreement of an early repayment, many credit institutions offer the opportunity to change the redemption rate during the term of the loan.

The third important parameter to characterise real estate finance is the loan to value ratio (LTV). In Germany, LTV’s between 60 and 80% of the Mortgage Lending Value are common.

1.7.5 Capital markets / mortgage funding

According to the type of bank and business strategy, the traditional funding of mortgage loans through deposits is more and more supplemented or substituted by refinancing on capital markets. Banks fund their business through the issue of different kinds of bonds, stocks or asset securitisation. Typical for the German market is refinancing by issuing Pfandbriefe (mortgage Pfandbriefe). The Pfandbrief Act offers Pfandbrief investors a tight-knit safety net. The aim of the legal framework is investor protection. Mortgages are eligible as cover assets to cover pools (Deckungsstock). In the event of an issuer’s insolvency, Pfandbrief creditors enjoy a preferential right regarding the access to the proceeds from the cover assets.

Cover pools for Mortgage Pfandbriefe must comprise loans which are secured by real estate liens such as mortgages and land charges. A special valuation methodology to determine the Mortgage Lending Value is applied as a prudent basis for lending. A further safety pillar of the Mortgage Pfandbrief is the mortgage lending limit of 60%, i.e. a maximum of 60% of a property’s mortgage lending value may serve as cover.
Pfandbrief business is subject to special supervision by the Federal Supervisory Authority (BaFin). Financial institutions must satisfy stringent requirements in order to receive a license to issue Pfandbriefe.

A further opportunity for refinancing are mortgage backed securities. MBS are not standardised like Pfandbriefe which causes the MBS market to be less transparent. In Germany, funding of residential and commercial mortgage loans through MBS is still negligent by volume.

2. Real estate valuation

2.1. Terms of/for value

Within the Federal Republic of Germany different terms for value exist in the special fields of real estate matters including the real estate valuation.

Regarding property valuation, the market value and non-market values apply:

2.1.1 Market value

In Germany, the market value is defined by law. The definition of „Market Value“ (Marktwert / Verkehrswert) is provided by § 194 Baugesetzbuch (German federal building code):

“The standardised market value is defined as the price which would be achieved in an ordinary transaction at the time when the assessment is made, taking into account the existing legal circumstances and the actual characteristics, general condition and location of the property or other object of assessment, without consideration being given to any extraordinary or personal circumstances.”

2.1.2. Non-market values

2.1.2.1. Mortgage Lending Value (Beleihungswert)

Art. 16 of the Pfandbrief Act provides a definition of the mortgage lending value. The definition reads as follows:

“The mortgage lending value must not exceed the value resulting from a prudent valuation of the future saleability of a property and taking into consideration the long-term, permanent features of the property, the normal regional market situation as well as the present and possible alternative uses.”
The Mortgage Lending Value is an independent value and is conceived as a safe top limit for long-term mortgage credits. Since, it is only based on the sustainable aspects of the property, its careful calculation is in line with the safety requirements of mortgage bonds (Pfandbriefe), thus protecting the mortgage bondholders against defaults and market volatilities. Article 16 of the Pfandbrief Act stipulates the main requirements for the assessment of the mortgage lending value. It explicitly states, for example, that the mortgage lending value may not exceed the market value, that the valuation has to be carried out by an independent and approved valuer and that speculative elements may not be taken into account.

2.1.2.2. Insurance value (Versicherungswert)

The insurance value is regulated in Par. 88 of the German Insurance Contract Act as the value of the building under consideration of a deduction for the age, deterioration and condition of the building. It is used for insurance of properties against damages caused by fire, flooding, storm, etc.

2.1.2.3. Value for taxation/ Tax value (Einheitswert)

The assessment of value for taxation purposes is laid down in the German tax valuation act. The definition is similar to the market value, there are some variations concerning date of valuation and methodology. A new regulation is going to be proposed in 2009. This value is used as assessment base e.g. for the property tax or inheritance tax.

2.1.2.4. Current or Fair Value (Zeitwert)

Fair Value is applied to a special point of time, normally the present point of time, and applied for accounting purposes.

2.1.2.5. Foreclosure Value (Wert in der Zwangsversteigerung)

Foreclosure Value is applied to processes of foreclosure and foreclosure sales.

2.2. Valuation methodology

2.2.1 Methods applied for the calculation of market value

The ‘main’ valuation methods are regulated in the German federal valuation decree (Immobilienwertermittlungsverordnung – ImmoWertV) and are therefore defined as regulatory methods.
This regulation, however, is not exhaustive but allows for other methods, procedures and/or assessments which also find general acceptance on the usual real estate market system. Mostly, those other methods consist in modified or similar methods and assessments for calculations based on the following three standardized or regulatory methods.

Regulatory methods are:

- **Comparative Method - Vergleichswertverfahren**, see §§ 15 + 16 ImmoWertV.

  This method is used for land valuation and properties which are directly or indirectly comparable like freehold apartments, single-family houses, town houses etc. The use of this method, however, is dependent on the existence of adequate data to base such a comparison on.

  For this purpose, each board of expert valuers collects and evaluates purchase prices for lots and properties on real transfers. These benchmarks - in the case of land value, the board of expert valuers calculates reference values for land “Bodenrichtwert” - are published in cards “Bodenrichtwertkarte” and must be adjusted according to the valuation property's size, type, layout etc. mostly with official conversion coefficients.

  The same procedure applies to purchase prices of freehold apartments, single-family houses and town houses. These comparative prices are annually published in real estate market reports by the local official committee of valuation experts. Additionally, each board of expert valuers carries out a purchase price collection.

- **Income Method - Ertragswertverfahren**, see §§ 17 - 20 ImmoWertV.

  According to ImmoWertV, the capitalized income value of a property can be calculated according to three methods:

  General Income Approach – “Allgemeines Ertragswertverfahren”: This approach divides the difference of income and costs, known as “Reinertrag”, into the part which is assigned to the building and the part which is assigned to the building lot. The latter is found by dividing the land value by an interest rate (gross property yield - “Liegenschaftszins” see § 14 (3) ImmoWertV) which is appropriate to this type and age of property and deducting the result (annual return of land value - “Bodenwertverzinsung”) from the net rental income. The remainder of the net rental income is the part assigned to the building and this sum is multiplied by a factor which reflects the remaining economic life span of the building using the same interest rate that was applied before. The land value as a whole is added to this sum and the
result is the income derived value, known as capitalized income value - “Ertragswert”. The land value is capitalised indefinitely, the building value over the remaining lifetime of the property.

Simplified Income Approach – „Vereinfachtes Ertragswertverfahren“: The capitalized income value results from net income “Reinertrag”, which is capitalized using gross property return referring to its economic life – „Nutzungsdauer des Gebäudes“ plus land value – „Bodenwert“, which is to discount to valuation date.

Income Approach based on periodically variable income – “Ertragswertverfahren auf Grundlage periodisch unterschiedlicher Erträge”: The income value is calculated on the basis of, first, the periodically attainable net income derived from reliable data within the given period and, second, the residual value of the land at the end of this period, see § 18 (1) ImmoWertV. The periodic net incomes as well as the residual value of the land are to be discounted to the date of the valuation by applying the gross property yield.

The gross property yield – “Liegenschaftszins” is reflected by the interest rate derived from actual sales of comparable properties and applies to the present land value as well as to the building. The „Liegenschaftszins“ is available from the municipal committees of valuation experts (“Gutachterausschuesse“) and is produced on the basis of the ImmoWertV. Otherwise it is assumed that the valuer can derive this interest rate from his knowledge of the market.

This German use of the income approach results in approximately the same results as the income approach as applied in other countries where the income is not separated into part for the buildings and part for the land. If the remaining life span is less than 30 years, the differences increase and for life spans of ten years and less the results differ significantly. In these cases, the costs of demolition and site clearance have to be calculated and subtracted then from the result.

In the event that the net rental income is less than part of the net income assigned to the lot, it is necessary to use the so-called liquidation method of valuation – “Liquidationswertverfahren” see §16 (3) ImmoWertV.

- **Depreciated Replacement Cost Method - Sachwertverfahren**, see §§ 21 - 23 ImmoWertV.

This method is based on the total of land value and construction value, taking into consideration depreciation and outstanding repairs, used to evaluate single-family houses that are difficult to compare or other buildings which have specialized uses. The calculated value has to be adjusted to the market situation.
The valuer is required to provide assessment of the market value of the land in its existing use to which the hypothetical cost of providing a similar property and relevant exterior features and soft development costs are added. Deductions are made from this gross sum to account for matters that would influence the value of any existing property, compared to any replacement property. Allowance is made for factors including depreciation, age, condition, and economic and functional obsolescence.

In the German use of the method, the initial result, i.e., the sum of the land value and the building value – “Sachwert” is not the final result. It is then adjusted to reflect the market situation, and this is done by applying a factor which is generated by the local committee of valuation experts for different types of owner occupied properties. The prices for properties which are comparable in price-group, location and age are divided by the result of the DRC. The mean of these factors is used as a correction-multiplier for this initial value – “Sachwert” – to arrive at the market value.

- **Other, non regulatory methods, like DCF and residual method/s:**

These methods apply to special purpose valuations (i.e., managed properties, investment decisions, respectively properties under development or undeveloped land). Non-regulatory methods are:

- **Discounted Cashflow Method (DCF)**
  Due to periodically variable earnings, the income valuation approach as it is described in ImmoWertV §17 (3) does not correspond with the international understanding of the DCF process.

  The discounted cashflow method is the same procedure as that found in the international standards of the DCF. At the moment, it is difficult to evaluate current market data, in particular yields (discount rate and cap rate).

- **Developer Method**
  The objective is to identify the maximum achievable sales price for a lot from the perspective of the buyer. This is a subjective process and will be used for project development. Parameters are market value, construction costs, developer profit, cost of financing and time.

- **Investment Method**
  At the moment, many internationally active real estate companies are using this method.
2.2.2 Methods applied for the calculation of non market values: Mortgage Lending Value (Beleihungswert)

The “Regulation on the Determination of the Mortgage Lending Value” (Beleihungswertermittlungsverordnung - BelWertV), that entered into force on 1 August 2006 lays down the definition and valuation methodology of the mortgage lending value as well as the required form and content of the valuation report, as well as qualification requirements and independence of the valuer.

With regard to the general valuation approach, the comparative, depreciated reconstruction cost and income methods also apply to the assessment of the mortgage lending value. But there are significant differences in the appraisal of the parameters that are the basis for each valuation method. The most important particularities are as follows:

Income Method:

- Sustainable net rental income: The income stream of the property is limited to its sustainable net rental income, excluding any over-renting and additional extraordinary cash flows.

- Discount of property management and administration costs: Property management and operational costs which are not recoverable from the tenants reduce the net rental income. These costs also include maintenance costs and vacancy risk. For mortgage lending, there is a minimum total rate for these costs which have to be considered. Reserves for immediate need of repairs or refurbishment have to be considered additionally.

- Minimum capitalisation rate: The capitalisation rate must reflect the long term market developments, the sustainable income producing capacity of the property, alternative uses as well as its future marketability. The banking supervisory authority fixes capitalisation rate floors for several commercial and residential uses according to long term market observation.

Depreciated Reconstruction Cost:

- In order to take into consideration any possible reductions in sustainable construction prices and, with that, the lasting validity of the amounts stated, the construction cost is to be reduced by a safety margin of a minimum of 10%.

3. Types of Real Estate Valuers

3.1 Organisation of the profession

The Term „Expert“ is neither legally protected nor regulated. Protected are the professional qualifications of „Publicly appointed Expert“ and „Certified Expert“, if experts are either appointed or certified by a state appointed certification body (e.g. Chambers of Industry and Commerce,
Chambers of crafts, Chambers of architects, Chambers of engineers and other Certification bodies.) These Chambers are public corporations. They offer public services.

Only experts with outstanding qualifications are to be publicly appointed or certified. It is not compulsory to join a professional organisation. The existing organisations however are nearly all members of TEGoVA. The estimated amount of enlisted publicly appointed or certified experts is ca. 11,000. Another great number of self appointed valuation professionals is acting in the real estate market.

A German specificity is the municipal committees of valuation experts. Essential task of these independent advisory committees is to provide transparency for the real estate market (beside their valuations for municipal necessities). They are equipped with experts of the public administration and valuers from various relevant sectors, their offices are usually located at local cadastre offices. Base and aim of the committees work is the maintenance of a digital inventory of property transactions (purchase price collection) and proper valuation of real estate. Nearly one million contracts of sales are the data base of their analyses. The outcome is a determination of average values, plots, diagrams, indices and other influential factors of real estate market values. The results are to be published and they are essential knowledge for every expert carrying out valuations in Germany.

3.2 Publicly appointed and sworn valuers

The applicant for a public appointment has to have a sufficient practical experience in his profession. He has to demonstrate his competence by submitting a proper documentation (e.g. CV, copies of certificates for all relevant academic and professional qualifications, work experience and experience as expert, referees, reports, training). The applicant has to give evidence of his competence as expert by oral, written, practical, a combination of the before mentioned methods, or other assessment, to a committee of instructed specialists with appropriate knowledge and experience in the field of the activity of the applying candidate. In total 140 Chambers exist with Chamber Admission committees and 120 Technical Assessment committees consisting of judges, experts, and lawyers.

After his appointment, the expert is registered for 5 years. After 5 years, a re-certification process is compulsory, including a check of further training needs and a review of valuation reports presented. The enlistment ends with removal by the certification body in case of age limit (68 years), if the public appointment has not been renewed, if the public appointment has been revoked because the expert has breached with his duties or after complaints concerning his competence or his integrity or if the expert does no longer meet current standards.
All certification bodies follow a Standardising Document (Status: 21.06.2001) to harmonize the personal and technical conditions of admission. More precisely, the certification procedure for publicly appointed property valuation experts follows the following rules:

**Application**

The candidate must submit together with his application a description of his professional career as well as copies of appraisals which are not older than three years and which were prepared by the candidate in the area to be certified. The candidate will be admitted to the certification examination if the requirements specified in the requirements profile of the respective certification area have been satisfied in full.

**Educational background of the candidate**

The candidate has to prove a completed course of study at a state-recognised university or college of a pertinent discipline, e.g. architecture, construction engineering, surveying, economic sciences or of a different discipline suitable for this certification area. In addition:

- at least five years of practical work in the area of valuation of developed and undeveloped property within the last eight years before application
- at least five years of activity within the last eight years in the area of valuation of rural real estate, i.e. rural properties and not built-up rural land
- at least three years of activities within the last five years in the area of property valuation for lending purposes

or

- at least ten years of practical experience within the last fifteen years in the area of property management, the nature of which was such to provide the requisite know-how for the valuation of property.

The candidate should have completed a period of practical training in the specialised area of property management which can be considered as practical experience of up to three years.

In particular, the following practical experience can be considered in this respect:

- Real estate brokerage
- building contractor or project developer
- house or property management
  - relevant real estate or lending activity in the credit or insurance industry
  - employment in property companies, property funds
  - expert office for the valuation of developed and undeveloped property
  - experience as a valuation professional in dedicated offices
The following can be taken into consideration in particular as areas of recognised professional training:

- architecture, construction, surveying and property business
- property and economics
- credit and insurance industry
- commercial training

Proof must be provided of pertinent practical experience within the past fifteen years.

The candidate must also include with the application documents to be submitted at least five appraisals with differing valuation problems which have been made anonymous and have been personally drawn up by the candidate. The suitability of the appraisals is to be confirmed by the examination committee. It is responsible for the procedure regarding the scrutiny of appraisals.

**Professional requirements**

- During the certification procedure the candidate must prove that at the time of the examination he has knowledge and skills in the areas specified below:
  - Economic knowledge
  - Technical knowledge
  - Knowledge of the specific law
  - Knowledge of the valuation procedures and their application in individual cases
  - Special knowledge of content, structure and composition of appraisals
  - Knowledge of liability, office technologies and organisation

In the case of an expert in an employment relationship, a confirmation of the employer which shows that the candidate has had practical experience of property valuation, at least three years of which as expert in this certification area.

A freelance expert must credibly show that he has had practical experience in the valuation of property, at least three years of which as expert in this certification area.

A list of appraisals prepared may be requested for this evidence of practical experience as an expert.

**Examination**

Any person satisfying the respective requirements profile may participate in the certification examination. The objective of the certification examination is to ascertain the extent to which the requirements expected of the expert as described in the respective professional requirements profile have been satisfied. The invitation to take part in the certification examination, where appropriate, will be preceded by scrutiny of the documents by the certification office.
The certification examination consists in principle of a comprehensive theoretical/written and oral examination.

The certificate will then be valid for five years.

3.2.4.1 Written examination

The written part of the examination involves the solving of valuation problems according to set circumstances and questions. The examination is divided into three parts. The first part of the examination involves the processing of two standard cases of valuation (2 hours). The second part of the examination comprises a plausibility check using specified criteria (1 hour) The third part of the examination comprises the processing of a questionnaire under consideration of the respective examination subjects directory (2 hours).

3.2.4.2 Oral examination

The oral examination is similarly based on the examination subjects directory and supplemented by a questionnaire which is to be updated constantly and which is to be treated confidentially by the certification office. Questions which refer to the submitted appraisals are similarly admissible and are to be incorporated in the assessment in the same way as supplementary or detailed additional questions.

3.2.5 Monitoring of certificate holders

3.2.5.1 Further training

In order to ensure the technical qualification of the certificate holder, he must provide evidence of annual further training of at least three days per year in appropriate training seminars. The requisite subject matter of this further training must refer to the respective "professional requirements profile". Confirmation of participation must be presented to the certification office.

3.2.5.2 Random checks/samples of work

In order to ensure the quality of the appraisals drawn up by the certificate holder, he must provide the certification office upon request with copies of at least three appraisals which he has drawn up within the period of validity for monitoring purposes. All personal data must be blacked out by the author beforehand. This requirement must be satisfied at least twice within the period of validity of the certificate. This does not apply to extraordinary monitoring measures to be taken by the certification office in individual cases owing to special circumstances. The check is made by examiners on the basis of minimum requirements placed on an appraisal in the respective area of certification applicable to the certification. At least two thirds of the appraisals must be assessed positively. Should this condition fail to be satisfied, the
certified expert will be called upon to take corrective measures. Supervisory assessments in situ may also be drawn up.

3.2.5.3 Supervisory assessment

Supervisory assessments can take place during the entire period of validity of a certificate by an examiner to be determined by the certification office, and serve to monitor the certification conditions. If random checks are assessed negatively, the certification office decides whether a supervisory assessment will take place.

The supervisory assessment consists of random checking of appraisals as well as the approach adopted by the certificate holder in practical appraisal preparation. The minimum requirements placed on an appraisal in the respective area of certification are decisive in this assessment. The result of the supervisory assessment is summarised in a document. The certificate can be withdrawn should shortcomings be ascertained.

3.2.6 Re-certification

In good time before the certificate validity expires the certified expert must prove in a discussion, which is analogous to the oral examination (item 4.2), that his knowledge is up to date. The discussion will centre around new aspects referring to the expert within his area of certification in accordance with the respective current examination subjects’ directory. The expert will be admitted to re-certification if the outcome of monitoring measures is positive. The necessary monitoring measures to participate in recertification are evidence of annual further training, the positive assessment of random checks and the positive evaluation of any supervisory assessments which may have been performed.

3.3 Certified valuers according to EN ISO/IEC 17024

The certified valuer according to EN ISO/IEC 17024 represents a third category of valuers in Germany (in addition to ‘self-appointed valuers’ and ‘publicly appointed and sworn-in valuers’). Valuers are certified by a private, accredited body following the requirements of EN ISO/IEC 17024.

This certification is awarded for 5 years and the holder of the certificate is constantly monitored during this phase. The international ISO standard 17024, which is tied to the person, allows property valuers to furnish proof of their competence with respect to preparing appraisals and complying with professional principles. In addition to the demanding examination for the first certificate, specific further training activities and appraisals drafted by the valuers that are certified are constantly monitored for purposes of quality assurance. Furthermore, they have to pass a re-certification exam every five years.

The certification focuses on evaluating the technical knowledge and expertise and the capabilities when completing certain responsibilities. A steering committee establishes the
quality standard of the respective subject. Thus, the quality of a service rendered by a person is revised whether it complies with standards that were previously defined and standardized.

The principles for exercising the profession determine how the certified valuer behaves in his relationship with customers, leads, colleagues, applicants, suppliers, associations and the public.

Certified valuers may also be employed. The professional principles also apply to the internal relationship with internal customers (e.g. a bank’s loan department) for valuers who work in the valuation departments of financial and insurance companies.

When carrying out his responsibilities, i.e. in particular when determining a value, the employed valuer is not bound by any directions. Of course, this does not mean that the competence of instructions of the employer for purposes of discipline is suspended by these professional principles, and this also applies to industry-specific principles such as the banking secret, compliance etc.

**Admission requirements**

To be admitted to the examination procedure, the applicant must fulfil certain admission requirements. In addition to reading and writing the German language at a good level, previous education as well as professional experience are important aspects.

The applicant must fulfil one of the following criteria in order to be admitted to the certification examination:

- **University degree**
  
  Degree from a generally recognised third-level college or university of applied sciences, e.g. in architecture, civil engineering, geodetic surveying, geography, surveying, law or economics

  and

  - at least **three years** work experience in real estate,
  - of which **three years** in real estate valuation
  - within the **five years** before application

- **Practitioner**
  
  Applicant with years of experience i.e.

  - at least **eight years** work experience in real estate,
  - of which **five years** in real estate valuation
  - within the **ten years** before application

  Practical experience in real estate as mentioned above means a person’s main professional activity i.e. intensive practical work in the area of valuation of developed and undeveloped properties and
similar property leasehold rights and property rights. The practical work must be such that the basic knowledge of economics, technology, law and other areas named in the examination catalogue is learned. Appropriate areas would be in particular broker, property developer, project developer, facility and real estate administration, credit and insurance, as long as this work is related to real estate or the construction financing activities of a company, real estate companies, real estate funds etc. Up to one year of an apprenticeship completed in the area of property valuation can be counted as part of this practical experience. Completed apprenticeships that would be recognised include in particular those in the areas of architecture, construction technician, surveyor, real estate, business administration, credit and insurance as well as administrative apprenticeships.

Requirement profile

To work as a certified real estate valuer, the certificate holder must

- have knowledge of the structure and functioning of the real estate market (prices, costs, rents, leases etc.)
- be able to assess the development of the property, rent, construction and capital markets and in particular the local supply and demand situation as well as trends in development
- have knowledge of the economic impact of rights and burdens on properties (under private and public law) as well as how to treat them in terms of evaluation
- have mastered the necessary theory of financial, statistical and economic rent methods
- have mastered the methods of market, location and returns analysis
- have basic knowledge of valuation-related business administration (balance sheet and accounting principles, principles of construction financing etc.)
- have special expertise in the area of business administration for the valuation of managed/operated real estate
- have valuation-related technical knowledge
- know about ground conditions, including contamination, structural design and statics; construction methods and procedures; construction materials, characteristics and application; relevant standards and technical regulations; procedures and criteria to identify and eliminate construction damage and deficiencies.
- have knowledge of public planning, construction and ground law as well as valuation law (calculation of market value and Verkehrswert, calculation of mortgage lending value and insurance value)
- know the relevant parts of the civil code including the ancillary laws, public and private law concerning the respective interests of neighbours, land register and ground register law and real-estate-relevant fiscal law.
- know the main statutory stipulations and regulations concerning residential real estate
- have knowledge of the main framework conditions of the national (bank) supervisory authorities and Basel II
know the main aspects of valuing real estate portfolios (framework conditions, valuation design etc.) and be able to compile and plausibilise these in accordance with the usual methods (aggregated individual valuation, package valuation, mass valuation, desktop valuations)

know the principles of project development which are relevant to valuation

have knowledge of how to value special properties

know the valuation procedure and have mastered its application

be able to assess and explain which procedure is needed for which purpose (Verkehrswert/market value, mortgage lending value, insurance value) when valuing a certain property and what information this procedure provides in terms of, for example, results in conformity with the market or eligibility of securities (and other investments) for the investment of funds set aside as capital reserves.

be able to compile and complete appraisals correctly

have knowledge of liability and third-party insurance for surveyors as well as of managing and organising a surveyor’s office.

have knowledge of special regulations in the area of real estate fiscal law as well as year-end closing

have mastered special methods of analysing the income and cost situation of (managed) real estate and of calculating the profitability of land use zoning (incl. use of buildings) and potential use.

Professional principles

The professional principles regulate the behaviour of the certified valuers in their relations with clients, interested parties, employees, applicants, suppliers, associations and the public.

The certified valuers undertake to follow these principles. They sign a separate agreement stating that they will submit to the certification body’s arbitration court in case of dispute.

Certified valuers can also be in permanent employment. Valuers working in valuation departments in credit and insurance companies must also follow the professional principles in their relations with internal clients (e.g. credit department of a bank).

Valuers in permanent employment are bound by these instructions in carrying out their professional activities, in particular in the process of valuation. The employer’s authority to give disciplinary instructions is not, of course, affected by these professional principles. This is also true for principles specific to the industry, such as banker’s discretion, compliance etc.
Objectivity, neutrality, responsibility
- Confidentiality
- Conflicts of interest
- It is forbidden to contract people away
- Appraisals for several clients forbidden
- Fair competition and professional advertising
- Obligation to keep records and documents, complaints
- Obligation to report to and inform certification body
- Monitoring and penalties

**Written examination**

In the written examination the applicant must prove that he can apply the usual methods to solve problems in the different areas tested within a certain period of time and with limited tools to support him.

The applicant passes the written examination if he achieves a mark of at least 50% in each individual section of the examination. Over all sections of the examination he must achieve an average of at least 70%.

**Structure and duration of written test**

**Part I:** Two mortgage lending value appraisals, one of which is a mixed-use property as well as (mainly) commercial property (incl. special properties). The applicant receives an oral description of the property, and maybe some other documents (plans etc.) as well as a valuation form.

Duration: two hours.

**Part II:** Plausibility test of an incorrect mortgage lending value analysis based on instructions provided.

Duration: one hour.

**Part III:** Answering of individual questions on various topics from the examination catalogue. The applicant receives approximately 10 to 15 individual questions (divided into the areas and degrees of difficulty of the examination catalogue).

Duration: two hours.

**Oral examination**

In some certification areas an oral examination must be taken. Admission to the oral examination is granted after the written examination has been passed successfully.
An examination commission of three examiners normally supervise the examination. Representatives of the certification body and the accreditation body may attend the examination. The individual examination lasts 30 minutes, group examinations last 60 minutes with two participants or 90 minutes with three participants. The areas tested are based on the certification body’s examination catalogue. The questions should cover different topics from the examination catalogue. The main points of the examination are recorded in note form by the certification body.

The examination commission judges the applicant’s performance in the oral examination and informs the applicant of the result after the examination (pass or fail). The oral examination is considered passed if at least 70% of the maximum numbers of points possible have been achieved.

**Monitoring the certificate holder**

During the validity period of the certificate, the certificate holder is subject to ongoing monitoring by the certification body. He must prove on a regular basis that his qualification is up to date by submitting documentation on participation in further training measures. In addition, the certification body requires submission of appraisals so that it can check for compliance with set quality standards. The following is obligatory

- **Annual further training of at least three days** in specialised further training courses. In addition, intensified further training may be recommended or prescribed within the framework of the initial or re-certification process.

  These further training courses must cover content specific to the area of activity of the real estate valuer and the respective certification area. The certified valuer must keep a record of the continuing and further training courses he has participated in. This record must be submitted to the certification body once a year, as a rule on request (list of courses attended with location, date, time, topic, and trainer). The certification body carries out regular random tests by requesting the original copies of the seminar certificates.

- **At least three anonymised appraisals in a complexity that is customary in banking, carried out by the valuer himself** for each certification area, on request of the certification body. In addition, further appraisals may be requested or prescribed within the framework of the initial or re-certification process.

  The Valuer is responsible for seeing that the appraisals meet the property types requested in first time certification.

  Within the validity period of the certificate, the certification body will request appraisals at least twice. All appraisals must receive a positive assessment. If this condition is not fulfilled, the certified valuer will be requested to take corrective action. We refer to the appraisal requirements in the annex. In special cases, a control audit may take place on site.
Re-certification

Re-certification extends the validity period of the certificate by another five years.

The main precondition for participation in a re-certification examination is a positive assessment of the certificate holder during the ongoing monitoring process, i.e. full proof of further training each year and a positive assessment of the appraisals requested as well as a positive assessment by any control audit carried out.

Re-certification must be applied for at the latest three months before validity of the certificate comes to an end. The certification body then fixes a date for an interview with the certified valuer, which will be along the lines of the oral certification examination and in which the valuer must prove that his level of expertise is in accordance with the current status in the area certified.

The re-certification examination takes 30 minutes. If the examinee holds several certificates, the duration of the examination is extended by 15 minutes per additional certificate.

The interview will deal with any new developments affecting the area certified, in accordance with the examination catalogue, as well as general valuation methods and the appraisals submitted during the ongoing monitoring process.

The main points of the examination are recorded in note form by the certification body.

The examination commission judges the applicant’s performance in the oral examination and informs the applicant of the result after the examination (pass or fail).

If the oral examination has only been passed by a small margin, the examination committee can make the following recommendations and request additional documents:

- Re-certification reduced to one year
  and/or
- Submission of one or several appraisals (if applicable with a focus on a particular aspect of valuation)
  and/or
- Repeat examination (oral interview) at the latest after one year, whereby the applicant is not admitted to the examination until the new appraisals submitted are without deficiencies.

If the examination was judged “not passed”, a repetition of the examination may be applied for. For this purpose, the applicant must submit another application as well as two appraisals (the aforementioned rules shall apply). The examination may be repeated only once and it must be held within one year after not passing.

After the repeat examination has been passed, the period is extended by the remaining four years.
Disciplinary measures

If a certificate holder breaches the rules of the certification body or does not fulfil the requirements made upon certified valuers in some other way (e.g. misuse of competence certificates), this must be followed up on by the certification body and its committees. The certification body reports any breaches or similar issues to the certification committee. The certification committee assesses how serious the breach is and its offices request a statement from the certified person. Depending on how serious the breach is, the certification committee will carry out the following measures:

- Warning
- Suspension of certification (withdrawal)
- Revocation of certification (nullification)

Suspension (withdrawal) and revocation (nullification) of certification must be announced within one month. The person concerned must be removed from the list of certified valuers.

Berlin, July 2009

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Bundesverband öffentlich bestellter und vereidigter sowie qualifizierter Sachverständiger e.V. (BVS)
Immobilienverband Deutschland IVD Bundesverband der Immobilienberater, Makler, Verwalter und Sachverständigen e.V. (IVD)
Verband deutscher Pfandbriefbanken e.V. (vdp)
Bundesverband Öffentlicher Banken Deutschlands e.V. (VÖB)
**Greece**

Professional body represented on TEGoVA: **Body of Sworn-in Valuers of Greece (SOE)**

**History**

- Established in 1978 by Law
- Self regulatory status supervised by the state
- The BSV is a legal person of the private sector, since 1997, supervised by the Ministries of Economics and of Justice.
- It is ruled by a supervisory Board, which is comprised of seven members:
  - One representative of the Technical Chamber of Greece.
  - One representative of the Economical Chamber of Greece.
  - One valuer of the Technical Department of the National Bank of Greece.
  - Two valuers, members of SOE, elected by the General Assembly of SOE
  - Two members (President and Vice President) appointed by the Ministers of Economics and Justice.
- The members of SOE are self-employed professionals
- Only the members of SOE have the right to be called ‘Sworn-in Valuers’ in Greece
- BSV is staffed by specially qualified professionals, who have detailed knowledge and wide experience in their particular fields (Civil engineers, Mechanical engineers, Architects, Economists, Land Surveyors etc.)
- All the members of SOE are certified according the standards ISO17024, ISO27001 and ISO9001
- The first eleven (11) members of the BSV have been granted the REV status during the General Assembly of the Autumn Meeting of TEGoVA in November 2010

They are capable of undertaking and executing any type or appraisal task.

Education courses of SOE are carried out internally, while a new project undertaken by SOE and the ALBA College of Business Administration starts in November 2010, with main purposes the diploma in Real Estate Valuation and the Continuous Professional Development of the valuers.

**Relevant national legislation**

There are some laws and Presidential Decrees concerning to the BSV such as:


Code of ethics of SOE

Presidential Decree 105/1999, special Code of Ethics for the members of SOE.

National Standards

Use of standards of TEGoVA and IVSC.

Status of Standards

Mandatory

Methodology

The following valuation methods are in use:

- Comparative method. We have to note that there are no data bases of the transactions taking place in Greece. Most of the comparatives are collected by the valuers from the market and are the so called ‘asking prices’. These have to be criticized and it relies on the skill/experience of the valuer together with the amount of information he has collected, to adjust them appropriately so to reach the ‘real’ market value
- Capitalization method (income approach using either direct capitalization or Discounted Cash Flows of rent income or income produced by the company operating in the property)
- Residual method
- Profits method
- Replacement method (Depreciated Replacement Cost)
- The ‘antiparochi’ method

The only method that is characterized as local is the ‘antiparochi’ method. This is based on the assumption that the owner is giving out his land to a construction firm for which he receives as payment a certain percentage of the completed building. This percentage can precisely define the value of the land and is given by the following Formula:

\[
\text{Value of land} = E \cdot \frac{a}{1-a} \cdot r \cdot C
\]

Alternatively:

\[
\text{Value of land} = E \cdot \left[ r \cdot \frac{A}{1+p} - r \cdot C \right]
\]

E = area of site in M2

a = the percentage of ‘antiparochi’ (eg. if antiparochi is 30% of the building then a = 0.30)

r = Building ratio established by the town planning authority
C = Construction cost of new buildings in euros/M2

A = Mean Value of new apartments or office buildings or shops in euros/M2

P = Gross Profit of the contractor as a proportion of the total construction outlay. (eg. of the profit is 25% then p=0.25)

This method should be used with care for building ratios below 0.8, as well as in cases of high marketability coefficients. In that case it is better to use the residual value method.

Code of measuring practice

There are some practical rules of measuring varying between Northern and Southern Greece. However there is a similarity with the Code of the RICS.

Special Conditions in Greece

Many conditions depending on the laws, location and morphology of the country have an impact on the market values.

- As we know Greece is a very seismic country, maybe by far the most seismic in Europe. The valuer is not responsible to check the seismic response of a building but in some cases he has to take in mind the age of the building and the seismic phenomena that have appeared in the area. For example, in the city of Kalamata, property for sale or rent is referred as ‘proseismic structure’ or ‘metaseismic structure’ because the structure legislations became stricter after the earthquake that occurred in the city in 1986. State is planning on every building having a seismic resistant certificate
- A new law (valid from 9.1.2011) will make obligatory that every building should have an energy performance certificate
- Another factor affecting the values of structures are the laws that are made up for arbitrary structures or arbitrary parts of structures
- Greece is a very touristic country with many islands and many miles of sea coast. Distance from the sea and view to the sea are very important factors that affect directly and significantly the value of a property. Also the value depends greatly on the accessibility of an area (ports, airports) which must not be taken for granted in all cases.

Key purposes of valuation

There is legislation in Greece that rules and regulates the cases where the use of a valuation report is mandatory such as:

- The valuation of real estate property intended for sale, compensation or purchase by the Greek state and the state owned organizations
- The valuation of construction machinery and equipment of construction firms for categorization and upgrading of their activity degrees
• The valuation of the fixed assets of some corporations which have not yet entered the equities market
• The valuation of damages on buildings and cars caused by terrorist activity
• The valuation of property belonging to the Church, Foundations, Universities, Municipalities, Pension Funds etc.

Besides the mandatory valuations, there are a large number of valuations carried out on a non mandatory basis for private use, such as:

• Usual transactions
• Hereditary purposes
• Court differences between citizens or citizens and the Greek Public
• Financial reporting (IFRS)
• Citizens or companies wanting to separate property between them or transfer property to others
• Companies under the status of bankruptcy or merging
• Review of bank appraisals for loans
Ireland

Professional body represented on TEGoVA:

INSTITUTE OF PROFESSIONAL AUCTIONEERS AND VALUERS (IPAV)

Real Estate Market Ireland

1.1 The Real Estate Market in its aggregate/macroeconomic context

The Real Estate Market in Ireland (The Republic of Ireland) is relatively new compared to older established economies given that Ireland only achieved independent sovereign status within the last 100 years. As a result Ireland’s property market, its ownership and title status was and is still broadly based on the English Common Law model. Since independence the legal status of property and its ownership has evolved and has become broadly in line with International Standards and this change has been mostly achieved in the last 30 years.

The ownership of property in Ireland is protected by the Irish Constitution which ensures the free right of anyone to own, occupy and enjoy the freedom of ownership of property within the state. The Irish history prior to independence of property occupation was as tenants and this together with freedom of property ownership enshrined in the Irish Constitution drove the desire to be an owner occupier of property in Ireland resulting in Ireland having one of Europe’s highest home owner occupier status.

Throughout Ireland’s history both as tenants to Landlords and subsequently as owner occupiers the ownership of land has been paramount to the family and to the income of the state. Land was the mainstay of Ireland’s economy when it was primarily an agricultural based economy and food producer. As the economy stabilised independently and grew together with the growth in population land became the mainstay, this time as a resource for property development and housing provision. This overtook agriculture as the main use of land driving the economy but importantly driving the tax returns from such use culminating in the most recent ‘Celtic Tiger’ phase of Irelands economic history in tax returns in one year at peak of excess €7,000,000,000 to the Irish Revenue.

Importantly throughout Irelands development since independence the property market has despite many downturns (the most recent of which has been the most severe, internationally also) survived and recovered and in recent times Ireland is seeing a stabilisation in certain locations and property sectors. The development in the sector over the years has seen Ireland provide property that is suitable to International occupiers (commercial), International home and holiday home owners (residential) and to Financial Institutions (the IFSC) who avail of Ireland’s European membership and proximity to Europe, its standards of education and its English speaking workforce.
Ireland became and is still a target location for International occupiers of all property sectors and this is a fundamental stable basis for yet further growth in the sector in the future.

1.2 Structures of the real estate market and its participants

Ireland has a free open property market with no meaningful restrictions on ownership beyond financial capacity. The market is divided broadly into the following three categories - residential, commercial and agricultural land. The commercial category includes development land, retail, office, industrial and leisure.

The residential market is varied across the country. In more recent times following the reduction in employment in the agricultural sector and the increase in urban employment over a number of years the emphasis on residential property became more focussed on the cities and main towns. Local planning management varied from county to county and together with the political structure resulted in diverse and wrong planning decisions no more obvious than in the recent property bubble where villages without services were over developed.

The commercial market, as Ireland as a destination for international occupiers grew developed more consciously. It was also driven by the desires of the occupier and the employment they brought. This resulted in a weighted provision of commercial property around the capital city, Dublin. Its infrastructure and housing provision was far more attractive to the international occupier than other regional locations. This evolved over the years as Government intervention and increased regional infrastructural development and investment took place enhancing the attractiveness of other regional cities such as Limerick, Galway, Cork and Waterford. As a result of the recent recession the commercial property market regionally in Ireland has been damaged significantly and as such any commercial property activity as a result has been focussed on Dublin.

Agricultural land has maintained an independent position over the other two sectors primarily because of its historical generational familial ownership. Land for the most part has remained in the family that farms it the exception being the most recent property boom where land values overtook the desire to remain in and indeed the return from farming! This on the other hand benefitted farming where out-farms were sold and the rewards reinvested into the main farm. Agriculture today is again a leading industry for Ireland and land prices in the sector have seen an increase over the last two years in line with proposed reforms in the Common Agricultural Policy (CAP) where the proposed abolition of milk quotas from 2015, for example, has been a major influence.

The methodology used in the Irish Real Estate Market for the management and sale of property is akin to International methods applying three standards – Private Treaty, Auction and Tender when selling property and standard Lease arrangements for tenant occupation.

Private Treaty refers to where a property (commercial or residential) is placed on the open market, advertised at a stated price and when offers are received they are negotiated on
between the parties by the appointed agent to a successful agreement between the vendor and (usually) the highest bidder. The agreement is subject to contract subsequently and until such contract (unconditionally) is executed by the parties no contract exists.

Auction is the same the world over and considered by many to be the most transparent method. In Ireland certain best practice guidelines exist for registered/licensed agents specifically to the auction of property where a price guide must be within a defined percentage of the stated minimum value at the initial valuation. The documentation supporting this can be required to be made available to the parties in the event of a dispute and whilst such guidelines exist they have to date not been tested. On the fall of the gavel at an auction a contract is immediately binding on the parties.

Tender is a similar method to Auction the difference being that a specific date for receipt of sealed bids is set and the bidder can only provide one unqualified bid. The documentation supporting the Tender when completed and submitted if accepted becomes binding on the bidder. The bidder must also (in most tender cases) provide a deposit of 10% of their bid.

Standard Lease arrangements for tenant and landlord relationships are now in line with International standards but in Ireland based on the general and original Lease Documents as devised by The Incorporated Law Society of Ireland. Lease agreements have evolved over the years as the occupier type and origin has developed incorporating International companies who seek to liken or standardise their international lease agreements. For example global retailers can seek turnover rental agreements etc.

The participants in the property market are as with other economies varied and international and furthermore vary with the economic climate. In a stable and normally functioning market the fundamental participants are the same the world over – buyer and seller; tenant and landlord. These parties are then supported / serviced by financial institutions and professionals including valuers, surveyors and lawyers.

In distressed property markets these participants are joined by receivers (in the form of accountancy firms mainly and more recently in Ireland Real Estate Agents), liquidators (similar to receivers but at present exclusively accountancy firms), Government agencies through intervention on social grounds (central bank intervention on repossession protocol etc) and Special Purpose Vehicles initiated by Government to stabilise a market (in Ireland the National Asset Management Agency – NAMA).

1.3 Relevant Legislation and Regulatory Requirements

The freedom and right to own property in Ireland is enshrined in the Irish Constitution. With this as the backdrop legislation has evolved both from Government through formal legislative process and from the Law Courts through case precedent subsequently coming into legislation.
The relationship between buyer and seller is governed by the Law of Contract based on the original English Common Law and modernised to suit Irish circumstance but only moderately. The Law of Contract is the most difficult to overturn when entered into under the correct circumstance they being offer, acceptance and consideration together now in writing between the parties.

The relationship between a tenant and landlord (lessee and lessor) is governed by the Landlord and Tenant Acts in Ireland. These have evolved more aggressively over the years to accommodate change in the former English Common Law structures such as ground rents, short and renewable leases etc.

From a regulatory perspective the entry level for agent participation in the Irish property market has also evolved from the historic local Livestock and Property Auctioneer to the academically qualified (IPAV, SCSI and IAVI – IAVI and SCSI now merged) and licenced (through the Courts and Government Revenue Division) agent and valuer to the now Property Services Regulatory Authority – a Legislative body responsible for the licensing of agents in Ireland and the governance of their professional standards and behaviour.

Ireland has now established the Residential Property Price Register and the National Commercial Lease Register (www.propertyregister.ie) both are managed by the Property Services Regulatory Authority. Initially it records the address, price and date of sale of all residential property transactions, and terms of the lease.

1.4 Market for Residential Property

The residential property market in Ireland has been highlighted internationally for its stellar performance gradually up to 2004 and aggressively between 2004 and 2007 and even more so for its stellar decline since 2007 where values have declined from peak to present by between 60% and 70% and in one off specific cases by even more. Prices have reverted to 2001 levels and whilst currently a major economic calamity to manage and deal with 2001 price levels were good at that time. The difference is that the property owner is distressed now beyond their means where leverage on value alone has created unmanageable debt levels.

However since 2006/07 the rate of decline in residential property values eased considerably and in Dublin in 2012 property in certain locations has seen a small percentage increase reflected in pent up demand from first time buyers, continued low interest rates but more importantly a growing belief that the price bottom has been reached in the capital city for the most part. Mortgage Interest Relief has also had an effect and was extended in the past years and will run out in December 2012.

The criteria for recovery in the residential market are there – low interest rates, severe price correction (could be considered an overcorrection when compared to property busts in other states where the percentage decline in values has been far lower than that suffered in Ireland),
penn up demand, no development, potential housing shortage (Ireland will continue to require up to an average 35,000 housing units per annum over the coming decade), a young and growing population with approximately 800,000 under the age of 25 (Ireland has the highest population growth statistics in Europe through natural circumstances – childbirth in 2011 was in excess 75,000), a declining housing stock etc.

So why is the market still in recessive mode? Confidence, Finance and Government policy are at the forefront. Buyers of property are now more conscious and educated than ever before and are exercising caution. The financial institutions are in repair mode and lending is not a priority even where borrowers now are the most efficient and qualified clients to have. Government policy is driven now by Europe and the measures required containing Ireland’s debt position. Budget 2013 has also imposed a Property Tax and this may have an effect on buyer decisions in 2013 and beyond. The tax applied will be 0.18% on residential property valued up to €1m (on entire) and 0.25% on the excess above €1m. There will be certain exemptions applied and allowed for.

The main urban centres are seeing a market and activity levels in 2012 have increased. The counties in Ireland that are in most distress and who will elude recovery for some time to come are those who overdeveloped in secondary locations with incorrect product and who currently have a stock of property for sale in excess of 5% of the overall housing stock in the county.

In 2010, 20,769 residential sales closed.
In 2011, 17,982 residential sales closed.

To the 19th December 2012, 20,729 sales closed.

1.5 Market for Commercial Property

Offices – the office market in Ireland in 2012 is mainly related to Dublin where the majority of occupiers both Irish and International are based and continue to seek space. Activity levels in take up have not varied greatly between 2011 and the expected outturn for 2012 that being approximately 140,000 square meters.

The main activity centres on the Central Business District – Dublin 2 and 4. With no construction of new space being undertaken in these locations yet a stable demand this will result in a shortage in the coming years. Vacancy in the prime areas is at approximately 5% which is a positive position however that is not reflected in the suburban locations where space is available and in some cases deteriorating due to being vacant. The availability of space in prime locations is also providing opportunities for occupiers to move to better and more modern space and this enhances the take up positions.
Shortages in prime locations will inevitably push rents higher and this will enhance yields and resultant investor activity and improved capital values. The office market will track the Irish economy however there is evidence that it has turned a corner in 2012. The downsizing by firms in the financial sector appears to have reached an end and the professional services firms are again looking more confidently into the future with improved business activity. Larger firms have taken vacant space in their buildings off the market and high profile companies such as Google and Paddy Power continue to expand.

Regionally the office market in the larger urban locations are mainly related to local demand only and these will lag the market for some time to come.

**Investment** – To date in 2012 approximately €460,000,000 worth of investment sales have been transacted or already signed. This compares to approximately €190,000,000 in 2011. This improved activity year on year signifies a return to a more stable, viable and normal market. The investment sales mainly again relate to Dublin and the level of activity now provides valuers with considered views backed by a reasonable level of transactional activity.

In 2012 there was an expectation of a greater number of investment opportunities (distressed or otherwise) being released by the institutions into the market? This did not occur until the second half of the year and when it did the market saw up to €10 chasing €1 for sale reflected in the State Street building sale at a price of €108,000,000 to Kennedy Wilson.

Other substantial sales include One Warrington Place at €27,000,000 reflecting an initial yield of 7.53%; Edward Square in Galway City at €27,000,000 reflecting an initial yield of 8.62% (Galway City is an attractive investment location outside Dublin given its demographics, location and infrastructure). On the larger residential investment sector transactions the sale of Sandford Hall and the Alliance Building in Dublin to Kennedy Wilson again shows confidence at yields on average of 8%.

Many of the large residential apartment developments were sold as individual units to new investors with little experience and who are now locked into negative equity. Tenants are positive to these new professional landlords and happy to deal with them improving the sector. In Budget 2013 the Government has initiated the process to legislate for the introduction of REITs and this is again a positive progression for the investment sector.

**Industrial** – The industrial sector lags the other sectors of the commercial market due in the main to an oversupply of space. The exception again may be the Dublin market where in 2012 activity stabilised over and above the regional locations. 2012 is set to reach transaction levels of approximately 180,000 square meters an increase on 2011’s 150,000 square meters. With this improvement and coupled with the growth in the economy and especially the export sector activity levels should be favourable again in 2013.

In 2012 the market was dominated by logistic companies and in particular third party logistic providers possibly as a result of the fallout from the Target Express liquidation leading to an
increase in activity for its competitors. Pharma companies also dominated demand however with a lack of quality space meeting their needs there is an expectation that these companies may veer towards design build opportunities instead. This is reflected by Amgen’s decision to extend its Dun Laoghaire, Dublin facility to approximately 11,700 square meters.

In general prime headline rents for Grade A space are running at between €55 and €60 per square meter and there appears to be tentative upward pressure on these levels in some locations. Given capital values at present there is also a move by some companies to owner occupy good quality space. That said manufacturing facilities with lower eaves heights are achieving lower rents in the region of €22 to €25 per square meter. Overall supply levels at the end of September 2012 stood at 1,015,000 square meters and despite this level availability is expected to stabilise in the medium term.

**Retail** – A major issue for this sector has been rents and existing leases with upward only rent reviews. Following the Government clarifying the position on these rents the market stabilised at least based on certainty on the issue. However it also created an ‘us and them’ position where an existing occupier on an existing upwards only lease has a greater cost in its business than a start-up who can obtain a lease next door at market value and better terms etc.

The fall in rents coupled with a choice of locations has reflected an increase in activity for retail occupiers in 2012. Units that have been fitted out and coming back to the market under new market lease terms with flexibility are providing new opportunities for businesses and this should continue into 2013 in the main urban centres.

On the larger scale a number of international firms took advantage of better terms to open new premises in 2012. Boots opened a new branch in Blanchardstown in West Dublin as well as a number of others throughout the city. The international restaurant chain Nandos founded in South Africa is currently fitting out a new unit in the same location. US investors Gordon Brothers acquired Cleary’s department store in Dublin. Dublin also attracted the international brand Abercrombie and Fitch. Clearly these transactions reflect positive national and international interest in Ireland and they recognise an opportunity to take advantage of positive occupier terms and conditions.

**Leisure** – This sector relates mainly to the Hotel industry. Over the past years the Government as part of its drive to greater tourism in Ireland provided generous incentives to the hotel sector and this drove development throughout the country increasing the availability of hotel beds considerably. Before the global recession took hold the industry was enjoying occupancy rates in excess of 80% and higher in the cities. The fall-off in trade resulted quite quickly in hotel receiverships and closures due to high leveraging and a sharp fall in sales and price per room.

This trend continued up to 2011 especially regionally with Dublin less affected. However in 2012 hotel acquisition picked up reflected in the sale of the Burlington Hotel in Dublin to the US investment firm Blackstone for a price in the region of €70,000,000. This property was bought in 2007 for €288,000,000 as a property development opportunity and this again reflects the fall
in commercial values yet now reflecting an opportunity for investors to step in. Also in Dublin the Morrison Hotel sold to a Russian investor for €22,000,000. In Kerry the Parknasilla Hotel sold to a European buyer for €10,000,000 and in Cork Fota Island Resort sold in the region of €20,000,000.

Generally the trend would indicate that hotels in Dublin are being chased and bought by institutional type investors whereas regional hotels are being bought by opportunistic buyers who see good value for the offering. Given the distress in the sector and the fact that many hotels were part of a property developer’s portfolio many hotels in Ireland have ended up in NAMA or receivership ownership. They continue to operate however at much lower rates per bedroom and at some point many will have to be sold. This has the potential to flood the market however it is likely that the current owners will act more responsibly and continue to seek specialist investors privately for the most part.

**Development Land** – This sector has seen the most devastation from the market peak resulting in zoned development land and speculative development land collapsing in value.

There is no tangible building industry in Ireland at present and the resultant appetite for development land is negligible at best. Land at the peak in regional locations was achieving values in the hundreds of thousands per acre that now is being carried at values between €7,000 and €10,000 per acre depending on region and location.

There is some level of activity in in-fill sites in the cities but again they require purchasers without finance needs and in some small number of cases where finance is available to a buyer it is at levels of 50% to 70% LTV only. This sector of the commercial property market will remain dependent on the performance of the Irish economy and a return to confidence and stable more normal funding levels being available. Demand is there for new homes confirmed in Dublin for example where in 2012 over 300,000 residential tenancies are in place – this compared to less than 100,000 previously. This reflects a pent up demand and a willingness of potential buyers to continue to take a wait and see approach for now.

### 1.6 Agricultural Land and Country Homes

The Country Homes and Agricultural Land property markets have been and are becoming again relevant sectors that have seen great change over the past years.

Historically in Ireland the main buyers of large country homes and estates came from outside the country – notably the UK, France and Germany. The traditional owners of the large estates were English in the main and were handed down from generation to generation and maintained generally from income from family trusts etc. In many cases the incomes fell short of the cost of upkeep and this forced the families in occupation for more than a generation to sell the estate.

In more recent years and with the wealth created from the property explosion in Ireland the buyers for these estates were Irish outbidding their international rivals. Some of the country
homes were restored and kept as second homes or utilised as sporting estates – others became commercial projects where the house or castle was restored and converted into a country house hotel and the lands were transformed into a golf course with golf lodges sprinkled along the fairways – all this to meet the worldwide demand for golf.

The global recession hit such ventures hard and many now in Ireland languish with high debt levels and no demand for the lodges which were to fund the overall project. One recent example being Humewood Castle on 440 acres in County Wicklow bought at the peak of the market for approximately €24,000,000 and sold in late 2012 for allegedly close to €8,000,000 to a European buyer. Overall the country homes and estate market has benefitted from the property explosion through the level of restoration employed returning these old homes to previous glory – however the real benefit will accrue to the buyers who now will purchase for a fraction of the original investment.

Agricultural Land is perhaps the jewel in the crown in 2012 in the property market. Up until 2008 no single data base existed to monitor the level of land sales in Ireland. Then in 2008 the Farmers Journal, Ireland’s leading farming newspaper collated an annual Agricultural Land Price Report and this has become the standard data base for this market.

The following data shows the trend for land prices since 2008

<table>
<thead>
<tr>
<th>Year</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>Average Price:</td>
<td>€15,867/acre</td>
<td>€10,222/acre</td>
<td>€8,741/acre</td>
</tr>
<tr>
<td>Price Range:</td>
<td>€4,000 - €41,500</td>
<td>€2,353 - €27,600</td>
<td>€2,500 - €24,375</td>
</tr>
<tr>
<td>Land Offered:</td>
<td>71,864 acres</td>
<td>44,747 acres</td>
<td>41,339 acres</td>
</tr>
<tr>
<td>No. of Farms offered:</td>
<td>1,654</td>
<td>875</td>
<td>885</td>
</tr>
<tr>
<td>Biggest Farm:</td>
<td>450 acres</td>
<td>1,540 acres</td>
<td>600</td>
</tr>
<tr>
<td>Weighted Average:</td>
<td>€16,610</td>
<td>€9,245/acre</td>
<td>€8,647/acre</td>
</tr>
</tbody>
</table>
2011

Average Price: €8,708/acre
Price Range: €2,485 - €23,600
Land Offered: 48,509 acres
No. of Farms offered: 1,054
Biggest Farm: 1,263 acres
Weighted Average: €8,869

As this data shows from 2009 onwards the agricultural land market stabilised. Early indications for 2012 are that the amount of land that came to the market (publicly advertised) was up by potentially 50% on 2011 levels. Even allowing for a percentage that did not sell successfully this would indicate that land sales in Ireland improved considerably on the 2011 levels. The source of this increase in land coming for sale is likely from NAMA and receivers/liquidators disposing of land banks within distressed mixed portfolios. Further indications are that price per acre levels will be in line if not exceed 2011 levels and we await that data due in early 2013.

1.7 Main Customer Groups requesting Valuation Services

Corporates - this client sector has grown substantially in Ireland over the past 20 years. Their requirements are on-going from start to finish where their property needs/existing property holdings continue to require to be re-evaluated for internal carrying purposes, company transfers, shareholders ownership structures, property moves, property development/re-development, taxation purposes and funding purposes. This client sector is important and given the varied requirements they need of the valuer profession they will continue to be.

Auditors – this client sector reflects the above similarly and now in the global distressed markets they require valuation services retrospectively in some cases, present day disposal values, distressed sale values, values for taxation, value after refurbishment of the asset is being retained, lease evaluations, surrender valuations etc. Given the volume of property in distress, receivership and NAMA in Ireland this client sector will remain a continued user of valuer services on an on-going basis.

Financial Services Industry – again this client sector will be as the above and to date has been a major user of valuer services most especially up to November 2009 – the relevant date for property being taken into NAMA. That date now being historic these institutions now require and will continue to require on-going valuer services to update existing carrying valuations and to provide new valuations into the future.
1.7.1 Real Estate Finance/Mortgage Lending

The main finance and mortgage providers in Ireland have been the Irish banks, Building Societies and latterly foreign banks who seized the opportunity to reside in Ireland and lend into a growing property market. The growth in the Irish market led to a generation of indigenous wealth by property developers who subsequently sought finance to acquire property outside Ireland and those foreign banks resident here were in a prime position to act for such clients.

Lending for property purchase in the residential sector remained quite regulated and stringent for quite some time and into the earlier part of the new millennium. The global availability of finance began then to impact Ireland as it did globally making funding easily available and with it a hunger for Financial Institutions to find a home for the funding they wanted to sell. These conditions led to a relaxing of the terms attached to lending, a relaxation of the income multiples normally applied, a relaxation of the income type required and the stability of that income, the ability to repay in the long term etc. This in turn led to 100% mortgages becoming available initially led by a foreign institution to gain market share and subsequently followed by specialist lenders or sub-prime lenders.

1.7.2 Volume of Real Estate Finance

At the peak of the market real estate finance in Ireland exceeded €40,000,000,000. In 2012 lending was less than €2,400,000,000. In a steady, normally functioning economy and property market the average mortgage/funding into it should be approximately €8 billion with a stock turnover of between 3 and 4% (of the total housing stock in the country) per annum. In 2012 the estimated turnover will likely come out at 1% of total stock. This all points to 2013 being a bottoming out year and the anticipation is that the Banks intend to increase lending also - the first market to benefit will be Dublin as it already did in 2012.

Total residential mortgage drawdown’s excluding re-mortgage/top-up mortgages in ten months to end of October 2012 is 10,147. Given sales of 17,880 in the same period this indicates that mortgage drawdown’s account for 57% of sales with 43% accounted for by cash purchases.

1.7.3 Supplier of Real Estate Finance

Following the global recession led by the fall of Lehman’s initially the financial services sector in Ireland has contracted and come under increased regulation and these factors have curtailed and reduced the number of funding providers in Ireland.

The Government intervention and banking guarantee saw it become the virtual owner of AIB and a shareholder of Bank of Ireland. Other smaller institutions active in the funding sector have been subsumed into these Pillar Banks seeing the virtual disappearance from the market of a range of building societies, life companies and specialist lenders. Most significantly in 2012
the international finance company Pepper Can Do purchased the entire residential loan book and support structure of GE Capital in Ireland at a percentage in the euro and this may be a reflection of what is to come in dealing with the distressed mortgage books held in the remaining Irish institutions.

Foreign institutions in Ireland are taking their direction from their higher authorities and whilst remaining in Ireland for now are taking steps aggressively to reduce their positions most notably Bank of Scotland who surrendered their banking licence and transformed itself in Ireland into a portfolio management company (Certus) with specific instructions to exit all positions over a period of time.

Anglo Irish Bank now the Irish Bank Resolution Corporation (IBRC) is following a similar path to maintain existing ‘good clients’ but aggressively reducing its position with distressed clients and corporates.

The result for the property market is a reduced collective of funding suppliers in the market place and a resultant lack of competitive lending. Where lending is available the qualification tests and LTV’s are sometimes unworkable and these factors are impacting a swifter recovery in the property sector. From a valuers perspective their activities even at these reduced levels still require valuer services on an on-going basis.

### 1.7.4 Types of Real Estate Finance

Given the contraction in the market place and the Government and Central Bank intervention in lending protocols and regulations lending criteria is now very strict as is the type and level of finance available.

In residential it is now primarily against the property the subject of the mortgage, it excludes for the most part cross securing, it only relates to primary income and for the most part ignores other income sources such as rental income. It takes account of savings and spending trends of the individual over a period of years before the application is made. Evidence of gambling for example can result in a refusal of the application.

On the commercial front funding is again restricted similarly but based on the viability of the project and its location. Development of commercial property in Dublin in sectors seeing demand will be considered for funding but again the maximum may be between 50% and 70% only and dependant on the applicant circumstances, end user in place etc.

The Government Budget 2013 has introduced a long awaited intention to legislate for REITs in Ireland and this will allow a broader investor based funding opportunity and initiative for property ownership and property development.
Finally where purchasers are transacting with NAMA, NAMA itself is in certain circumstances providing a level of purchaser funding especially against prime assets both in Ireland and the UK.

1.7.5 **Capital Markets/Mortgage Funding**

As indicated above foreign investors such as Pepper Can Do and others are encouraged by the potential value becoming available to them as a result of existing institutions reducing their exposure and positions against Irish property assets.

The acquisition of mortgage books at a percentage in the euro affords the new mortgagor and mortgagee in distress the opportunity to enter into a sustainable relationship avoiding repossession. This is a route that is considered to become more relevant in Ireland and will involve a high level of valuer involvement in the process.

2 **Real Estate Valuation**

2.1 **Terms of/for Value**

2.1.1 **Market Value/Rental Value (MV/RV)**

Credit Institutions on all Commercial Real Estate (CRE) are required to ensure the terms of engagement with the valuer are compliant with the Capital Requirements Directive (CRD). The Irish Central bank have taken the (CRD) very seriously and have compiled and issued a final paper in December 2012 called “Valuation Processes in the Banking Crisis - Lessons Learned - Guiding the Future”

The following are exerts from this paper and while it has the status of guidelines the Central bank considers that the guidelines and recommendations contained in the paper represent appropriate process and procedures for credit institutions in considering security valuations. As such, the Central bank would consider material deviations from the guidelines as contrary to good practice, and would intend to scrutinise the applications of the guidelines as part of its ongoing supervision.

Examples of valuation standards consistent with the principle rules of International Valuation Standards and considered to be appropriate practice include; the Royal Institution of Chartered Surveyors (RICS) “Red Book”, the European Group of Valuers Associations (TEGoVA) “Europcean Valuation Standards Blue Book”, and The International Valuation Standards Council’s (IVSC) “International Valuation Standards White Book”.

During the boom lending years certain weaknesses were identified in relation to best practice and they included inaccurate or inappropriate definition of valuation requirements by the Credit Institutions, inadequate valuation processes and standards or a disregard for such standards and a lack of appreciation of the significance of the valuation document as independent evidence of
risk mitigation effectiveness. Many bankers did not fully regard the valuation report as a key document underpinning the basis which they were acquiring the risk.

The basis of Market Value is an internationally recognised definition. It is defined as “the estimated amount for which a property should exchange on the date of valuation between a willing buyer and a willing seller in an arm’s length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion”. Any special assumptions made in arriving at the Market Value should be agreed between the lender/client and valuer prior to the valuation report being prepared. Market Valuations should be carried out in accordance with the above mentioned standards.

**Recommended practice going forward should include:**
- Standardisation of Valuation Processes
- Letters of Instruction clearly defining the requirements and assumptions etc
- Valuers should confirm their instructions in writing
- Conflicts of interest must be avoided – the valuer’s duty of care is to the Credit Institution/Client, Credit Institutions should require the valuer to disclose any material involvement, certain connected valuers should not be used (where the valuer has acquired the property for the borrower for example).
- Appointed valuers must hold sufficient qualifications and PI Insurance
- Valuers must not be appointed just because they are a customer of the bank
- Proper reviews of panel valuers by the Credit Institution
- Credit Institutions should report concerns in relation to non-ethical behaviour to the appropriate regulatory body
- Frequency of valuation reviews – Credit Institutions must follow the Property Valuation rules as per the CRD
- Frequency should be based on the risk profile of the exposure
- Credit Institutions should have clearly defined guidelines on frequency policy
- Where there has been a material change to the property a revised valuation should be sought
- For volume valuations (residential mortgages) an index is an appropriate method for review provided the index itself is assessed regularly.
- Informal Valuations – Credit Institutions should have appropriate processes to flag and review outdated valuations
- There should be appropriate audit trails
- Standard templates – should include at minimum details of the last three valuations (if applicable)
2.1.2 **Non-Market Values (mortgage lending value, foreclosure value etc)**

Historically in Ireland mortgage values were arrived at on the basis of Market Value (as defined above), the valuer’s local knowledge, comparable evidence and when known the agreed purchase price in relation to residential property (although this should only be for guidance). The valuation of commercial property was and remains more clinical relating to the type of valuation approach applied be it market value based on capitalised yield prevailing in the market, bank yields, bond yields etc and cash flows where applicable.

Foreclosure values for residential property are a recent phenomenon in Ireland and the approach being utilised is market value as above with qualifying opinions provided based of length of time to dispose supported by comparable evidence if available and prevailing trends on price. The new residential property price register is and will be an efficient tool going forward in relation to the availability of precise data on price and property type etc.

2.1.3 **Other terms of/for values**

- Valuation for Mortgage
- Valuation for Taxation
- Valuation for Transfer
- Valuation for Probate
- Valuation for Re-Mortgage
- Valuation for Repossession
- Valuation for Mortgage Acquisition
- Drive-By Valuation
- Desk-Top Valuation, Portfolio Valuation

2.2 **Valuation Methodology**

2.2.1 **Methods applied for the Calculation of Market value**

Residential property valuation is as defined above as Market Value - to arrive at market value based on the assumption of a willing buyer and seller, openly marketed, without duress and without account taken of a specialist purchaser. The valuer approach can initially be guided through the qualifying instructions and the initiators requirements and end use for the
valuation. Special assumptions must be clearly stated and furthermore any such assumptions agreed between the initiator and the valuer before the report is prepared.

Generally the valuer will rely on local knowledge, comparable evidence (within the last six months), knowledge of the market, market trends and if known the agreed purchase price/rental agreed (as guidance only).

2.2.2 Methods applied for the Calculation of Non Market Values

These are as above however the valuer (again through the qualifying instructions) may provide a margin in percentage terms of differential to reflect certain factors that may affect value be that structural, locational etc or the valuer may advise a differential relating to a forced sale taking account of time to sell.

2.2.3 Regulatory/Non-Regulatory Methods

Not Applicable in Ireland at the moment.

3 Types of real estate valuers

3.1 Organisations of the profession (organisations/associations of valuers)

Ireland has a long and proud tradition of voluntary professional organisations which operated quite successfully for many decades through self-regulation. This came to an end for auctioneers and estate agents with the introduction of the Property Services (Regulation) Act 2011. This established the Property Services Regulatory Authority (www.psr.ie) which operates a comprehensive licensing system covering all providers of property services (PSP’s) including sales, lettings and management. Other functions of the PSRA are:

- To set and enforce standards for the grant of licences and provision of services
- To establish a system of investigation and adjudication of complaints
- To promote increased consumer protection and public awareness
- To establish a Compensation Fund to compensate parties who lose money as a consequence of the dishonesty of a licensee.

Under the legislation, the Authority is required to publish and maintain a Public Register of licensees which it advertises on its website.

However, there is no specific statutory regulation, licensing or registration of property valuers. While anyone may be instructed to value, skilled valuers for all, except some very specialist, assets will almost always be professionally qualified with one or more of the relevant professional associations which have their own qualifications and regulatory structures.
3.2 Certified Valuers (ISO 17024)

For real estate valuations these are:

- The **Institute of Professional Auctioneers & Valuers** (IPAV) – many members specialise in property sales and lettings and / or land and property valuations. Full Associate Members are designated by the letters MIPAV.

- The **Society of Chartered Surveyors Ireland (SCSI)** – qualified membership is designated by the letters FRICS or SCSI and valuer members are members of its Valuer Register.

While some valuers may be members of an accredited organisation, including IPAV and the SCSI mentioned above, there is no legal requirement for valuers to be members of a professional body, to be licensed by any statutory scheme, or to carry PI Insurance.

3.3 Publicly Appointed Valuers

These can be appointed from the private sector through a public procurement process. The Government Department (Board of Works) employs valuers directly and they operate to cross check valuations where tax may be assessed as a result of the valuation etc.

3.4 National Specificities – Public Expert Committees

The Government in 2004 initiated a review body of the Real Estate Profession through the appointment of a committee selected from various interested sectors including real estate, accountancy, public service, farming, business, banking etc. This resulted in the PSRA as described above.

Following the global recession and the setting up of NAMA the Government imposed a requirement on the Irish Banks to value their entire commercial property portfolios and the selection of valuers was by public procurement following a submission process. Valuers were appointed to the National and Regional panels following those submissions and interview, market presence and capacity etc to deliver together with qualification and surveyor employee numbers.

3.5 Further groups of valuers

As above.
An Overview of the Macro Economy

2011 proved to be somewhat of a turning point for the Irish economy with growth of 1.4% recorded for GDP, notably the first positive growth figure in four years. That said, GNP, which is recognised as a better indicator of Ireland’s indigenous economic performance recorded a negative figure of -2.5% in the twelve month period. Unemployment remained stubbornly high throughout the year and not surprisingly consumer spending continued to decline by 2.4%.

Despite this somewhat encouraging performance in 2011, both measures of economic performance, GNP and GDP recorded negative returns for the first quarter of the year. Following this somewhat disappointing start to the year, the economy was stagnant during the second quarter of 2012. Preliminary figures from the Quarterly National Accounts (QNA) reveal that there was no change in the volume of GDP compared to the opening quarter of the year. GNP on the other hand expanded by 4.3% during the three month period, reflecting a significant fall in net factor income, largely as a result of volatility in the repatriation of multi-national profits.

On an annual basis, the Irish economy contracted by 1.1% in real GDP terms, reflecting the weakest annual level of performance since the second quarter of 2010. GNP rose by 2.9% during the twelve month period.

Growth prospects for the Irish economy remain modest as global growth continues to cool, thereby impacting export demand. The volume of exports fell by 0.5% during the second quarter; this was the first quarterly decline in exports recorded since the final quarter of 2010. The Minister for Finance, Michael Noonan, has forecast the economy will expand by 0.7% this year, followed by an average increase of 2.7% per annum in the period 2013 to 2015. The ESRI have forecast GDP to grow by 1.8% in 2012, rising to 2.1% in 2013. GNP forecasts are less optimistic as the ESRI estimate a contraction of -0.2% in 2012 and a growth of 0.7% in 2013.

Personal consumption, which accounts for approximately two thirds of domestic demand, remains under pressure. Consumer spending continued to decline during the second quarter, falling by 0.4% during the three month period; this compares to a 1.9% decline recorded in the opening quarter. The ESRI forecast that consumption will fall by 2.3% in 2012 and a further 2.0% in 2013.

Investment spending witnessed a sharp contraction during the second quarter, declining by 29.4% during the three month period. The reduction largely reflects the continued decline in construction. The ESRI forecast that investment will fall by 5.4% in 2012 and a further 4.1% in 2013.
The seasonally adjusted unemployment rate remains stubbornly high at 14.7%. The latest Quarterly National Household Survey (QNHS) figures, published by the Central Statistics Office, reveal an annual reduction of 1.8% in employment. Furthermore, on a seasonally adjusted basis, a decrease of 0.8% was in employment was recorded in the second quarter of the year. Moreover, the total number of persons in the labour force now stands at 2,096,400; representing a decrease of 29,500 (-1.4%) compared with the same period in 2011.

Unemployment increased by 1.3% in the year to quarter two. The total number of persons unemployed now stands at 308,500 compared to 304,500 persons during the corresponding quarter of 2011. Furthermore, the long-term unemployment rate rose from 7.7% to 8.8% over the year to quarter two. The total amount of people out of work for more than a year continues to increase, remaining a key concern. This cohort now accounts for 59.9% of the total unemployed.

The performance of the labour market is not homogenous with a significant regional disparity in both labour force participation and unemployment rates as illustrated in table 1. The latest available data from the CSO is for the period April to June 2012 which reveals that the highest level of unemployment was recorded in the South-East region while the lowest was in Dublin.

<table>
<thead>
<tr>
<th>Location</th>
<th>Unemployment rate</th>
<th>Participation rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Border</td>
<td>16.3%</td>
<td>53.4%</td>
</tr>
<tr>
<td>Midland</td>
<td>17.9%</td>
<td>58.4%</td>
</tr>
<tr>
<td>West</td>
<td>15.8%</td>
<td>62.9%</td>
</tr>
<tr>
<td>Dublin</td>
<td>12.1%</td>
<td>61.3%</td>
</tr>
<tr>
<td>Mid-East</td>
<td>13.6%</td>
<td>64.3%</td>
</tr>
<tr>
<td>Mid-West</td>
<td>15.8%</td>
<td>60.4%</td>
</tr>
<tr>
<td>South-East</td>
<td>18.7%</td>
<td>58.6%</td>
</tr>
<tr>
<td>South-West</td>
<td>13.8%</td>
<td>59.6%</td>
</tr>
<tr>
<td>State</td>
<td>14.7%</td>
<td>60.1%</td>
</tr>
</tbody>
</table>

Source: CSO

The performance of the labour market is not homogenous with a significant regional disparity in both labour force participation and unemployment rates as illustrated in table 1. The latest available data from the CSO is for the period April to June 2012 which reveals that the highest level of unemployment was recorded in the South-East region while the lowest was in Dublin.
Irish consumer sentiment improved in 2012 reaching its highest level in almost five years. The latest KBC/ESRI Consumer Sentiment Index showed a third consecutive increase, with the Index reaching 70.0 in August from 67.7 in July. This compares to a reading in August of 2011 of 55.8. The 3-month moving average also increased, up to 66.7 from 63.7 in July.

The fiscal insecurity across Europe will continue to influence the property market in Ireland. The recent agreements reached for Greece and Spain are a positive however, the reticence of the relevant foreign ministers to acknowledge Ireland’s special position and apply measures to lessen the debt burden continue to take their toll on the economic outlook and the confidence of the people and businesses to move forward. Such a debt deal is considered to be essential to a sustained and manageable recovery for Ireland.

There have been signs of recovery in certain sectors and locations however there is still volatility across the markets with the exception of agricultural land where CAP Reform proposals have had an impact. The CAP Budget has however, been postponed until early 2013 and this may have a dampening effect.

In the Residential Sector access to finance is paramount to recovery to normal market activity. Recent evidence suggests that prices are stabilising especially in Dublin with some locations seeing a price improvement in the region of 1% in 2012.
The outlook for the Commercial Sector remains slow but stabilising with 2012 seeing some marked improvement in the offices and retail sector for the reasons alluded above.

The National Spatial Strategy (NSS) 2002 – 2020 is the national strategic planning framework to achieve a better balance of social, economic and physical development across the country supported by more effective planning. This strategy can have a positive effect on the economy however its success is related to the availability of Government funding and with the current emphasis on spending cuts at the centre the NSS may have difficulty in the short term achieving its goal.

The valuation profession has avoided legal regulation to date. It is nevertheless facing increased demands for standardisation and compliance amongst Central Banks and major purchasers of professional services. The economic recession has seen an increase in consolidation activity in the industry and in the development of partnerships among smaller firms. Of significance was the recent merger of the SCS and the IAVI into the SCSI who use the (RICS) Red Book as their valuation standards.

IPAV are members of the European Group of Valuers Associations (TEGoVA) and The International Valuation Standards Council’s (IVSC).

From 2013, IPAV’S International Valuation Standards will be the TEGoVA “European Valuation Standards Blue Book”. IPAV will become an awarding body of TEGoVA and its valuers will have the opportunity to upgrade to Recognised European Valuers Status (REV), and Member firms to Member Firm (REV), providing they reach the Minimum Education Requirements (MER) laid down by TEGoVA.
Italy

Professional bodies represented on TEGoVA:

- **Consiglio Nazionale Geometri E Geometri Laureati (CNGGL)** - National Council of Italian Surveyors
- **Istituto Italiano Di Valutazione Immobiliare (IsIVI)** - Italian Institute for Real Estate Valuation
- **Associazione Geometri Valutatori Esperti (GEOVAL)** - Association of Expert Valuers
- **CRIF Certification Services (CCS)** – ISO 17024 accredited certification of property valuers

Real estate market - the real estate market in its aggregate / macroeconomic context

The real estate market in Italy has changed quite significantly during the last five years, but has historically always been very active. Even during the recent crises, prices have not been as severely affected as in other European countries – time to sell on the market has gotten longer but prices have not fallen, except in certain extraordinary contexts. In 1999 the first real estate fund was incorporated. Today there are several types of real estate funds: (i) classic closed and listed (“fondo chiuso immobiliare”), (ii) reserved and closed (“fondo riservato immobiliare”), (iii) speculative and closed (“fondo speculativo immobiliare”) and (iv) listed, with yearly distribution of most of the income (“Siiq”, similar to REITS).

All these real estate funds are closed, which means that the quota holder may ask for the liquidation of his portion only after a minimum period of time (usually 10 years).

The real estate market saw a booming in prices and in the volume of the transactions. The average size of real estate projects increased considerably. The entire real estate market faced a new era.

Today in Italy the real estate market is directly connected with the financial market. The laws and the market awarded the funds and the listed structures with fiscal and credit incentives. The same can be said of the valuation sector. Old style appraisal companies have been overwhelmed by new, more modern and more specialised appraisal companies, belonging also to international branches. Local knowledge of the urban conurbation has not always been considered as it should have been. This has been true for valuations of the financial sector as well.

After September 2008 and the culmination of the financial crisis, the market is working on regaining its credibility. Direct real estate investment is considered safer than investment through indirect real estate vehicles.

Transparency is the key word of the Financial Stability Forum (in its report “Enhancing the Market and Institutional Resilience”) as well as of all the national authorities including the Bank of Italy.

If transparency is key to the free market, the valuation sector should shall take leadership regarding the assessment of the real estate assets which underlie the funds and non-equity securities (Mortgage Backed Securities-MBS, Collateralised Mortgage Obligation-CMO, Covered Bonds etc.).
This is a big opportunity as well as a big responsibility, but it is neither easy nor friendly work. It cannot happen again in the future that (i) the price of a MBS is much lower than the assessed value of its backing assets (this undermines also the respective valuation of the collateral) and/or (ii) the net asset value (NAV) of a listed real estate fund is ten times more than the price of the quotas of such a fund as determined by the stock exchange (again, there is presumably something wrong with the respective backed valuation or there is totally lack of information transparency in the market).

The Asset Monitor of a Covered Bond is required to be part of an auditing company. As the auditing companies do not have the capability to carry out an assessment of real estate premises, they usually instruct valuers to undertake the work.

The real estate sector is vital for the financial sector, not the opposite. The financial sector needs mortgages (correctly assessed), the real estate sector may survive also without so much credit (as it did in the past).

If the valuer is responsible than the valuation will be more prudent, credit will be contained and the economy as a whole will be more sound and sustainable.

**Structure/s of the real estate market and its participants**

The structure, as referred to above is divided into two parts:

- **Corporate real estate** where investment banks or institutional investors have a central role and plan real estate acquisition, incorporation, re-structuring, finance and backed obligations. In this environment, the valuers play a very little role. Sometimes the valuation report is requested to be carried out by a valuation company for various purposes, but usually the appraisal is not a key element. Basically, they request it to simply support figures already determined with very limited power of the valuer/valuation company to provide an independent view. However, especially in case of debt restructuring, where the investment bank calls for real independent judgement, a new type of approached is requested. Not only the determination of the value is considered, but an integrated approach able to determine and weigh the underlying risks of the real estate transaction including fiscal, legal and technical issues (the outcomes are Due Diligence, SWOT analysis and Property and Market Rating models depending on the circumstances). In this case, the real estate advisor (not usually named simply valuer) called for this job is always a company, never a single person, and has in-house specialists capable to cover the different aspects of the submitted issues including specific market experts (for example residential, hotel, industrial etc.) as well as fiscal, technical and legal experts (sometimes fully licensed individuals). Sometimes this role is played directly by the auditing companies which have a specialized real estate division.

- **Non-corporate real estate** which includes all real estate transactions carried out by ordinary banks or investors. The main difference from the previous category lies in the fact that these transactions are not directly or indirectly connected with the capital market or with auditing purposes. In this case, the role of the valuer is more defined and clearly limited and a report is always present at least for mortgage lending purposes.
Relevant legislation and regulatory requirements
Real estate valuation is an activity carried out by professionals belonging to professional bodies in Italy, whose regulations are approved by the public authority, as well as by the real estate agents who are allowed to carry out this activity thanks to their constitutive law.

The Bank of Italy has recognized the importance of the role of the valuer with the publication of the circular letter n. 263 (2006) in which the national supervisor stated that all mortgage collateral property must be valued at market value by an independent valuer (“perito”) who has the necessary experience, qualifications and competence. In case of foreclosure, each judge must appoint an expert to appraise the value of the property and carry out the necessary due-diligence.

Italian Market (residential property, commercial properties, real estate finance, mortgage lending etc.)
In Italy, 75% of families own the property in which they live (statistic from 2008). In 2010 there were over 800,000 real estate transactions, a 0,5% decrease compared to the previous year. Residential properties accounted for 761,519 (a 0,1% decrease compared to 2009 and a 26,2% decrease compared to 2006) and transaction of property other than residential (commercial, industrial, office space, rural, etc.) accounted for 49,862 (a 6,1% decrease compared to 2009 and a 27,7% decrease compared to 2006).

Transactions in the service sector (offices and banks), the commercial and productive sector (warehouses and industrial plants) in 2010, respectively decreased 5,8%, 4,0% and 3,5% compared to the previous year.

In 2010, 772,664 new mortgages were underwritten (of which 457,792 were guaranteed by real estate collateral, while 314,872 were not), which was an increase of 1,8% compared to 2009, but a decrease of 17,1% compared to 2006. In the residential sector, the total capital granted for property mortgages was 36 billion euro (average capital per property of 136,000\,€ and an average first instalment interest rate of 2,73%), which was a 15% increase compared to previous year.

The average price per square meter for residential property in 2010 was $1,579 \,m^2$, a 0,4% increase compared to previous year.

Roughly 80% of property valuation reports are carried out by professionals belonging to the major Italian professional orders (Surveyors, Architects, Engineers, etc.) and Brokers specialised in Property Valuation with University Degree.

The covered bond regulations ruling the “Asset Monitor” role (recently amended, see Bank of Italy regulation dated 24 March 2010) and the contribution in kind ruled by the Civil Code (art. 2465 c.c. as amended on January 2010) see in the auditing company (“società di revisione”) an important and new player in the valuation market.

Main customer groups requesting valuation services
Corporate clients, auditors and the financial services industry require valuation services. Some of them (investment banks, auditing companies etc.) subcontract the valuations in order to carry out directly a more complex assignment and therefore the single work of the valuer is merged into a greater project.

Volume of real estate finance
The demand of funds for the purchase of the house has grown in the last 6 years thanks to the positive trend of the Italian real estate market. Despite the current financial crisis, new legislation which allows
the borrower to “move” without expenses the loan to another bank, has maintained the demand of valuations relatively high.
Moreover, the circular n. 263 of Banca d’Italia, in response to the Basel II agreements, provides that all the mortgage collateral in the form of real estate must be object of a valuation on behalf of a single and independent appraiser (an appraiser is a professional who has the qualification, ability and experience to carry out a real estate valuation and who doesn’t take part in the mortgage granting process).

**Supplier of real estate finance**

Equity and non-equity finance are the two sources of real estate finance. Due to the fact that today banks are not willing and/or are not in the condition to finance real estate projects, joint ventures between investors are becoming more common in order to pay back existing credit exposures to the banks.

**Types of real estate finance**

Real estate finance is diversified as are the other finance sectors. The mortgage, senior, mezzanine, second lien and junior credit facilities were all used during the last six years to finance real estate. Today only mortgages and senior lines have survived.

**Capital markets / mortgage funding**

Structured finance played a central role during the last six years. The main diffusion channel to finance credits granted in the real estate sector was through structured product markets in which mortgage and credits were securitised and sold by credit institutions. The lack of transparency in the underlined risk and, in particular, the lack of a Property and Market Rating analysis regarding the backed assets has cooperated to create a secondary (in some cases, third or fourth) non-equity market which is very instable and illiquid.

The trend of banks today is to create MBS or Covered Bonds to be sold to the central banks in order to obtain funds. The danger is to repeat the same errors of the past and bring to insolvency the States and central banks. Valuers should have much more room and independence to determine the Property and Market Rating and to monitor the value of real estate collateralised assets.

**Real estate valuation**

In Italy in 2005, the Italian Property Valuation Standard was published by Tecnoborsa – a company belonging to the Chambers of Commerce, Industry, Craftsmanship, and Agriculture – that includes both the EVS and the IVS applied to the Italian real estate market. In 2007 EVS was translated by IsIVI with the support of the Chamber of Commerce of Milan and the Politecnico of Milan. In 2007 the Consiglio Nazionale Geometri e Geometri Laureati (National Council of Surveyors) translated the International Valuation Standards 2007, in collaboration with Associazione Geometri Valutatori Esperti (Geo.Val.Esperti). A turning point in Italian valuation came in 2010 when the Italian Banking Association (ABI) along with all major stakeholders from both the professional side and the banking side, published the “Linee Guida per la valutazione degli immobili in garanzia delle esposizioni creditizie” (Guidelines for the valuation of property guaranteeing credit exposures). Today almost all Italian banks have adopted these guidelines and are beginning to implement them ([www.abi.it](http://www.abi.it)).
The risk assessment on the basis of Guidance 14 of EVS2003 has been positively considered by both the Bank of Italy and CONSOB (public authority responsible for regulating the Italian securities market).

In mortgage lending, the Bank of Italy issued a directive in 2006 (Circolare n. 263 del 27 dicembre 2006) which, inter alia, requires banks to assess the value of property used as collateral according to the market value. Although the standard to be applied is not specified, the definition of market value is in line with the most common international valuation standards and the Bank of Italy clearly states that the value must be determined in a “clear and transparent” fashion.

As to the valuation of the funds, the Bank of Italy and CONSOB have issued a joint communication on the 27 July 2010 which rules the role of the independent experts valuing periodically the asset of the real estate funds.

Before that, on 29 December 2009, CONSOB has published a research regarding the relationship between SGR and experts on the basis of analysis of the information available regarding the last decade. The research has been extremely useful to highlight the area where a better governance was required. The Due Diligence and the stream of information is one of the key element to provide appraisal report not misleading for the public. The technical, legal and fiscal due diligence are fundamental for transparent and reliable work. As a consequence thereof, the Mortgage Insurance or other type of instrument to cover the underlined risks are starting to be available on the market.

This provision rules also the conflict interesting prohibiting to carry out any other services (management, brokerage, consultant etc) to the same fund by the real estate experts in charged with the periodic valuation of the same.

The independent experts of the real estate funds play a role of guarantee for the investors and the market in general. This brings to high the valuers’ society requirements and to enhance a better consideration for the valuations carried out.

**Types of real estate valuers**
In Italy there are several associations of valuers made up of engineers, economists, architects, surveyors and other professionals.

In Italy, property valuation is predominately an activity of the professional orders, such as, for example, the Surveyors, Architects, Engineers, Book Keepers, Auditors, Brokers, and Agriculture.

Unlike in most countries where the market usually shapes a profession and dictates its requirements and best practice criteria, in Italy the competence of property valuers has not been regulated and a best practice has only been introduced in recent years. In order to perform a valid valuation of a residential property in Italy for the bank sector there is only one professional requirement: membership in a professional order which is legally mandated, such as that of the Geometri, Architetti, Ingegneri, Commercialisti, Brokers, etc. In turn, this means that today in Italy there are over half a million professionals who are legally eligible to perform property valuations which determine the value of mortgage collateral.

According to the communication of the Bank of Italy and Consob (27-7-2010) future direction will be to render the valuers directly liable for their misconduct and malpractice towards the market and/or certain monitoring Public Authorities (such as CONSOB, Bank of Italy, COVIP ect), specifically if the
valuation is carried out for financial purposes and the outcome of the valuation has direct or indirect impact to values of the financial market.

**Certified valuers (ISO 17024)**

The importance of the qualification of the property valuer has been felt throughout Europe and several countries have implemented proprietary certification schemes under ISO 17024 in order to respond to the market need of increased transparency, reliability and reassurance concerning the valuation of property being offered as collateral. At present, valuations of residential property in Italy can be carried out by a multitude of professionals with varying degrees of preparation, competence, and experience.

Personnel certification, accredited according to the ISO 17024 standard, is one way of establishing a market shared best practice and guaranteeing a homogenous level of qualification, experience, and ability (as requested by the Bank of Italy in the 263 Circular Letter of 2006). Today in Italy there is one company which is accredited ISO 17024 for the certification of property valuers: CRIF Certification Services (CCS), an observer member of TEGoVA.

To be admitted to the examination procedure, the applicant must fulfil all admission requirements:

- Enrolment in a professional Order (which is regulated by law and authorized to carry out property valuations) for at least 3 years;
- Completion of at least 10 residential property valuations in the last 12 months
- Subscription of a valid insurance policy against all professional risks.

Certification is granted after successfully completing the written certification exam and must be maintained every year by demonstrating professional competence and life-long learning.

**Recognised European Valuer – REV**

TEGoVA’s Recognised European Valuer Scheme is designed to maintain, enhance and harmonise valuation standards and the valuation profession in Europe, and, by the granting of the status TEGoVA ‘Recognised European Valuer’ and designation REV™, to provide individual practising valuers in each member country with a well-defined indicator of qualification and experience, with the aim of assuring clients of their valuation proficiency. IsIVI has successfully applied to TEGoVA to award the right to award Recognised European Valuer status (designated by the letters REV™) in Italy.

Candidate who has obtained a recognised university degree or post graduate diploma or other certificate relevant to asset valuation (covering the definition of recognised university degree or post graduate diploma or other degree relevant to asset valuation covering the areas of knowledge set out at Appendix 1 of the REV Scheme.

Needs to demonstrate to the TEGoVA Member Association (TMA), in accordance with the Recognition Document (RD), that he/she:

a) Has 2 years of professional experience in property valuation; and
b) Has undertaken and can show at least twenty written real estate valuations within the last two years. In exceptional circumstances, a lesser number of valuations may be accepted in accordance with paragraph 3.2 below;

Note: Subject to verification, where considered appropriate, an applicant is entitled to submit a valuation(s) prepared by him/her self but signed for policy reasons by partner of the applicant’s firm.

c) Fulfils such further requirements as may be deemed appropriate by the TMA

Publicly appointed valuers
The Court may choose from a list of experts, but there is no specific list for real estate valuers. According to article 13 of the provisions implementing the Italian Civil Procedure Code, the experts are divided in six categories: (i) doctor, (ii) industrial, (iii) commercial, (iv) agriculture, (v) bank and (vi) insurance.
To be inserted in the list of experts kept by the Court, one must be a member of a professional order connected with the real estate sector if the expert wishes to carry out property valuations. The process of registration in the list of experts is regulated by law.
Lithuania

Professional body represented on TEGoVA:

LIETUVOS TURTO VERTINTOJU ASOCIACIJA (LTVA)
Lithuanian Association of Property Valuers
1. Real estate market

Macroeconomic context

Lithuania is the most populous and largest of the Baltic States, with a population of 3.24 million. Following independence from USSR in 1990, Lithuania emerged as one of the most successful transition states and with accession to EU and NATO in 2004 strengthened its economic prospects and became one of Europe’s fastest growing economies. Average annual GDP growth from 2000 to 2006 was 7.3% (10.3% in 2003). GDP growth reached 8.8% in 2007. In 2008, the economy began to slow, due to contagion from the global financial meltdown. GDP growth in 2008 was down to 2.86%. In 2009, economy shrunk by almost 15%, one of the the worst recession in the EU, largely due to the bursting of the property bubble, higher tax rates, the end of cheap money and the huge contraction in exports. In 2009, private consumption fell 19%, fixed investment plunged 39% while exports fell 15%.

Hit by the global economic recession, Lithuania’s economy started again growing already in the 3rd quarter of 2009. Exports have been the single most important engine, but domestic demand is starting to increase in importance. In January 2010, the European Commission acknowledged that Lithuania has taken adequate measures to counteract the deterioration in its public finances and therefore approved shifting the deadline for correction of excessive deficit from 2011 to 2012.

Table 1. Macroeconomic data of Lithuania

<table>
<thead>
<tr>
<th>Economics</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
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</thead>
<tbody>
<tr>
<td>GDP growth, %</td>
<td>7,8</td>
<td>9,8</td>
<td>2,9</td>
<td>-14,7</td>
<td>1,3</td>
<td>5,8</td>
</tr>
<tr>
<td>GDP per capita, €</td>
<td>7,102</td>
<td>8,514</td>
<td>9,667</td>
<td>7,972</td>
<td>8,378</td>
<td>9,496</td>
</tr>
<tr>
<td>Private consumption growth, %</td>
<td>10,6</td>
<td>16,5</td>
<td>4,0</td>
<td>-17,7</td>
<td>-4,5</td>
<td>4,3</td>
</tr>
<tr>
<td>Average annual inflation, %</td>
<td>3,8</td>
<td>5,8</td>
<td>11,1</td>
<td>4,2</td>
<td>1,2</td>
<td>4,1</td>
</tr>
<tr>
<td>Unemployment rate, %</td>
<td>5,6</td>
<td>4,3</td>
<td>5,8</td>
<td>13,7</td>
<td>17,8</td>
<td>14,8</td>
</tr>
<tr>
<td>Average monthly gross wage, €</td>
<td>501</td>
<td>594</td>
<td>672</td>
<td>613</td>
<td>614</td>
<td>630</td>
</tr>
<tr>
<td>Average gross wage annual growth, %</td>
<td>19,1</td>
<td>18,5</td>
<td>13,0</td>
<td>-8,7</td>
<td>0,2</td>
<td>2,5</td>
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<tr>
<td>Retail sales growth, %</td>
<td>14,1</td>
<td>17,2</td>
<td>4,1</td>
<td>-27,7</td>
<td>-2,9</td>
<td>20,6</td>
</tr>
<tr>
<td>FDI per capita, €</td>
<td>2,475</td>
<td>3,055</td>
<td>2,744</td>
<td>2,872</td>
<td>3,174</td>
<td>3,334</td>
</tr>
</tbody>
</table>
Structure of the real estate market

On 1\textsuperscript{st} March, 2012 in Lithuania were registered over 6 million (6082796) units of real estate, from which: 2076598 – land parcels, 2414801 buildings (including auxiliary), 1056893 – premises (including flats and apartments), 534504 engineering constructions. Real estate statistical data are presented in charts 1-2.

Chart 1. Land parcels by type of use, as of 1\textsuperscript{st} January, 2012

The number of land parcels by the type of use as of 2012-01-01
EVS .Country Chapters .

Both real estate and construction sectors kept growth tendencies during this decade. Gross average value for the construction sector in 2000 year was 2,439,021 Mill. LTL, for comparison, in 2007 increased to 8,992,264 Mill. LTL; real estate in 2000 year was 4,182,426 Mill. LTL, in 2007 year was 10,483,431 Mill. LTL. Such growth of real estate market can be explained due to foreign investments and favourable banking conditions. One of real estate market growth determinants – employment in construction sector in 2000 year was 83,1 thousand people and in 2008 was 169,2 thousand people. As banking sector composed favourable conditions to take mortgages by lowering interest rate, the real estate market was visibly activated. Highest interest rate was in 2000 and real estate 1 sq. m. price was at it’s lowest level. The highest price jump was in 2004, after Lithuania has joined the European Union. Possibly optimistic expectations, emigrant savings investments into real estate in motherland enhanced the demand of real estate what forced the real estate prices increase fast. Bust of real estate price was slow downed by the increase of interest rate for housing in 2006 year, which lowered the number of taken and given mortgages in 2007 and significantly in 2008 year. Real estate and construction sector in the national economy at the peak of the boom (2007-2008) amounted 21% of GDP, 9.7% of country’s FDI.
The last decade revealed two interdependent processes: an economic and financial convergence process on one hand, and credit and housing boom on the other. Starting from relatively low levels, credit to the private sector grew on average by 51% annually in the period from 2003 to 2007, then showed signs of stagnation and eventually – trend reversal. House prices more than tripled over the same period before market liquidity dried up in 2008 and house prices plummeted by some 25% from the peak.

At the end of 2007, the real estate market, which largely contributed to the recent economic boom, started showing signs of stagnation: the housing price growth subsided and the number of real estate transactions decreased. Due to increased uncertainty and banks tightening credit availability, lending for house purchase and to the housing market-related enterprises declined significantly since the 4th quarter of 2007.
Residential properties

For the past 15 years (1994 – 2009), the Lithuanian housing market was subjected to a large number of changes, which influenced the real estate prices. For this period since beginning of 1994 to end 2007, when the highest price level for apartments was fixed, prices for apartments in the five largest Lithuanian cities increased 8 times. 15 years ago, the average price per square meter was about EUR 200, whereas, as of the moment of top prices, the average price per square meter amounted to EUR 1650. When analyzing the data of the same period assuming that the inflation effect is little, it can be estimated that prices increased about 3 times, which means that, since the beginning of 1994 to the end of 2007, prices for apartments on the average increased 3 times compared to increase in prices for other consumer goods and services.

Throughout the last decade residential property market has experienced one of the largest booms as well as one of the hardest falls among other property markets in Lithuania. Influenced by a strong growth of the economy and even stronger future growth forecasts, fueled by loosely controlled bank credit market and inexpensive lending as well as high future income expectations, the residential property market suffered from quick yet low-quality supply of new residential projects, bankruptcies of many of property developers and failures of many of the inhabitants who took mortgages, to repay or keep with the payment schedule.

The situation changed completely in 2008-2009, when residential real estate market experienced significant price drops, the number of transactions plummeted and many of the developers of new residential real estate faced bankruptcies due to severely cut banks’ financing and accumulating stock of unsold newly built apartments, whereas the banking sector experienced significant level of defaults of mortgages.
At the end of June 2009 it has been estimated that in five largest cities there were about 3500 unsold newly built apartments, from which 2100 are from projects developed in 2008. Under current market conditions, it is particularly difficult to find tenants or buyers; even substantially cut rental or sales prices do not always help. Under these circumstances the supply of new apartments in largest Lithuanian cities in 2009 and 2010 (compared to 2008) went down by 2.5-3 times and market prices went down also.
The housing market started the year 2012 with a slight decline in the index of housing prices in the capital and a moderate increase in the index for the rest of the country. So far, the statistics of real estate advertisements shows the fall in prices and supply stability or even increase. During January-March this year, there were a little more than 5,000 apartment purchase transactions registered in Lithuania. This is by 8% more as compared to the 1st quarter of 2011, and it almost reached the numbers of 2008 (during the first quarters of 2009-2011, the number of apartment purchase transactions was significantly lower - 2894, 4034, 4649 respectively).

Statistics shows that 2-room apartments dominate in the current supply (38% of the supply). 3-room apartments make one-third of the total supply; 1 and 4 room apartments make one tenth of the supply each; while the rest are larger than 4-room apartments.

**Commercial and industrial properties**

An optimistic growing and development of new commercial property (offices, retail, hotels) floor space was observed in 2007. The situation has changed in 2009 and a development of these premises has faded.
At the end of the 2nd quarter 2009 the vacancy rate in the commercial property market in five Lithuanian major cities reached over 15 per cent, which is a dramatic increase, compared to 1-3 % level seen in 2006 – 2008. Totally these figures represent nearly 60 000 sq. m of vacant modern offices floor space in Vilnius city. In 2009 lease and sales prices for commercial premises continued to drop rapidly. The level of rents for modern office premises was at the lowest point throughout the entire period of the development of the modern office market. Rapidly decreasing numbers of both domestic and international tourists are having a significant influence on the occupancy indicators of hotels, hostels, and other agencies providing accommodation. Hotels face problems of decreasing their use value.

The higher cost of capital trough higher equity contributions and bank interest-risk margins has driven up prime yields during 2008 – 2009. Yields have also been increased by lowered rental expectations and increased risk in real estate cash flows. Yield levels in the 12 – 15 % are attracting international funds focusing on distressed assets. Yields are starting to increase from 2010.

Rental prices for business space vary depending on the location and the quality of the building. The price of land also varies substantially depending on the location, planning level, as well as...
the type of potential development. Real estate bubble has not so sharply affected the industrial property prices, but price trends have remained the same as of other assets.


Table 2. Commercial property market data

<table>
<thead>
<tr>
<th>Commercial property</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rent price level %</td>
<td>+10.0</td>
<td>-25.0</td>
<td>-35.0</td>
<td>-15.0</td>
</tr>
<tr>
<td>Vacancies %</td>
<td>1.0</td>
<td>3.0</td>
<td>15.5</td>
<td>21.0</td>
</tr>
<tr>
<td>Property prices level %</td>
<td>+15.0</td>
<td>-9.0</td>
<td>-7.5</td>
<td>-15.5</td>
</tr>
<tr>
<td>Volumes %</td>
<td>+20.0</td>
<td>+10.5</td>
<td>0.0 (-4.5)</td>
<td>-9.5</td>
</tr>
<tr>
<td>Prime yield %</td>
<td>6.5</td>
<td>8.5</td>
<td>11.0</td>
<td>14.5</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Monthly rental of office space (EUR m2)</th>
<th>A-Class</th>
<th>B-Class</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vilnius</td>
<td>11.0-13.9</td>
<td>7.0-10.4</td>
</tr>
<tr>
<td>Kaunas</td>
<td>6.4-11.0</td>
<td>3.5-5.2</td>
</tr>
<tr>
<td>Klaipeda</td>
<td>6.4-11.0</td>
<td>3.5-6.4</td>
</tr>
<tr>
<td>Monthly rental of retail space (EUR m²)</td>
<td>High street</td>
<td>Shopping centres*</td>
</tr>
<tr>
<td>----------------------------------------</td>
<td>-------------</td>
<td>-------------------</td>
</tr>
<tr>
<td>Vilnius</td>
<td>11.5-32.0</td>
<td>6-13</td>
</tr>
<tr>
<td>Kaunas</td>
<td>7.0-19.0</td>
<td>5.2-8.7</td>
</tr>
<tr>
<td>Klaipeda</td>
<td>6.0-11.5</td>
<td>4.3-11.6</td>
</tr>
<tr>
<td>Siauliai</td>
<td>4.5-8.5</td>
<td>2.3-7.2</td>
</tr>
<tr>
<td>Panevezys</td>
<td>4.5-8.5</td>
<td>3-6</td>
</tr>
</tbody>
</table>

*Average retail units of 200 m²

<table>
<thead>
<tr>
<th>Monthly rental of newly constructed warehouse space (EUR m²)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vilnius</td>
</tr>
<tr>
<td>Kaunas</td>
</tr>
<tr>
<td>Klaipeda</td>
</tr>
</tbody>
</table>

**Land**

Land market in Lithuania started to develop after the restoration of ownership to agricultural land. Active privatization process was ongoing in 1995-1997, and was re-started from 1999. And although the land market was really sluggish, land consolidation and farm restructuring has been slow, there was no land supply and demand balance, already from the beginning of XXI century the number of purchase-sale transactions and land areas under conveyance began to increase.

By 2002, Lithuania restored ownership to nearly 50% of the total land area of the country. However, due to various factors mentioned, the price of land was low - from 200 to 2000 litas (a huge gap has been particularly felt when comparing Lithuania with other European countries).

Comparing the number of land transactions concluded during the first quarters of the last five years, this year the number of land sales transactions reached and exceeded the 1st quarter level of 2008. In the 1st quarter of 2008, nearly 11,400 parcel transactions were concluded, while during the 1st quarter of this year slightly more than 11,500 transactions were concluded. However, during the first quarters of 2009-2010 the number of land transactions was significantly lower (in 2008 and 2009 – a bit more than 7000 transactions each year and in 2010 – more than 9200 transactions). The 1st quarter of this year shows that the demand for land not only returned to the level which prevailed five years ago but also increased (as compared to the 1st quarter of 2009 and the 1st quarter of 2011, the number of transactions this year increased by roughly 50%).

The statistics of real estate advertisements also illustrates the growing interest in land parcels. Decrease in parcel supply was observed from the 2nd half of 2009, but from the 2nd quarter of 2010 onwards, the supply rate began to grow again. To compare the 1st quarter of this year and the 1st quarter of 2010, the land supply has increased approximately twofold during the
last three years. Currently, land parcels are one of the most demanded real estate objects. If previously interested mostly in the apartments and houses for sale, the buyers now increasingly focus on the searches for parcels and think about individual house constructions.

Chart 8. The number of sold land parcels, 2000-2011

The biggest changes in the EU in the entire real estate as well as farmland sector were observed during 2004 – 2008; and the prices consistently increased above the rational expectations. As a result, the average agricultural land prices in Lithuania increased from ~ 1400 litas/ha in 2004, up to ~ 3740 litas/ha in 2008, or up to 3970 litas in 2010, i.e. by more than 2.6 -2.8 times.

The prices for residential land parcels in Lithuania during the 1st half of 2008, compared to the same period of previous year, have dropped by 35.2%, by 49.5% - in Vilnius and by 51.6% - in Kaunas.


Table 3. Land sale price in biggest cities

<table>
<thead>
<tr>
<th>Land sales price (EUR m2)</th>
<th>Vilnius</th>
<th>Kaunas</th>
<th>Klaipeda</th>
</tr>
</thead>
<tbody>
<tr>
<td>(central areas); (outskirts)</td>
<td>250-750; 60-170</td>
<td>140-600; 40-150</td>
<td>160-500; 40-150</td>
</tr>
</tbody>
</table>

2. Real Estate Valuation

Property valuation profession and business in Lithuania started developing in 1994 upon the initiative of private enterprises. The same year, the Lithuanian Association of Property Valuers was established, which started drafting legislation and their promotion, prepared methodological materials and implemented training programs. By 1999, the national legislation regulating property valuation activities has been developed, including the following legal acts:

- Law on the Basics of the Property and Business Valuation, 1999;
- Property Valuation Guidance Notes, approved by Government Resolution No 244, 1996;
• Terms and Conditions of Granting of the Qualification of Valuer (Government Resolution No 1157, 1998);
• The Code of Professional Ethics of Valuers approved by The Board of the Lithuanian Institute for Audit, Accounting and Valuation, Resolution No. 27-7, 14 09 2000;
• National Standards, approved by the Lithuanian Association of Property Valuers.

There were some small differences between National Standards and EVS or IVS that arise from the impact of transition from centrally planned to market economy. The Law of the Republic of Lithuania “On the Principles of Property and Business Valuation” defined the following values:

**Market value** means the estimated amount of money that might be paid for the property sold on the day of valuation, concluding a direct commercial transaction between a willing seller and a willing buyer, after proper marketing of the property, wherein both parties of the transaction had acted knowledgeably, without compulsion and unconditioned by other transactions and interests.

**Replacement value** means the estimated amount of money (the costs) that would be needed to create, produce or built (equip) the object having the same physical and maintenance features.

**Value in use** means the estimated amount of money expressing economic efficiency of the property (economic benefit produced by the property).

More values are defined in a National Valuation Standards.

**Non-market values (mortgage lending value, foreclosure value etc.)**

Mortgage lending value was not accepted in Lithuanian law. Presently alongside with the market value of land, the normative land value is used for land restitution.

According to the Law “On the Principles of Property and Business Valuation” the following property valuation methods or their combinations used to be employed in the property valuation procedure:

1) the sales comparison (sales price analogues) approach;
2) the cost approach;
3) the income capitalisation (discounted cash flow) approach;
4) special value method that is used for valuation of unique art and historical properties, jewels and antiques as well as various collections (these objects are valued employing special technologies for valuation of such property);
5) other approaches approved by the Government of the Republic of Lithuania and recognised in the international practice.
A new wording of the Law on the Basics of the Property and Business Valuation comes into force from 1 May 2012, which provides that:

- Property and business valuers operate on the basis of the Law on the Basics of Property and Business Valuation of the Republic of Lithuania, the International Valuation Standards and the European Valuation Standards, Property and Business Valuation Methods consistent with the requirements of international standards, the Code of Professional Ethics for Property or Business Valuers, other legal acts governing the property or business valuation. The national valuation standards are only of advisory nature.

- Property or business valuation is performed applying property and business valuation methods defined in the International Valuation Standards and the European Valuation Standards in cases set out in therein. The concepts defining values are also similar to ones used in the international standards.

- Property or business valuation is performed for:
  - Drawing up financial statements;
  - Taxation;
  - Determination of insurance, damages;
  - Pledge;
  - Conveyance of ownership rights;
  - Other purposes.

- Property or business valuation report should be of the defined content and in line with other requirements prescribed by law.

The law provides for the possibility of property or business valuers from other EU Member States, whose professional qualification is recognized in the manner prescribed by the Government of the Republic of Lithuania or by its authorized institution to engage in valuation of property or business activities in the Republic of Lithuania.

The new law establishes higher qualification requirements for valuers, stricter supervision of property and business valuation activities, by giving greater powers to the Supervisory Institution authorized by the Government, including the right to decide whether the property or business valuation report can be considered true (previously, this right was granted only to the courts). The development of self-governance of valuers as a professional community has been trivialized; the law provides for only secondary functions of Property Valuers’ Associations in the development of property valuation.
3. Types of real estate valuers

Certified valuers

The mandatory certification of valuers has been introduced in 1996. A new law provides for three-level scheme for the certification of valuers: a natural person who has passed property or business valuer qualification exam is granted the following qualifications: real estate, movable estate or business valuer-assistant, valuer or valuer-expert. The qualification scheme is based on two main criteria: education and professional experience. Academical education of valuers is provided by Vilnius Gediminas Technical University and Vilnius University. Currently, 370 valuer-assistants, 334 valuers and 136 property or business valuation enterprises are working in Lithuania.

Property or business valuers are classified as follows:

- **Independent property or business valuer** (external property or business valuer) is a property or business valuer, who is employed in property or business valuation enterprise under the labour contract, or is the owner of individual property or business valuation enterprise, or who, acting under the certificate of individual activity, assesses property or business;

- **Internal property or business valuer** is a property or business valuer, who is employed in property or business valuation enterprise under the labour contract, or is the owner of individual property or business valuation enterprise, or who, acting under the certificate of individual activity, assesses property or business for internal needs of legal entity or other organisation.

Property or business valuation enterprises or property valuers, acting under the certificate of individual activity, are included in the List of External valuers under decision of the Supervisory Institution. The applicant is included on the list if he provides the documents of the prescribed format and has civil liability insurance. Being included in the list gives the right to engage in property valuation activities.

Valuers, working at the State Enterprise Centre of Registers, who perform property valuation for taxation and other public needs, may be classified under the category of **publicly appointed valuers** in Lithuania. Mass valuation approach is used in this area. The Centre of Registers has technical and organizational capabilities to perform property mass valuation: a computerized database of all real property registered in the country, 10 branch offices covering the whole territory of Lithuania and employing certified real property valuers.

Mass valuation system consists of 4 subsystems:
• Data management subsystem, which includes the collection of primary information required for estimation of property value. Mass valuation of real estate is performed using current data of the Real Property Cadastre, Real Property Register and market data recorded in the Real Property Register, also the information collected in other sources and announced publicly can be used;
• Data analysis subsystem, which includes the selection and processing of information, the calculation and analysis of relative property value factors, and compilation of value maps. Value maps are developed using the real property cadastral map, Address Register data and other data used for graphical visualisation of valuation results, and factors and indices are indicated to show the valuation results. Common value zones are created for land parcels and buildings;
• Subsystem for calculation of values, which covers the development of real estate valuation models by applying the property valuation approaches indicated in the International Valuation Standards;
• Administrative subsystem, which covers the integration of real property valuation models with the Real Property Cadastre and Register data, preparation of valuation results for publication, their publication and presentation for users in the documents or Internet sites specified by legal acts, the correction of values with regard to their appeals, the statistical analysis of values and thereto related data, and the preparation of documents, which are specified in legal acts, to ensure public interest (for public needs) and their publication.

Organisation of the profession

The Public Institution Audit, Accounting and Property Valuation Institute of the Republic of Lithuania is a non-profit organization The purpose of Institution’s activities is to meet public interests ensuring effective national valuers’ and valuation companies’ supervision; to carry out education and training activities in the spheres of valuation regulation and valuators’ certification. Functions of the Institution are:
• to draft valuation companies’ certification regulation, to coordinate valuation principles and methods with the International valuation standards;
• to draft valuators’ certification regulation and qualification requirements, to prepare valuators’ education programs;
• to involve public valuators’ organizations as well as foreign and national education institutions in performing valuators’ and valuation companies’ national supervision;
• to perform other functions, established in legal acts of the Republic of Lithuania.

Property or business valuers are examined by the Commission of Property or Business Valuer Qualification Examination, consisting of five members, including the Chairman of the Examination
Commission: three members are nominated by the Supervisory Institution, one by the Ministry of Finance of the Republic of Lithuania and one by higher education institutions of the Republic of Lithuania. The Examination Commission is approved and the Chairman of the Examination Commission is appointed by the Minister of Finance from the list of individuals proposed to the Examination Commission.

The Court of Honour of Property or Business Valuers consists of five members (three members, who have a qualification not lower than that of valuer, under their consent, are appointed by the valuers associations, two members - public servants appointed by the Ministry of Finance. Personal composition of the Court of is approved and the Chairman and the Deputy Chairman is appointed by the Minister of Finance. Capacities of the Court of Honour of Property or Business Valuers are the following:

- to examine disciplinary proceedings of property or business valuers;
- to take decisions on imposing disciplinary fines on property or business valuer or termination of the disciplinary case.

Lithuanian Association of Property Valuers (Lietuvos turto vertintojų asociacija – LTVA) - non-governmental professional organisation was established on 22 March 1994, member of TEGoVA, The European group of Valuers Associations, since 1995. LTVA has about 160 members. The main aims of LTVA are:

- to organise a qualified system for valuation of different property and capital;
- to take care of training of specialists for valuation of property and capital;
- to accumulate and provide methodical and other assistance including information on valuation issues.

Governance of Association:

- Management bodies of Association are the General Meeting (the Conference) of Members, the Board and the President.
- Particular activity fields coordination is held by six Commissions:
  - Immovable property valuation;
  - Movable property valuation;
  - Motor vehicles valuation;
  - Business valuation;
  - Education;
  - Ethics.
- Administration which in directly managed by the President of Association.

Lithuanian Association of Property and Business Valuation Enterprises is a non-profit organisation uniting the enterprises of Lithuania which are engaged in valuation of assets and business. The Association seeks the following goals:
• promoting, enhancing, developing and implementing the activity of professional valuation of business and property in the Republic of Lithuania;
• implementing and promoting international standards and guidance on valuation of property and business in the Republic of Lithuania, developing new national standards based on the above sources;
• certification of corporate valuers of business and property, assuring necessary supervision over their activity;
• integrating the activities of enterprises engaged in valuation of property and those engaged in valuation of business;
• accumulating and disseminating scientific, guidance materials and information on the issues of valuation of assets and business.

Members of the Association can be any legal entity of the Republic of Lithuania which holds a valid certificate entitling to engage in valuation of property and/or business.

Sources:
The Public Institution Audit, Accounting and Property Valuation Institute of the Republic of Lithuania, http://www.atvi.lt
Lithuanian Association of Property Valuers, http://www.ltva.lt
Lithuanian Association of Property and Business Valuation Enterprises, http://www.vertintojai.lt
State Enterprise Centre of Registers, http://www.registrucentras.lt – Charts 1,2,5,7,8,10;
COLLIERS INTERNATIONAL www.colliers.com;
RE&SOLUTION www.resolution-group.eu;
OBER-HAUS, www.ober-haus.com;
JONES LANG LASALLE www.joneslanglasalle.eu
Agro management team www.agromt.lt
Norway

Professional body represented on TEGoVA:

**Norges Takseringsforbund (NTF)**  Norwegian Valuers and Surveyors Association

History

- Self-regulatory status of professional bodies since 1957.
- There have been several attempts to introduce legislation for state licensing of valuers in Norway; however, no government has yet found the issue important enough to give it the necessary priority. In 2006 there seems to be a growing interest in passing legislation governing the valuation profession.
- Local terminology is generally EVS terminology, translated into Norwegian. However the Norwegian tradition is to look more thoroughly into matters relating to the building construction and state of repair. Several terms are standardised for this purpose and will not be found in general valuation terminology.

Relevant national legislation

- Special legislation related to land lease.
- General legislation regarding many aspects of transfer of ownership.

National standards and/or guidance

- NTF’s Takseringshåndbok (NTF’s Valuation manual)
- NS (Norwegian standard) 3940 – The measuring of building areas.
- NS 3451 – Building elements.
- NS 3424 – State of repair reports.

Status of standards/guidance

- The NTF Valuation manual is mandatory for NTF members.
- Parts of the latest edition of the EVS will be translated.
Regulatory requirements

No formal requirements, but well established regional practices for using valuation reports, often with “state of repair reports”, in connection with purchase and sale of residential properties as well as mortgaging of such properties. It is expected that in the near future legislation will passed requiring the compulsory use of state of repair reports (Home Sellers Report) in all transactions involving residential properties.

Methodology

- Capitalisation of net income (mainly commercial properties).
- Comparative valuation regarding residential properties.
- Mortgage value determined through risk evaluation of the object, particularly the general risk of declining markets as well as special features of the object that influences the probability of realising the expected Market Value of the object.
- Depreciated Replacement Cost (DRC) or the Cost Approach is a technical calculation of the cost involved in rebuilding the construction less an assessment of the wear and tear of the object. The land value is then added on.

Code of Measuring Practice

Ref. NS 3940 above (under revision).

Note on key purposes of valuation

- Valuation in connection with purchase and sale of a property (e.g. change of ownership).
- Valuations for loan security purposes.
- Valuations for financial statements.
- Property taxation.
- Compensation in connection with compulsory purchase (expropriation) of land.

Normal standard lease terms

For residential property rent per month, for commercial annual rent per sq. metre.

Taxation

Local authorities can impose such taxation limited to 7% of approximately 25% of Market Value per annum.

Typical finance arrangements

Loans between 50% and 70% of property value as a mortgage.
Main differences between national standards and EVS

- There is no practice in Norway of applying standard requirements to valuation reports from external and internal valuers, only to reports from independent valuers.
- The validity of Norwegian valuation reports are usually not restricted to the purpose for which they were initially ordered or to one particular purpose and will frequently be used as supporting documents in subsequent property evaluations.
Poland

Professional body represented on TEGoVA:

POLSKA FEDERACJA STOWARZYSZEN RZECZOWNAWCÓW MAJATKOWYCH (PFSRM)
The Polish Federation of Valuers’ Associations (PFVA)

1. REAL ESTATE MARKET

OVERVIEW OF THE POLISH ECONOMY

Since the mid 1990s the Polish economy has been expanding at a fairly rapid pace albeit it slowed significantly during 2001 and 2002 and began to revive again in 2003. Increasing exports, industrial production, consumer spending, are the main drivers of this economic growth. Despite the world financial crisis, at the end of 2009 Polish GDP growth stood at 1.7% and was the highest in the UE. At the end of 2010 GDP growth in Poland was recorded at 3.8%

Positive GDP growth of around 4% is also expected in 2011 and 2012. Optimistic forecasts of GDP growth stand in contrast to the alarming state of Poland’s public finances. According to the International Monetary Fund the budget deficit in Poland may soon reach 7.9% of GDP. Furthermore, Poland is noting a rapid growth in its public debt. In 2010 it reached 55.6% of GDP.

The value of Foreign Direct Investment inflow to Poland during the last 3 years fell from a peak level of € 17.2 billion in 2007 to € 7.5 billion in 2010.

Inflation in Poland reached 2.6% in 2010, higher than the 1.6% anticipated in the Budget Act.
Forecasts for 2011 and 2012 indicate rising consumer prices of 2.9% and 3% respectively.

The most problemmatic area of the Polish economy used to be unemployment. The unemployment rate in 2004 was as high as 19.1% and decreased significantly to 9.5% in 2008. It started to rise again in 2009 and 2010 as a result of the global financial crisis but it is expected to fall in 2012 to 9.5%.

After 20 years of political transformation Poland is considered as a strong performing economy and the most promising market in the Central and Eastern Europe Region.

**STRUCTURE OF THE REAL ESTATE MARKET AND ITS PARTICIPANTS**

The real estate market in Poland is mainly focused around the residential, office, retail and warehousing sectors properties, with a growing hotel sector.

The main market participants are private and institutional investors, banks, developers, real estates consultants (valuers, property managers, leasing managers), accountants, tenants, insurance companies.

**RESIDENTIAL MARKET**

The residential market in Poland is still at a developing stage. There is still an evident shortage of some 1.7 million residential units. According to the Central Statistical Office, between 2003 and 2010 only 960,000 units were delivered to the market.

Residential prices in Poland which had been growing for several years peaked in the second half of 2007. The shortage of flats, growing affluence and ease of obtaining bank loans had led to boom in residential development. In 2006/2007 the market was becoming overheated with
foreign investors, mainly Spanish, entering the market and acquiring flats on speculative basis. By the end of 2008, the global financial crisis, overinflated prices and less favourable mortgage conditions offered by banks led to a sharp drop in demand with a consequent reduction in transaction volume.

Since 2009 most demand has come from owner occupying individuals. Whilst latent demand is still strong because of the shortage of residential accommodation in Poland, banks’ restrictive lending policies have tempered the number of transactions. In 2009, a total of 21 150 apartments were sold in the 6 largest markets in Poland. In 2010 the figure amounted to 22 750 apartments sold and it exceeded sales in the previous year by 7.5%.

In 2010 banks granted more mortgages encouraging a revival in demand. On the other hand the number of new apartments delivered to the market decreased by 15% from around 160 000 in 2009 to 135 000 in 2010 whilst the number of building permits issued remained at a similar level during those years, some 180 000 per annum. A positive sign of recovery can be seen in the 10% increase in the number of apartments started during 2010 of up to 160 000 units. Nearly 25% of the total distribution of new supply in major Polish cities is found in the main cities of Warsaw, Kraków, Wrocław, Poznań, Gdańsk and Łódź.

COMMERCIAL MARKET

OFFICES

Total stock of modern office space in Warsaw has reached 3.4 mln m² of which 180 000 m² was completed in 2010. In the regional cities of Kraków, Wrocław, Trójmiasto, Poznań, Katowice and Łódź total stock exceeds 1.8 mln m² of which 190 000 m² was completed in 2010. New supply in 2011 is likely to reach 280 000 m² in Poland and 130 000 m² in Warsaw.
At the end of 2008 there was a significant fall in demand for office space throughout Poland leading to increasing vacancy rates and decreasing rents. The latter trend was reversed in 2010. In 2010 some 550 000 m² of offices were leased in Warsaw, 50% more than in 2009. During 2009 and 2010 the number of pre-lease agreements decreased significantly compared to previous years. Most lease agreements in the last two years have been in respect of small areas of up to 1 000 m².

The lowest vacancy levels are currently being noted in Wrocław (5%), Warsaw (7.5%) and Poznań (8%) and the highest in Łódź (24%).

Rental levels, following a 10% fall in 2009 have now stabilised. In 2010 rents paid for the best offices in Warsaw were at a maximum level of € 28/m²/month. In regional cities they were in the range of € 11 to € 17/m²/month.
RETAIL

Total modern retail space in Poland exceeds 9.1 million m². 500 000 m² of new space was completed in 2010, which constitutes 35% less than in 2009. 40% of modern retail space was delivered in medium-sized cities of 100 000 – 200 000 inhabitants, for example in Płock (Galeria Mazovia and Galeria Mosty) and Wałbrzych (Galeria Victoria). Interest from investors continues to grow in smaller towns such as Łomża. In first quarter of 2011 some 950 000 m² of new space was under construction following a resumption of developments put on hold during the global financial crisis and 700 000 m² should be completed this year.

The stock of retail space is highest in the top ten cities and averages 780 m² per 1000 inhabitants. In 2010 the most rapid growth of retail space per capita was noted in Łódź, Płock, Wałbrzych and Tarnów. Small units in prime shopping centres in the largest cities attract the highest demand. Vacancy in the major cities remains at around 4%.
Prime shopping centre rents in regional cities stand at around €45/m² monthly for units of 50 m² to 100 m². Prime rents in Warsaw remain stable at up to €80/m² monthly for the best units of 50 m² to 100 m².

WAREHOUSES

Modern warehouse stock in Poland totals 6.3 million m² in 150 industrial parks. New supply in 2010, mostly in built to suit projects, amounted to 270,000 m² and was at its lowest level since 2004. The leading developer in 2010 was Panattoni which completed some 210,000 m² of new warehousing space representing 80% of total warehouse development activity. New supply of some 300,000 m² mostly built to suit will be delivered in 2011.

Take up in 2010 recovered to 1.5 million m² (including 500,000 m² lease renewals) after the slowdown of 2009. Demand for modern warehouse space throughout Poland is strongest amongst the automotive, pharmaceutical and fast moving consumer goods retailing sectors, as well as third-party logistic providers. The Upper Silesian Region accounts for 35% of all leasing activity.

The vacancy rate in logistics parks in the Warsaw region is highest at 19%. Vacant space in other areas varies from 6.6% (Tri-City) to 16% (Wrocław).

Top rents of €4 to €5/m²/month are being paid in Warsaw’s Zone I and €3 to €4/m²/month in Kraków and Łódź. Rents in the regions with a relatively high vacancy rate including Warsaw Zone II, Upper Silesia, Wrocław and Central Poland are stable at €2.2 - €2.8/ m²/month.
PROPERTY INVESTMENT

In 2010 total property investment volume exceeded €2 billion, significantly more than the €700 million recorded in 2009 and 20% higher than in 2008. Most transactions were concluded in respect of offices and shopping centres. However such high investment volume was largely the result of two portfolio transactions accounting for some 30% of the total.

In second quarter 2010 CA Immobilien Anlagen AG purchased Europolis with its office and warehouse portfolio for a reported €272 million. The portfolio included Saski Crescent, Saski Point, Sienna Center, Warsaw Towers and Bitwy Warszawskiej office buildings and the Europolis Park Błonie and Europolis Park Poland Central warehouses. The transaction also included properties in Hungary and the Czech Republic. In third quarter 2010 Unibail-Rodamco purchased from Simon Ivanhoe five shopping centres in France and two in Warsaw namely Arkadia and Warszawa Wileńska at a total reported price of €715 million.
2010 saw increasing interest in office buildings outside of Warsaw. Grunwaldzki Center in Wroclaw was the first office transaction outside of Warsaw in 2010 and the second in two years. In 2010 the warehousing investment market showed positive growth with an 18% share of the total investment volume.

German funds such as RREEF, Union Investment Group and SEB Immo Invest were the most active in the Polish market in 2010.

Growing investment activity is once again leading to yield compression. Prime office yields have dropped below 6.5%. Yields in respect of prime retail properties stand at around 6.25%-6.5% and warehouses are fetching 8.25% to 8.50%. Improving market sentiment is likely to lead to further yield compression in 2011.
OTHER REAL ESTATE MARKETS

HOTELS

Until the 1990s, the hotel market in Poland was very limited in terms of quality and facilities on offer. The market has gradually developed following Poland’s EU accession in 2004 and an increase in investment from international hotel chains. Their expansion has been initiated through high-end lodging in the largest cities in Poland and then followed by development of mid market hotel brands in secondary locations. Despite growing interest of international operators, the hotel market in Poland is somewhat fragmented. According to the Hotel Institute about 12% of existing hotels belong to international hotel operators with the rest owned by individuals and small capital groups owning between 2 to 3 hotels.

Both the number of hotels and occupancy rates were rising until 2008. High occupancy rates and ADR (Average Daily Rate) as well as the choice of Poland as co-host of the European Football Championship "EURO 2012" provide the necessary encouragement for further hotel development. However the pace of development decreased at the end of 2008 as a result of the global financial crisis and problems with obtaining finance. Additionally, in 2009 the majority of hotel chains reported a decrease in occupancy rates by ca 5 percentage points. In response hotel operators reduced the average room rates leading to a significant reduction in ADR.

2. REAL ESTATE VALUATION

The Real Estate Management Act 1997 and the Ministerial Regulations concerning the valuation of property and valuation reporting 2004 regulate real estate valuation practice in Poland.

Also The Polish Federation of Valuers’ Associations (PFVA) publishes a set of valuation standards titled: “General National Principles of Valuation” (Powszechne Krajowe Zasady Wyceny – PKZW). The latter are divided into Basic National Valuation Standards (Krajowe
Standardy Wyceny - Podstawowe or KSWP) and Specialist National Valuation Standards (Krajowe Standardy Wyceny – Specjalistyczne or KSWS). The standards are as follows:

- **KSWP 1** – Market Value and Depreciated Replacement Cost
- **KSWP 2** – Values Other than Market Value
- **KSWP 3** – The Valuation Report
- **KSWS 1** – Valuation Standards for Public Purposes
- **KSWS 2** – Valuation for Financial Reporting Purposes
- **KSWS 3** – Valuation for Loan Security Purposes

Under The Real Estate Management Act 1997 such standards may become part of Polish law provided they are formally accepted by the Minister of Infrastructure. To date, the latter has approved KSWS 3 – Valuation for Loan Security Purposes.

Under the new standard, whilst market value continues to be the basis of value for all loan valuations, in addition to expressing a well supported opinion of value, the valuer must also provide a separate assessment of the risks associated with the property being valued, in terms of predicted future changes in the market. Thus valuers are required by law to forecast future market conditions albeit stopping short of predicting future value. Paragraph 4.3 of KSWS 3 states “The valuer has the obligation on the basis of available sources and market knowledge to point out areas of risk associated with the property being valued, including foreseeable changes in the given market as well as the risk associated with the assessment of the subject property by investors together with a general opinion about the direction of the influence of the above on the value of the property being valued in the future. The above additional information is to be set out in the form of an attachment to the valuation report”

Also of significance is paragraph 4.4 under which banks may instruct valuers to prepare a “sensitivity analysis” “…which will allow for a fuller assessment of risk of accepting a concrete
property as the subject of loan security. The sensitivity analysis sets out the sensitivity of the value of the subject property to changes in variable inputs, influencing such value.”

In addition to the above valuation standards, the PFVA has so far published 4 “Interpretation Papers” (Noty Interpretacyjne) as follows:

- **NI 1** – The application of the comparative approach to property valuation
- **NI 2** – The application of the income approach to property valuation
- **NI 3** – The application of the cost approach to property valuation
- **NI 4** – The application of the residual method of property valuation

**Market Value**

The definition of market value adopted by National Valuation Standards published by The Polish Federation of Valuers’ Associations is consistent with and based upon the definition of market value set out in European Valuation Standards 2009.

Article 151, paragraph 1 of The Real Estate Management Act 1997, defines market value as follows:

“The Market Value of a property is the most probable price which can be obtained on the market, estimated having regard to transaction prices based on the following assumptions:

The parties to the transaction were independent, did not act under pressure and had a firm intention of concluding an agreement,

The time before the transaction was sufficient for the property to be exposed on the market and for the parties to negotiate the conditions of the agreement”.

**Methodology**

**Comparative Approach**
The comparative method of valuation is considered to be the method of first choice under Polish law.

Article 4.1 of the Ministerial Regulations concerning the valuation of property and valuation reporting 2004 states “In applying the comparative approach there is a need to know transaction prices of properties which are similar to the property being the subject of the valuation as well as the characteristics of these properties which influence the level of their prices”. Article 4.2 continues “In a comparative approach one applies the pairs comparison method, the adjusted average price method or a statistical market analysis method” and Article 4.3 states “In applying the pairs comparison method, the subject property, whose characteristics are known, is compared respectively with similar properties which have been the subject of a market sale and in respect of which the transaction prices, terms of the transaction, and characteristics of these properties are known.

The comparative approach is most commonly executed by means of the “pairs comparison method”. The method relies on the comparison of the subject property in turn with the comparable properties sold. Transaction prices are first devalued in terms of a unit price per sq m of land or building and then adjusted for observed differences between the subject property and comparable properties. Typically the average of the adjusted price is then applied to the valuation of the property being valued.

For the purposes of a valuation carried out by mean of the comparative approach the most useful information about sale prices in Poland is that recorded by Notaries in deeds of sale. All qualified valuers have access to these records.

Another often employed comparative method is the so called “adjusted average price method”. Article 4.4. of the Ministerial Regulations concerning the valuation of property and valuation reporting 2004 states “In applying the adjusted average sale price method, for comparison one adopts from the relevant market in terms of the location of the subject property being valued at least 11 to 19 [the Polish word used is “Kilkanascie” which means a number between 11 and 19 inclusive] similar properties which have been the subject of a
market sale and in respect of which the transaction prices, the transaction terms and the characteristics of the properties are known. The value of the subject property being valued is assessed by means of adjusting the average price of the comparable properties by factors which reflect the differences in the respective characteristics of these properties.”

Once information about comparable properties is gathered, the average adjusted price method may be applied by as follows:

- calculation of average unit sale price,
- calculation of the difference between the highest and lowest unit sale price,
- calculation of the minimum unit sale price as a fraction of the difference between the highest and lowest unit sale prices, and
- calculation of the highest unit sale price as a fraction of the difference between the highest and lowest unit sale price.

After completing the above steps, the valuer must then consider what value relevant features account for the difference between the highest price and the lowest price in the sample. In most cases location is considered to be the most important feature followed by other value relevant attributes including size and access. The final stage of the adjusted average price method is a consideration of the value relevant attributes of the subject property in comparison with the sample properties having the highest and lowest values, to decide on the factor which should be applied in turn in relation to the subject property for each such value relevant feature. The sum of all such factors is then multiplied by the average unit sale price to arrive at the average adjusted sale price which is then applied to the valuation of the subject property.

**Income Approach**

Article 6 of the Ministerial Regulations concerning the valuation of property and valuation reporting 2004 states “In applying the income approach a knowledge of income derived from
or possible to derive from rents and other income from property being the subject of valuation and comparable properties is necessary”.

Article 7.1 states “Under the Income Approach the investment method or profits method are applied”. Article 7.2 states “The investment method is applied in arriving at the value of a property generating or able to generate income from rents from occupational or land leases, the level of which can be established on the basis of an analysis of market rent” and Article 7.3 “The profits method is applied in arriving at the value of a property generating or able to generate income which cannot be established under sub paragraph 2. Such income is equivalent to the owner’s share in the income from a property derived from an activity carried out on the property being valued and at comparable properties”. Article 8 states “The Investment method and profits method is applied by means of a simple capitalization technique or the discounted cash flow technique”.

Offices, Shops and Warehouses in Poland are typically valued by means of the investment method. The method involves the conversion of estimated rental income flow from the property being valued into an appropriate capital sum. A multiplier, or yield, is applied to the projected net rental income streams. This yield is derived from an analysis of market transactions of comparable properties.

In valuing a commercial property a valuer might simply capitalize the annual net rental income derived from the property by an appropriate yield, derived from market analysis but software assisted discounted cash flow (DCF) is becoming more popular.

**Cost Approach**

Under Polish law the cost approach is treated separately from the assessment of market value and may not be applied in arriving at the latter. Article 153.3 of the Real Estate Management Act 1997 states “the cost approach entails the assessment of the value of property on the assumption that such value equates to the costs of replacing the property reduced by the value of depreciation of the property. Under this approach the cost of acquiring the land and costs of replacing the buildings are assessed separately.”
3 REAL ESTATE VALUERS

Under Polish law it is unlawful to practice as a property valuer without possessing a statutory qualification (uprawnienia zawodowe). Article 156 of the Real Estate Management Act 1997 as amended (Ustawa o Gospodarowaniu Nieruchomościami 1997) provides that “A property valuer (rzeczoznawca majątkowy) prepares in writing an opinion of the value of a property in the form of a valuation report”. Article 174 defines property valuer as “an individual possessing professional qualification rights in the area of property valuation, awarded under the regulations set out in sub section 4”. Sub section 4 sets out the procedures for awarding practising licences to property valuers, brokers and property managers.

Any person wishing to become qualified in real estate valuation must first obtain a masters degree followed by a ministry approved postgraduate diploma in valuation studies. He or she must then undertake at least a year of structured training under the supervision of an experienced valuer during which time he or she must prepare a portfolio of 15 valuation reports of properties for a variety of purposes. Finally the candidates must pass a written and verbal national examination for valuers set by the Ministry of Infrastructure. Only on passing the written examination will a candidate be admitted to the second part of the examination in the form of an interview and a defence of a selection of valuation reports from amongst those prepared by the candidate during structured training, before the Examination Commission.

Since the introduction of the licensing system, examinations have been held every month. The examinations are difficult, with an average success rate of well below 50%. By 2010 nearly 5,000 valuers had obtained a valuation licence.

It should also be noted that a growing number of Polish qualified valuers are gaining the “Recognised European Valuer” certificate launched by The European Group of Valuers’ Associations (TEGoVA) in 2008.
Valuers’ Organization

Polska Federacja Stowarzyszen Rzeczoznawcow Majatkowych
(Polish Federation of Valuers’ Associations)
ul. Nowogrodzka 50 (IV piętro)
00-695 Warszawa
tel.+48.22627-07-17
fax +48.22627-07-79
http://www.pfva.com.pl
Romania

Professional body represented on TEGoVA:

**ASOCIATIA NATIONALA A EVALUATORILOR DIN ROMANIA (ANEVAR)**

National Association of Romanian Valuers
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Appendix – Real estate market in Romania
Introduction

The real estate market in its aggregate/ macroeconomic context

Romania is an Eastern European country with a population of 22.6 million and an area of about 238,391 sq km. It is a NATO member and has joined the European Union under Accession Agreement on January 1, 2007. The capital is Bucharest, a city with an official population of ca 2 million.

Unfortunately Romania does not offer anymore a stable and economic climate for investors due to numerous changes of the National Fiscal Code and is not, thus, a safe place for foreigners to buy real estate properties. Real estate prices are expected to continue their decreasing trend, as a result of the in-depth crisis that our country is facing nowadays.

1.1. Overview Romania

The global economic situation was reflected in the macro-economic indicators of Romania starting with Q4 2008. In 2009, the negative growth registered was of 7.1% as compared to a positive growth in 2008 of 7.1%. Whilst the initial predictions at the beginning of the year were for a small positive growth in 2010, the recent development, both in terms of the European sovereign debt crisis and the austerity measures introduced by the Romanian Government lead to forecast of a negative growth of -0.9% (source: Unicredit).

The results of the worldwide economic situation for Romania are: the negative growth of the gross internal product, the increase level of borrowing from international institutions, which is done at a more and more expensive level, the decrease in direct foreign investments volume, as well as the increase of the exchange rate volatility of the national currency (in just one week, late June 2010, before the change of VAT from 19 to 24%, the Romanian currency depreciated by as much as 3%, from 4.22 to 4.36, the highest level ever achieved in Romania).
## Key Economic Indicators

<table>
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<th>Indicator &amp; Year</th>
<th>NCP*</th>
<th>UNI*</th>
<th>NCP</th>
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<td>GDP growth (% real change pa)</td>
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<td>-7.7</td>
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<td>8.5</td>
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<td>-12.3</td>
<td>-12.3</td>
<td>-4.6</td>
<td>-4.4</td>
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<td>CPI, average (y-o-y, %)</td>
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<td>7.85</td>
<td>7.9</td>
<td>5.6</td>
<td>5.6</td>
<td>3.7</td>
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<td>CPI, end of year (y-o-y, %)</td>
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<td>Exchange rate (annual average RON/EUR)</td>
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<td>Private consumption (y-o-y, %)</td>
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<td>CIF Imports (y-o-y EUR, %)</td>
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<td>-36.5</td>
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<td>5.8</td>
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<tr>
<td>FOB Exports (y-o-y EUR, %)</td>
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<td>-22.4</td>
<td>1.3</td>
<td>4.6</td>
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Source: NCP - National Committee of Prognosis fall prognosis 2009  
UNI – Unicredit Group CEE Quarterly Q3 2010

### GDP

The Gross Domestic Product for Romania in 2009 registered a cumulative drop of 7.1% as compared with the same period of 2008. Even though most countries within the European Union registered a slight increase or stagnation in terms of GDP growth in Q4 2009 and a consolidation of that growth in the first months of 2010, in Romania this was not the case. The GDP in Q1 2010 dropped by 2.6% as compared to Q1 2009 and as compared to Q4 2009 the drop has been of 0.3%.

Even though the predictions at the beginning of the year were that GDP will register a positive
growth in 2010, it seems that this will not be the case. The optimist scenario is the GDP will have a flat growth, while Unicredit has revised its forecast from +0.4% to a negative 0.9% (see above). IMF has not offered a new forecast in regards to the changes introduced to the fiscal code, but various economic discussions suggest that IMF will not change the forecast from +0.5%.

Foreign investments

During 2009 the volume of direct foreign investments in Romania was 50% lower than for the same period of last year, reaching a level of EUR 4.89 billion. The prediction from the National Bank of Romania is that in 2010 the foreign investments will be of around EUR 5 billion. In 2008 the volume of direct foreign investments (ISD) outran EUR 9.5 billion for 2008, while for 2007 it was of EUR 7.1 billion (source: National Bank of Romania).

For 2008, out of the total sum of foreign investments 41.3% were directed towards industry, 20.5% towards financial activities and insurances, 12.6% towards construction and real-estate development, 12.4% towards trade. In terms of territorial placement of direct foreign investments 62.7% were directed towards Bucharest – Ilfov region, 8.3% towards the center region, 7.3% towards South- East, 7% towards South and 5.4% for West region.

Inflation

The National Bank of Romania targeted an end of year inflation rate of 3.5% for 2009, while the actual achieved inflation rate was 4.7% for end of year 2009. It is the third year in a row when the inflation target, as set by NBR is not achieved. For 2010 the targeted inflation rate is of 3.5% for end of year. In light of the recent development on the market (the increase of VAT by 5% starting with 1st of July) and the depreciation of the Romanian currency against the EUR by around 3% in just one week (reaching a historic peak of 4.3688 RON/EUR on 30th of June) the annual inflation will most probably surpass the figure of 4.5%. The National Bank of Romania and the IMF suggested at the beginning of July 2010 that the inflation rate will be of 7.9% for
2010. The annual inflation rate decreased at the end of 2008 at 6.3%, from 6.6% in December 2007, under the inflation target established by the National Bank of Romania.

**Monetary Policy Rate**

At the start of 2008, the monetary policy rate was 7.5%, and then the National Bank of Romania began to intervene in order to increase it, up to 8.5%. Starting with end 2009, there has been a steady policy of decrease – reaching 7.5% at the beginning of the year, to reach now a level of 6.25% (source: National Bank of Romania).

**Stock Exchange**

The stock exchange was one of the most affected markets in Romania in 2008. This is a trend which has continued in the first half of 2009. The Romanian stock exchange has been affected by the international money markets. Also emerging markets have been affected by greater negative publicity which became apparent during 2009 and caused investors to reconsider their attitudes to risk in the emerging economies.

1.2. **Overview Bucharest**

Bucharest is the capital city of Romania and the largest city with a total area of 226 square kilometers and lies on the banks of Dambovita River.

Located in South-East Romania, Bucharest City is very close to borders with Bulgaria (South) – 68 km and Moldavia (East) – 115 km; the distances to the other borders of the country are as follows: Ukraine (North) – 484 km, Serbia, Muntenegru (South - West) – around 530 km, and Hungary (West) – 596 km.

Bucharest is the centre of the Romanian economy and industrial output, accounting for approximately 15% of the country's GDP and about one-quarter of its industrial production, although it is only inhabited by 9% of the nation’s population. Additionaly, almost one third of national taxes is paid by Bucharest's citizens and companies.
Bucharest's economy is mainly centred on industry and services, with services growing particularly one in the last ten years. Over 186,000 firms, including nearly all large Romanian companies have their headquarters located in Bucharest.

The city's property and construction boom has been an important source for growth since 2000. Bucharest is also Romania's largest centre for information technology and communications and is home to several software companies operating offshore delivery centers. Romania's largest stock exchange, the Bucharest Stock Exchange, which was merged in December 2005 with the Bucharest-based electronic stock exchange Rasdaq also plays a major role in the city's economy.

**Administrative Data**

Bucharest City has 6 administrative sectors, each of them with one mayor, subordinated to the Bucharest general mayor; Zonal Urban Plan (PUZ) is approved for sectors 2, 3, and 6, while Bucharest General Urban Plan (PUG) is applied for the other sectors.

**Demographic Data**

Bucharest is the capital and political, economic and cultural centre of the country, with a population of 1,944,226 according to July 2009 official estimates. The population in Bucharest grew significantly between the post war years and 1992, primarily due to the migration from rural to urban areas. In the period 1948 - 2008 the population of Bucharest almost doubled from 1,03 million to 1,94 million people.

The number of people living in Bucharest is expected to grow in the coming years, despite the general decreasing trend registered over the past 10 years across the country. This increase in population could be due to a number of factors that include: the city gathers almost half of the foreign investments in Romania, the average net salary is the highest thus attracts skilled labour force from across the country, no taking into account the foreigners that are employed
by the multinational corporations with branches in Bucharest.

Source: National Institute of Statistics 2009

Income

The monthly net medium income in Q1 2010 in Bucharest was of RON 1,970 (approx. EUR 479) as compared to the national average of RON 1,448 (approx. EUR 352). In 2009 the monthly income in RON was higher than the figure for 2008 – RON 1,883, but calculated in EUR it dropped by 10%, due to the depreciation of the national currency compared to European currency – EUR 444. The monthly net medium income in Q1 2010 for Romania was of RON 1,448 (EUR 352).

It is widely believed that wages in Romania and also in Bucharest are higher than the official figures as people supplement their incomes with black market activities or just don not declare their full earnings. A recent declaration made by officials from the EU Observer suggests that the black market earnings are somewhere between 36 – 39% of the official earnings. Taking this into consideration the monthly net income for a person in Bucharest could be of over EUR 665.
The exchange rate used for 2009 is EUR / RON 1=4.23.

The exchange rate used for Q1 2010 is EUR / RON 1=4.11

Source: Bucharest Regional Statistics Office, 2010
Employment

In Bucharest the total occupied population was of almost 940,000 persons. Approx. two thirds of the workforce is employed in the services sector (64%), compared to the 58% nationwide. This proportion is expected to slightly increase as the services sector develops particularly the retail and the banking domains. On the other hand, the industry and construction sector represents 30% of the total number of employees in Bucharest. The agriculture and other services account for 6% of the total (data for 2008).

According to the National Institute of Statistics and Economic Studies the unemployment rate in Bucharest (related to the total active population) was of 2.4% in Q1 2010, which is a significantly lower level than the national average of 8.2%.

The registered unemployment rate in Bucharest (and also for overall Romania) is one of the lowest in the European Union. The euro area seasonally-adjusted unemployment rate was 10.0% in May 2010, unchanged compared with April. It was 9.4% in May 2009. The EU unemployment rate was 9.6% in May 2010, unchanged compared with April. It was 8.9% in May 2009. Among the Member States, the lowest unemployment rates were recorded in Austria (4.0%) and in the Netherlands (4.3%), and the highest rates in Latvia (20.0% in the first quarter of 2010), Spain (19.9%) and Estonia (19.0% in the first quarter of 2010).
2. Real estate ownership

2.1. Different forms and types of ownership

Under Romanian law, every person with legal capacity – including the state, natural persons, legal entities, and business organizations without legal personality – has the right to own real estate. Romanian law regulates various different forms of real estate ownership – depending on whether the real estate is owned by one legal person, by more than one legal person, or by the state.

The "right of ownership" entitles the owner to full powers including the following right – to possess, to use and to dispose of the property.
"Co-ownership" can be either:

- joint co-ownership (ownership of property by two or more persons holding undivided shares); or
- common co-ownership (ownership of property by two or more persons in ascertained shares) which, in turn, can be ordinary co-ownership or forced co-ownership (e.g., forced co-ownership over the common parts of a building).

In Romania, the **timeshare** is a relatively new way of addressing the holidays. Although the area is governed since 2004 by the Law no. 282/2004 on the protection of purchasers in respect of certain aspects of contracts like the right to use the limited duration of real estate, information about the concept of "timeshare" are still few. Timeshare is a way to buy accommodation for the holiday, which gives tourists the right to occupy an apartment, a villa or any other type of accommodation during one or more weeks per year. The housing is usually a complex with facilities for leisure (free time) in a way more fun (pool, swimming pool, sauna, land for sports practice, etc.).

**Rights of the State and of local authorities**

The State and local authorities have a public property title to assets in their "public domain" and a private property title to assets in their "private domain". The "public domain" consists of assets defined as such by the Constitution and by Act No. 213/1998 on the legal regime of public property, as well as of other assets declared by law as being of public use or interest. The "private domain" consists of all other assets owned by the State or by local authorities.
As regards the differences in the legal regime, according to Act no. 213/1998, property held under the public domain is inalienable, cannot be seized and ownership cannot be acquired by adverse possession. However, it can be administered by a third party, handed over under a concession or leased. Property in the private domain of the State or local public authorities is subject to the general legal regime, unless otherwise provided for by a specific law.

2.2. Easements, charges, liens and mortgages

The following rights of use (servitudes) exist in Romania:

- **superficies right.** The beneficiary of a superficies right has a right of ownership over a building and a right of use over the land on which the building is located. A superficies right can be created only through a deed authenticated by a notary public and can be transferred together with the ownership of the building (as opposed to the ownership of the site).

- **right of usufruct.** A right of usufruct is a right for a person to hold and use a certain asset and to benefit from its products. The beneficiary of the right of usufruct cannot sell or otherwise dispose of the relevant asset.

- **right of use.** A right of use is the right for a person to hold and use a certain asset and to take its produce, but only for household needs.

- **right of habitation.** A right of habitation has the same characteristics as a right of use but applies where the property is a dwelling.

**Easement (servitude)** is a special right of the owner of a real estate (dominant property) to use the real estate of another owner (servient property) for the need of his/her real estate. The owners of dominant and serving properties must be different persons, and it must always relate...
to two different properties. A real servitude is registered to the favor of the respective owner of the dominant property and charged to the respective owner of the serving property, and is always connected to the real estate, whoever its owner may be. The real servitude can be established by a legal transaction (contract, testament), by a court decision (inheritance, probate procedure), in the procedure of division of the co-ownership), by national authority (expropriation procedure) or directly by law (adverse possession and inheritance). When acquired by a legal transaction, the contract must be in writing, and the signatures must be notarized, because only in this way can the entry of the servitude be registered in the land register.

The concession right is a right for a person, granted following a public tender procedure, to use part of the private or public property of the Romanian state or its administrative bodies for a limited period of time (ie a maximum of 49 years with the possibility of an extension for a further period equal to half of the initial duration).

According to Act no. 213/1998, concessions can be granted by public auction over real property which is public property. The public auction procedure is governed by Government Emergency Ordinance no. 54/2006 on the legal regime of concessions agreements regarding public property assets. In case a concession is granted over land for construction purposes, the beneficiary acquires ownership of buildings and the right to use the land.

Liens and Mortgages. Perfection of mortgages is achieved through registration in the Property Registry Book. Mortgages for which registration has been requested on the same date have equal rankings. Enforcement of a mortgage contract is carried out pursuant to the general legal procedure under which the creditor must go before the competent courts and obtain an enforceable order. However, the Banking Act no. 58/1998, as amended, provides for an exception in case of bank credit agreements, as well as any pledges related thereto, which are enforceable per se.
Real property privileges. Romanian law establishes certain cases in which a creditor, due to the nature of its claim, is preferred to other creditors, including secured creditors. Such special rights of creditors are called liens ("privelege").

Liens operate by law and give certain categories of creditors priority. According to the Romanian Civil Code, liens are classified as:

- general, to cover either all the movable and immovable property of the debtor or only his personal chattels, or
- special, to cover either certain personal property or certain real property of the debtor.

In principle, special liens take priority over general ones, with the exception of the lien related to legal expenses incurred during court procedures.

The most important types of liens on real property, from a commercial point of view, are the lien of the unpaid seller of real property or the financier thereof and the lien of the architect, contractor and construction workers. The lien of the unpaid seller of real property or the financier thereof. This lien secures the payment of the purchase price or any balance thereof. In case of multiple sales of the same immovable, the first unpaid seller takes priority over the second, who in his turn is preferred to the third one and so on.

The financier of an acquisition of real property enjoys the same privilege, provided that the purpose of the financing and the right of the financier to be subrogated in the rights of the seller are expressly mentioned in the notarized credit agreement. Furthermore, the seller’s receipt must confirm that the price was paid out of the financed amount.

Under Romanian law, the holder of a real property privilege governed by the Romanian Civil Code ranks ahead of other creditors, including other mortgagors.
2.3. Protection of ownership, proof of ownership and registration

A critical issue regarding real estate investments is the manner in which the rights related to real estates (the ownership right, the right of use, the mortgage etc.) become opposable to third parties. To this end, Romania has implemented the cadastre, as a unitary and mandatory system of technical, economic and legal record of all estates all over the national territory. The cadastre system record is based on information regarding the plot, the construction and the owner. Law no. 7/1996 on the cadastre and real estate publicity sets forth the manner in which the legal operations regarding real estates are published. The National Agency for Cadastre and Real Estate Publicity, set up at national level, is a public institution with legal personality.

The real estate publicity based on the general cadastre record system is purported to record in the land book the legal acts and facts related to the estates in the same administrative territory. The land book provides for: a description of estates, aspects regarding the background of ownership as well as aspects regarding the background of the ownership right components separation.

The ownership right shall be entered in the Property Registry Book on the basis of the document through which it has been constituted or validly transmitted. The registrations shall be opposable to third parties on the date the request has been filed and will automatically be filed by the Public Notaries as their lawful obligation (as a general rule). Upon authentication of deeds creating, modifying or terminating real property rights, the notary shall obtain an excerpt from the Property Registry Book. Therefore, the purchaser of real property acting in good faith cannot claim that it was unaware of any interest which was previously registered and shall be required to respect such interest.

There are 3 types of entries with the Property Registry Book:

- the definitive registration of ownership rights (intabulare);
• temporary registration of the ownership rights under the condition of ulterior motivation;
• noting, having as object the registration of the personal rights and legal facts referring to the state and capacity of the persons, actions and legal ways of attack related to the properties in the Land Registry.

The **Romanian Property Registry Book** contains a title, indicating its number and the name of the respective area of the property, and 3 other parts:

**Part One**, which contains:
- The order and cadastre number of the property
- the area, destination, and construction (if applicable);
- the plan of the property and limitations, description, coordinate inventory of the area.

**Part Two**, which contains:
- name of the owner;
- document or other legal proof of ownership;
- transfer records of the property;
- legal bindings constituted for the property;
- legal procedures, personal rights etc. as well as actions related to the property;
- any modifications, corrections or comments in the title, part One or Two of the Land Registry

**Part Three**, which contains:
- limitations imposed on the property (including mortgage and related privileges);
- legal procedures, personal rights etc.
- liens upon the property;
- any modifications, corrections or comments in regards to the data registered in this part.
In the case where a certain registration made in the Land Registry does not correspond with the real legal situation, a rectification or modification request can be made. This request can be made by any “interested” person if the certain irregularities have been found through a definitive and irrevocable Judge’s decision.

Superficy rights, usufruct and the right of use, easements, mortgages, liens, lease agreements for more than 3 years, pre-emption rights, options, as well as other limitations or interdictions pertaining to disposal or numbering of real property can be registered with the Property Registry Book. Romanian law does not provide for a limited list of such interests that may be registered with the Property Registry Book.

Ownership right and other real property rights obtained by succession, accession (in Romanian “accesiune”), forced sale and acquisitive prescription (usucapio), as well as real property rights obtained on the basis of a law, by expropriation or pursuant to a decision of a court of law are opposable to third parties without having to be registered with the Property Registry Book. However, such rights must be registered in case the holder intends to alienate them.

**Relevant legislation and regulatory requirements**

The main regulations regarding the real estate market are the following:

- The Romanian Constitution;
- Civil Code;
- Land law no. 18/1991, as further amended and supplemented (“Law no.18/1991”);
- Law no. 50/1991 on construction works authorization and certain measures for dwellings, as further amended and supplemented (“Law no. 50/1991”);
- Law no. 10/1995 on quality in constructions, as further amended ("Law no.10/1995");
- Law no. 112/1995 on the legal regime of dwellings transferred within the State property, as further amended ("Law no. 112/1995");
- Law no. 7/1996 on cadastral works and real estate publicity system further amended and supplemented ("Law no. 7/1996");
- Law no. 1/2000 on the re-instatement of the property right over agricultural and forestry lands, claimed under Law no. 18/1991 and Law no. 169/1997, as amended and supplemented to date ("Law no. 1/2000");
- Law no. 10/2001 on the legal regime of real estate abusively taken over between March 6, 1945 and December 22, 1989 as further amended and supplemented ("Law no. 10/2001");
- Law no. 350/2001 on territorial planning and zoning ("Law no. 350/2001");
- Law no. nr. 247/2005 regarding reform in the real estate and justice field and other additional measures ("Law no. 247/2005");
- The fiscal code ("Fiscal Code");
- Law no. 312/2005 regarding the acquiring of ownership right over real estate by foreign citizens, stateless persons and foreign legal entities ("Law no. 312.2005").

3. **Purchase and sale of real estate**

3.1. **The sales agreement**

Any deed pursuant to which a transfer of ownership over real property takes place must be executed in writing, in notarised form under pain of nullity. Deeds concluded inter vivos for the
establishment of rights in rem over land (e.g. superficy rights) must also be executed in notarised form. Deeds concerning construction may however be concluded as private deeds. Deeds pursuant to which rights in rem are established, transferred or extinguished must be registered with the local bureau of the Office for Cadastral Works and Real Property Publicity in order to become binding against third parties.

3.2. Restrictions on sale and acquisitions

3.2.1. Agricultural real estate

There are more and more foreigners interested in purchasing real estate properties in Romania. The question is whether at this time they are able to buy land (or at least other real estate properties such as apartments) directly as in other EU legislations.

Law No. 312/2005 stipulates the conditions in which European Union citizens (as well as non-EU foreign citizens), are able to purchase Romanian land.

This is article 4 of the above-mentioned Law translates: “The citizen of a member state without legal residency in Romania, the stateless non-resident having residency in an European Union country and the non-resident foreign legal entity (company) incorporated per the stipulations of the EU legislations, are able to gain ownership on land for secondary residences, respectively secondary headquarters, in a term of 5 years after Romania has joined the European Union”.

The Law differentiates depending on the type of land. For example the persons or legal entities mentioned above can only gain ownership of Romanian forests, agricultural land after 7 years from the date Romania has joined the EU (1st of January 2007). (This last stipulation is not applied to foreign farmers who are able to prove their statute as farmers in their home countries).

Although the Constitution forbids foreigners to buy land in Romania many people from abroad have purchased large parcels of land here through Romanian based companies. The main difficulty is to find the appropriate real estate property and to have the guarantee that the
ownership of that parcel is beyond doubt. Since during communism most of real estate properties belonged to the State, the problem is far more complicated than it seems.

3.2.2. Restrictions regarding acquisition of real estate by foreigners

As of Romania’s accession to the European Union, 1st January 2007, citizens of the European Union Member States residing in Romania or legal persons incorporated in accordance with the laws of European Union Member States having established a secondary office in Romania are authorised to acquire land in Romania on the same terms as Romanian nationals.

Individuals who are not Romanian residents and legal persons who have not established a secondary office in Romania will be allowed to acquire land in Romania for residences or secondary offices only after 31st December 2011.

There is a seven year transition period for the acquisition of land used for agricultural and forestry purposes by residents of the European Union. This period will expire on 31st December 2013.

Foreign individuals or legal persons incorporated in accordance with the law of a non European Union state are authorised to acquire land in Romania under the conditions established by the international treaties to which Romania is party and subject to reciprocity; however they cannot acquire ownership of Romanian land in more favorable conditions then citizens of the European Union. Foreign individuals, regardless of their citizenship, are authorised to acquire land in Romania by intestate inheritance.

Buying an apartment in Romania automatically implies buying the adjacent part (a percentage) of the land on which the building stands upon. As a result even if theoretically foreign European Union citizens would be able to acquire apartments directly, practically it is not yet possible without a Romanian company or without having at least legal residency in the country (this is a more recent interpretation of the Law).
3.3. Further important preconditions for buying real estate

3.3.1. Capacity to act and entitlement of the seller

For purposes of the sale of real estate, the seller must be the person identified as owner in the Property Registry Book. The capacity to act and entitlement of the seller must be examined in order to establish whether he/she is actually capable of legally executing the transaction.

A physical person becomes legally competent at the age of 18 and can make legal transactions independently. People with limited legal competence are only those adults, whose legal capacity to act have been partially taken away by a court order after their coming of age. Persons with no legal competence are minors (i.e. younger than 18) as well as adults whose legal competency was taken away by a court order (e.g. because of a mental disorder); However, a minor older than 16 becomes legally competent by marriage or by becoming a parent.

If the seller is a company, the sales agreement must be signed by the director or other authorized person. Accordingly, it is very important to check whether the person(s) signing for the company are actually authorized to do so and may legally bind the company. For a Romanian company, this may be verified by obtaining an up-to-date extract from the commercial register.

3.3.2. Provisions for protecting the environment, nature and the cultural heritage

In certain real estate purchase transactions, the regulations protecting the environment and nature must also be taken into account. These acquisitions are equally complicated for nationals and foreigners.

Environmental protection rules are of special importance when purchasing industrial sites. It is recommended that a report be prepared by an environmental protection expert on the purchasing of an industrial estate to reflect its state at the time of delivery, since the liability for
pollution of the environment – until proven otherwise – rests universally with the owner and holder of the real estate in which the activity is or was carried out. Nature reserves are safeguarded by many restrictions. In a nature reserve, practically any activity, including especially the changing of the nature or use of the area, cutting down or planting of trees, etc., is subject to a license from the environmental protection authorities. Cultural heritage sites, including areas of archeological interest, archeological finds and sites, the protective zones around them, historic monuments and relics, historic sites, and cultural assets also enjoy protection. The outcome of the process of listing a property in accordance with the regulations under law must be entered in the Property Register.

Considerable legal restrictions apply to listed sites and buildings. The costs of maintaining historic monuments must be borne by their owners.

3.3.4. Access to relevant records and documents

The Property Registry Book is public and documents the existence and legal status of real estate. Property registers and their transcripts enjoy public trust and have the power of evidence of public documents. Any person can research any part of the Land Registry with the exception of evidence related to national security. The persons requesting information will be able to obtain excerpts or certified copies of Land Registries without any need of motivating their request.

Property registers are open to the public. The persons requesting information will be able to obtain excerpts or certified copies of Property Registry Book (“Extras de Carte Funciara pentru Informare”) without any need of motivating their request. For an extract from a property register, the average waiting time is about 3 days and costs 20 Lei (4.5 Eur); however, with a special tax of urgency of 100 Lei (23.5 Eur) it is available the next day.

There is another type of property register excerpts – for authentification – which it is used for selling the real estate (“Extras de Carte Funciara pentru autentificare”) that can be required
only by the public notary and is used in the selling process. Its cost is 40 Lei (9 Eur) and is paid by the seller.

3.4. Key points that a seller should consider

In Romania, a real estate can be sold only if it has Cadastre and it is registered in the Property Registry Book.

It is essential for the seller to know that the payment is guaranteed. All payments should be made through the bank to have a legal evidence.

Real estate broker commission is usually paid both by the seller and the buyer (depending on negotiations) and is normally between 2 and 3% of the negotiated sale price.

3.5. The execution of a real estate purchase transaction

The classic purchase transaction is executed in the following steps: the seller and the buyer – having found each other through a real estate broker or by direct advertisement – agree on the key parameters of the purchase, after which they contact a public notary who helps them to agree on the details and verifies the real estate documents (Property Registry Excerpt for information, Cadastre, Ownership title). The parties sign a pre-sale agreement and the buyer pays the seller an advance (2-5,000 Eur depending on their agreement and the property value). The selling contract will be signed in 30 days or a few months, depending on the methods of payment (cash, mortgage – that usually takes 2-3 months until it is approved).

At the agreed date, the notary drafts the sales agreement to reflect the understanding between the parties, after he required a Property Registry Excepts for authentification. The parties sign the agreement in the presence of the notary and bank officer (if the buyer contracted a mortgage). In the case of companies or other organizations, the notary procures, prior to signature, a certificate issued by the competent court of registry or any other document to certify that the organization exists, and verifies the right of the person executing the agreement.
to represent the organization.

The buyer generally pays the seller a certain amount of money when they sign the contract and the difference will be paid by the bank in a couple of days, after the change of the property title is registered in the Property Registry Book and the notary provides a new excerpt to the bank.

The full purchase price can also be paid at a later date as specified, if the parties agree, but the ownership title is transferred when the contract is signed.

3.6. Powers of attorney

The real estate sales agreement can also be signed by an authorized person. The signature of the seller and authorized person must be authenticated by a notary public. The signature of the buyer and authorized person must only be authenticated if the agreement imposes some liabilities on the buyer.

A power of attorney that has been issued abroad must be legalized. The land register office will also permit the entry of private and public documents if they are authenticated in the way prescribed by international treaties or laws. If a document originates from a state which is a co-signatory of the relevant Hague convention, legalization with an Apostille is sufficient. The same rules also apply if Romanian documents are to be used abroad.

3.7. Financing

The most frequent way of financing is a mortgage loan obtained from a local bank. However, this kind of financing is generally only available to Romanian residents, and it is very difficult for foreigners to obtain local mortgage financing unless they have permanent residence or employment in Romania.

The social program “First Dwelling” was approved by the Government through HG no 17/17
June 2009, with the purpose of facilitating access to purchasing a dwelling through mortgage loans, with a maximum period of 30 years. The beneficiaries of this program can buy a completed dwelling, one under construction or one which is to be built in the following 18 months from the date of receiving the guarantee promise. The state guarantees the purchase of a dwelling within the limit of € 60,000 for those who fulfill the following eligibility conditions: they did not own a property when the program become functional, they make a down payment of 5% of the dwelling’s purchase price, they agree not to sell the dwelling in the first five years after the date of acquiring it and they agree with a rank I mortgage in the favor of state for the purchased dwelling.

The most general possibility to obtain a loan to finance the purchase of real estate is to take out a mortgage loan, which is available to enterprises at commercial interest rates (14 - 15% for loans in Lei – national currency). The collateral is the real estate – which must be free of litigation, claims and encumbrances and must cover the size of the loan. Banks generally make loans of no more than 60 to 65 % of the market value of the real estate for commercial properties and 80 to 85 % for residential properties.

The financial leasing of real estate is a relatively new form of financing in Romania. In such cases the lessor does not rate the creditworthiness of the lessee. However, the title to the real estate is only transferred to the lessee when the lease contract has come to an end. Leasing companies generally require an insurance coverage for the potential destruction of the real estate. Financing periods are 1 to maximum 10 years, and interest rates are around 8 – 9 %, depending on the lending market.

### 3.8. Purchase through a company

A legal entity, Romanian or foreign, can also be a real estate owner. However, the same restrictions apply to foreign companies as to foreign individuals; therefore it is generally not advisable to use a foreign company for the purchase of real estate in Romania. It is usually
much better to transact the acquisition through a Romanian company which may, however, be fully owned and controlled by foreign persons.

4. New construction, rebuilding and renovation

4.1 Zoning law and construction permits

Prior to the obtaining of the building permit, the land on which the erection of a building is intended must be taken out from the agricultural circuit (if the case). The procedure depends on the location (intra muros or extra muros) and on the area of the land. For land located extra muros a tax of 0.3-0.4 Eur/sqm (depending on the quality of the agricultural land) must be paid. This tax is not due if the land is located intra muros.

Under Romanian law, the buildings that are to be erected must comply with the provisions of the urbanism plans (i.e. General Urban Plan, Zonal Urban Plan and/or Detailed Urbanism Plan).

Any construction of civil, industrial, agricultural or of any other kind can be built only after obtaining a building permit issued according to the procedure set forth by Act no. 50/1991 and the Construction Norms.

A person interested in constructing a building must, first of all, obtain an Urban Certificate. This certificate will inform the petitioner with regards to the legal, economical and technical regime of the land and will provide for the urban planning requirements that must be met with regards to the construction of a building, as well as for the list of all necessary legal notices and approvals for the issuance of the building permit.

In order to obtain a building permit, one must submit a complex documentation to the proper authority (the city hall territorially competent for the location of the real property or the local council), including especially: the title over the plot of land authorising the petitioner to erect
the building, the project for authorising the construction works to be performed, the urbanism certificate and the necessary legal notices and approvals, according to the urbanism certificate and the proof of payment of the authorisation tax. The authorisation tax of a building permit is 1% of the investment value for companies and 0.5% of the investment value for natural persons, including related utilities. After performing all construction works, when the final hand-over minute has to be issued, the holder of the building permit must request the competent authority to regularise the authorisation tax in accordance with the final value of the investment, by declaring the actual value of the construction works.

4.2 Completion of construction and formalities

The construction permit provides, on the one hand, for its validity period, and on the other hand, the duration within which the construction works must be performed.

The works to be performed on the basis of the building permit must start within maximum 12 months from the date of issuance of the building permit. The permit expires and a new building permit must be obtained, in case the works have not been started within the 12 month period or are not fully finalised within the time period mentioned in the building permit.

As an exception to this rule, should the holder of the building permit justify the non-compliance with the above-mentioned time schedules, it is entitled to request the issuing authority, at least 15 days prior to expiration of the permit’s term, the extension of such term. The extension of the permit’s term can be granted only one time and for a period not exceeding 12 months.

Upon completion of the construction works, the ownership right over the building must be registered with the Property Registry Book in order to render it opposable to third parties. In order to obtain such registration, the applicant must submit the building permit, the reception minutes upon completion of work, the cadastral documentation for the building as well as a certificate issued by the city hall attesting that the building has been erected in compliance with the provisions of the building permit.
5. **Rental and tenancy**

5.1 **Rental and lease agreements**

There are no specific regulations governing residential and commercial leases in Romania. The general provisions of the Romanian Civil Code apply. Lease agreements may be executed as a private deed, made in writing. There are no special formal requirements that affect the validity of the deed.

A lease agreement may be executed for a definite or indefinite period of time. An indefinite lease is a lease concluded for an undetermined period of time. It is distinct from a perpetual lease. A perpetual lease is generally considered to be a hereditary lease, which is a lease granted in favour of a person and its descendants (in Romanian “emfiteuză”). Perpetual leases are forbidden by law. Leases concluded for an indefinite period of time may be terminated by either party at any time, subject to prior notification. If the parties have not determined the notification period, it shall be determined according to local customs.

The early termination of leases concluded for a definite period of time is allowed only when provided in the lease agreement. The tenant has no statutory right of renewal pursuant to the Romanian Civil Code.

However, if after the expiry of the term of the lease, the tenant continues to use the leased premises with the consent of the landlord, a new lease agreement is deemed to have been concluded, pursuant to the same terms as the former one, but for an indefinite period of time.

Romanian law does not grant tenants pre-emption rights over commercial premises and does not provide for any rent caps for commercial leases. The parties are free to agree the rent of the leased premises. Rent may be adjusted only in accordance with contractual provisions. Romanian law does not provide for any rent indexation provisions for commercial leases.

Lease related expenses (i.e. the usual repair and maintenance works) are, as a general rule,
borne by the tenant. Capital repairs and those due to the normal use of the leased space are usually borne by the landlord. If the tenant has carried out improvements, the landlord is entitled, at the end of the lease, to require the tenant to restore the premises to their original condition, at the tenant’s expense. If not required to restore the premises to their original condition, the tenant is entitled to compensation for the improvements.

The landlord who rents out an apartment is responsible for maintaining the real estate, for keeping the central equipment operational and in good repair at all times, and for repairing any faults that may occur in the common areas and equipment. Unless otherwise agreed by the parties, the tenant is obliged to maintain, renew, supplement, or replace the wall and floor coverings, doors, windows, and equipment in the apartment.

The landlord may terminate the contract in the following cases:

- if the tenant fails to pay the rent by the specified due date;
- if the tenant fails to fulfill any of his commitments under the contract or any major obligation under law;
- if the tenant or the persons living with him/her behave in a socially impermissible manner, create disorder, or exhibit intolerable behavior over the landlord or the other tenants;
- if the tenant or the persons living with him damage or use the apartment or the common rooms or areas improperly;
- if the landlord offers the tenant an appropriate substitute apartment that is ready for occupancy.

In order to be enforceable against third parties (i.e. the new owner of the real property), lease
agreements with a term exceeding three years must be registered in the Property Registry Book.

If a lease agreement exceeding three years is not registered in the Property Registry Book but was executed as a notarised deed or has acquired a certain date (i.e. by way of registration of the lease agreement with the Trade Registry), it shall be enforceable against the new owner of a property as follows:

- if, as of the date of transfer of ownership, the term remaining under the lease exceeds three years, the lease agreement shall be enforceable for a three year term starting with the date of transfer of ownership;
- if, as of the date of transfer of ownership, the term remaining under the lease does not exceed three years, it shall be enforceable against the new owner until the expiry of the lease.

If a lease agreement with a term exceeding three years is not registered in the Property Registry Book, is not authenticated and has not acquired a certain date, it shall not be enforceable against a new owner.

The tenant may sublease the commercial space subject to subleases not being prohibited in the lease.

5.2 Regulations on protection of tenants and rent control

There are no special regulations on the legal protection of tenants. However, they are entitled to enter the lease agreement in the land register.
6. Taxes and charges

6.1 One-time taxes and charges on purchase

6.1.1 Real estate transfer taxes

Income obtained by natural persons following the transfer of ownership or other real property rights (in Romanian “dezmembraminte ale dreptului de proprietate”) over real property, pursuant to deeds concluded inter vivos, shall be subject to a revenue tax at a rate varying according to the period of time during which the taxpayer held the ownership of the real property and according to the value of the real property, as follows:

Tax on transfer of ownership, excluding inheritance, is calculated in the following manner:

a) for constructions of any kind and land gained in a term of up to 3 years:
   - 3% for amounts up to 200,000 Lei (ca 47,000 Eur);
   - 6,000 Lei (1,400 Eur) + 2% of the amount exceeding 200,000 Lei, for amounts over 200,000 Lei.

b) for constructions of any kind and land gained in a term of over 3 years:
   - 2% for amounts up to 200,000 Lei;
   - 4,000 Lei (950 Eur) + 1% of the amount exceeding 200,000 Lei, for amounts over 200,000 Lei.

Levies detailed above are not owed for certain types of donations, inheritance etc.

So, this revenue tax is paid by the seller – natural person, following the revenue the transfer of ownership or other real property rights.

In case of enterprises, this tax is 16% of the company’s revenue. This rate applies to the companies owned by non-resident private person or companies as well.

6.1.2 Sales tax (value added tax)

The Value Added Tax for Real Estate is charged on the purchase of new built properties in Romania but is included in the price charged by the developer/agent. In the case of old
properties (second hand properties), the VAT obligation depends on the VAT status of the seller.

However the respective stipulations of the Romanian Fiscal Code have been changed through OUG 200/2008, which has now been in effect since December 4th 2008.

This Government Order stipulates that a 5% VAT is to be applied for homes and the plots of land on which these stand, as a social measure. The following are considered homes delivered as a social measure:

- Delivery of buildings, including the plot of land on which these stand upon, destined to be used as Elder Homes;
- Delivery of buildings, including the plot of land on which these stand upon, destined to be used as Children Homes and Rehabilitation Centers for handicapped minors;
- Delivery of buildings with a maximum area of 120 sqm, including annexes, of a total value of 380,000 Lei (this includes the value of the adjacent land), purchased by any unmarried person or family. The new VAT is applied only to homes which can be immediately lived in built on a piece of land of no more than 250 sqm per home. Any unmarried person or family can only purchase a single home with the new VAT, in the following manner:
  a) in the case of unmarried persons, not to have detained or currently detain any other home purchased with the 5% VAT;
  b) in the case of families, the husband and wife not to have or currently detain, together of separately, any property purchased with the 5% VAT;
  c) delivery of buildings, including adjacent land, to City Halls with the scope of renting these buildings to persons or families with special financial situations.

There is also one important conclusion to be taken after analyzing the new Government Order, and that is that Romanian companies cannot purchase real estate benefiting from the reduced
VAT. This is firstly because this is described a “social measure” and secondly the subjects of this Order are limited to “unmarried persons or families”.

VAT was not applied for Real Estate purchases of old built dwellings in Romania, but there are other taxes that a buyer has to pay, such as notary fees, legal fees, broker’s commission and a tax for ownership title registartion at Property Registry Book.

6.1.3 Real estate registration and notary charges

Real property transactions usually involve the following costs that are paid by the buyer:

- **Notary fees**
The authentication of deeds relating to the transfer or creation of real rights is subject to notary fees. Notaries may freely fix their fees. Usually this fee is 1% of the property value. For the dwellings purchased through “First Dwelling” social program, this fee is around 0.7% of the property value.

- **Legal fees**
Usually this fee is 0.5% of the property value.

- **Broker’s comission**
Usually this fee is 2% of the property value.

- **Property Registry Book**
Real property acquisitions must be registered with the competent Property Registry Book, maintained by the local Property Registry Book Bureau, in order to bind third parties. In case the seller is a company, the registration of real property’s acquisition in the Real Property Book is subject to taxation at a rate of 0.15% of the value detailed in the sell-purchase contract when
the buyer is a natural person or a rate of 0.5% of the real property’s value in case the buyer is a legal person.

6.2 Annually recurring taxes and charges

Any person owning a building located in Romania owes an annual tax to the State. This tax is to be paid to the local budget of the respective county, town or municipality where the building is located.

For physical persons the tax is calculated by applying a quota of 0.1% to the taxed value of the building.

The taxed value depends on the year of the building’s construction, location, property type and structure. In case several buildings are held, an increase from 15% to 100% is applicable depending on the number of buildings; (ii) for legal entities, the quota may range between 0.25% to 1.5% of the building’s accounting value. The building tax is calculated based on the tax return form and is payable quarterly in 2 installments, until 31 March, respectively 30 September.

In the case of companies, the tax on buildings is calculated by a applying a quota of 0.25% to 1.50% to the established value of the building. Each exact levy is established by the Local Council in these limits.

The building tax is payable either on the useful floor space of the real estate calculated in square meters or on the adjusted market value of the real estate.

Any person owning Romanian land owes an annual levy to the State, with certain exceptions. This levy is owed to the local budget of the county, town or municipality. When the land is situated in Bucharest, the taxes are to be paid to the local budget of the city’s sector. The levies on land are not owed for the land beneath a building.

The land tax is established taking into consideration the number of square meters, the rating of
the respective location of the land and its category per the decision of the Local Council. In the case of non-agricultural land, registered as “land with construction”, the tax is established per hectare. As an example, the most expensive rate is 7,404 Lei/hectare.

Levies are to be paid annually in 2 equal rates, until the 31st of March and 30th of September. If the amount does not exceed 50 Lei, then the levy is to be paid fully until March 31st.

The land tax is also payable on the area of land in square meters or the adjusted market value of the land.

6.2.1 Income tax

Revenue earned by companies (Romanian seller), including revenue from the conveyance of title to real property and that earned under lease agreements, is subject to corporate income tax at the rate of 16%.

Revenue earned by companies (foreign seller) from the sale of constructions located in Romania, as well as from the lease of real property located in Romania, is subject to corporate income tax at the rate of 16% (standard rate for corporate income tax), except if more favourable provisions of a tax treaty are applicable.

According to most of the tax treaties signed by Romania, capital gains from real property (gains pursuant to the sale of real property or shares in a real property company) are subject to taxation in the country where the real property is located.

6.2.2 Net wealth tax

There is no net wealth tax in Romania.
6.3 Capital gains tax

The conclusion from the rules described in sections 7.1.1 and 7.2.2 is that whenever real estate is sold, the seller must pay income tax and the buyer must pay notary fees, legal fees, broker’s commission, registration fee in the Property Registry Book. No tax is levied on the increased value of real estate as such – unless the real estate is sold.

6.4 Inheritance and donation tax

Non-residents are subject to Inheritance and Donations Tax on assets located in Romania. The income arisen from property transfer is tax exempt in the case the property is obtained through inheritance and donation between relatives and affinity up to, including 3rd degree relative relations, respectively between spouses; Otherwise Inheritance and Donation tax varies between 1% and 3% of the inherited value.

6.5 Other taxes and charges

There are no other taxes or charges in connection with the sale or utilization of real estate – except for maintenance-related costs.

6.6 Incorrect (lower) statement of sale price on the sales agreement

The practice of stating a lower sales price than the actual price paid is illegal and not recommended, but it is sometimes used in order to lower the VAT when purchasing a new property.

7. Immigration law and tax residence

7.1 Entry, residence and settlement of foreigners

Foreigners may cross the Hungarian border, enter, and stay in the country if they possess a valid passport and visa. Residence visas can be issued for official purposes (to delegations,
media representatives, and members of international organizations), for work and self-employment, study, or medical treatment, or for purposes of visits and family unification. The visa application must be submitted in person to the Hungarian mission in the country of permanent or usual residence.

If the visa is for income-generating activities – i.e. for gainful activities that are not subject to a work permit – this information must be provided in the application. If the gainful activity is subject to a work permit, a work visa must be applied for. In order to be issued with a work visa, the applicant must have a valid work permit.

### 7.2 Tax residence

Fiscal Code defines the following categories of tax subjects:

- resident individuals;

- non-resident individuals conducting independent activities through a permanent establishment in Romania;

- non-resident individuals carrying out dependent activities in Romania, when one of the following conditions is met:
  
  - the non-resident is present in Romania for more than 183 days during any period of 12 consecutive months ending in the respective calendar year;
  
  - the salary incomes are paid by or on behalf of an employer that is a resident;
  
  - the salary incomes are a deductible expense of a permanent establishment in Romania.

According to the Fiscal Code, non-residents obtaining income from Romania are required to pay tax on income, capital gains and inheritance. The incomes subject to taxation are those
resulting from activities performed in Romania or from operations carried out with Romanian legal entities, or with other entities authorized to operate in Romania, as well as with Romanian individuals authorized to carry out, in their own name, income-generating activities, regardless of whether the amounts are collected in Romania or abroad. In Romania, the following taxation quotas are applicable, depending on the income categories they relate to:

- 20 % for the income resulting from gambling activities;
- 16 % for any other incomes (i.e. interests, dividends, royalties, commissions, management services, etc.).

The tax year in Romania coincides with the calendar year. Personal income tax returns must be submitted by May 15th. Where no rental income is being generated from the property, no income tax is due.

There is no restriction placed on foreigners when purchasing apartments in Romania but the Romanian Constitution presently restricts the right of ownership of Romanian land by non-residents. Land and property must be bought through a Romanian company.

The income from rental and the selling of land and buildings falls under the Individual Income Tax regime in Romania. There are two possibilities of determining net income arisen from property rental:

- 25% expense deduction: Flat rate expense method with no allowable deductions for expenses;
- Itemized expense deduction (real system taxation): Each rental activity related expense can be deducted against the gross income. If the itemized expense deduction tax accountancy method is chosen, the taxpayer may carry forward losses into following five tax years;
Once a taxation method is chosen, the taxpayer has to respect it for at least 2 consecutive tax years.

In order to receive income in Romania, non-residents should be registered with the Romanian tax authorities and to have a tax identification number (Cod de identificare fiscala).

This is a tax identification number used in all interaction with government agencies and public administration in Romania by a non resident private person. It is a unique identity code devised from an individuals name, date, place of birth and other personal details. It is similar to the National Insurance number (NI) in the UK or the Social Security Number (SSN) in the US. The number is unique and consists of 13 alphanumeric digits. The tax identification number is issued on petition by the Romanian Ministry of Public Finance.

7.3 International taxation for residents of Romania

When the taxpayer is a resident of a country with which Romania has concluded a double tax treaty, the provisions of such treaty shall prevail. For the application of the provision of a double tax treaty, the non-resident is required to submit a certificate of fiscal residence to the payer of the income.

If resident in Ireland or the UK, you are obliged to declare your Romanian income in your annual resident tax return. There is a Double Tax Treaty agreement between Romania, Ireland and the UK so relief for certain Romanian taxes will be given against Irish/ UK taxes payable on your Romanian property.
APPENDIX - Real estate market in Romania

Structure of the real estate market and its participants

The real estate market can be structured into: market for residential properties, market for commercial properties (including offices, retail and industrial segment) and other markets (including properties with a specific purpose, i.e. hotels, schools, hospitals, public institutions etc). Among these, it is usual to analyze only the hotels market within the real estate context. The real estate market participants include the following: buyers, sellers, renters, lessors, lessees, mortgagors, mortgagees, developers, constructors, managers, owners, investors and brokers.

1.8 1. MARKET FOR RESIDENTIAL PROPERTY

SALES

Supply and demand

The Bucharest residential market continued to remained slow in the first half of 2010, as effective demand dramatically decreased (due to contraction of the volume of liquidity on the market and restricted access to loans), together with decreases to sales prices and the number of completed transactions for new built dwellings. Potential buyers refused to purchase residential units in the initial phases of construction, instead showing interest in dwellings “at the red stage” (without finishing) or fully finished.

According to the official data published by the Romanian National Statistics Institute, 2,416 new units were added to Bucharest stock of dwellings in 2009 (included in residential compounds, but also privately built), with 605 more units than in the same period of 2008. Many dwellings finalized in 2009 were part of large-scale compounds, which should have been completed 1-2 years ago and they were already in an advanced state of construction.
Dwellings completed in Bucharest, by quarter, between 2006-2009

3 Source: Romanian National Statistics Institute

According to official data, the number of completed dwellings, at the national level, was 61,101, with 3,313 units more than the previous year. 49.6% of these buildings were finalized in urban areas, compared with 47.6% finalized in 2009.

The same official source declared that, in Bucharest, in the first three months of 2010, 117 construction authorizations for residential buildings were issued, a decrease of 47% compared to the same period of 2009. At the national level 11,307 construction authorizations were issued between January-April 2010, a decrease of 22.8% compared to the similar period of 2009.

MORTGAGE MARKET

According to the latest statistics from the BNR (Romanian National Bank), the level of mortgage loans for the entire country increased to 25.2 billion RON in April 2010, the equivalent of € 6.1 billion. In spite of these statistics, mortgage loan growth in Romania has been slowed by costs of credit and also by financing conditions. In April 2010, Bucharest registered the biggest percentage of the total of approved mortgage loans in Romania with 42.64%. Even if the BNR tries to encourage the population to borrow money in the national currency, most approved mortgage loans continued to be in foreign currencies: 93% for Romania and 97% for Bucharest.
Total mortgages for population, by district, April 2010

<table>
<thead>
<tr>
<th>District</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bucharest</td>
<td>42.64%</td>
</tr>
<tr>
<td>Constanta</td>
<td>4.77%</td>
</tr>
<tr>
<td>Cluj</td>
<td>5.48%</td>
</tr>
<tr>
<td>Iasi</td>
<td>3.61%</td>
</tr>
<tr>
<td>Timis</td>
<td>4.49%</td>
</tr>
<tr>
<td>Dolj</td>
<td>2.61%</td>
</tr>
<tr>
<td>Brasov</td>
<td>3.40%</td>
</tr>
<tr>
<td>Sibiu</td>
<td>2.14%</td>
</tr>
<tr>
<td>Prahova</td>
<td>1.76%</td>
</tr>
<tr>
<td>Mures</td>
<td>1.54%</td>
</tr>
<tr>
<td>Galati</td>
<td>1.81%</td>
</tr>
<tr>
<td>Bihor</td>
<td>2.24%</td>
</tr>
<tr>
<td>Arges</td>
<td>1.89%</td>
</tr>
<tr>
<td>Others</td>
<td>21.62%</td>
</tr>
</tbody>
</table>

5 Source: Romanian National Statistics Institute

PRICE LEVEL

In the first half of 2010, sale prices for new residential units continued their downward trend, although the declines moderated, with decreases varying between 5%-10% compared with the second half of 2009. Sale prices are now subject to more thorough negotiations than during the boom period (2003-2008), which is an advantage for buyers with cash.

The Romanian residential market is characterised by a high number of real estate owners (over 80% of population), unlike many other countries in the EU or CEE. This situation is unlikely to change meaning that when the crisis of the residential market passes, supply of high quality dwellings will be insufficient for the potential demand.

In the near future, we estimate that sale prices for new residential units will continue to decrease, due to demand with less and less liquidity.
## Offers, €/ built sq m + VAT 19%

<table>
<thead>
<tr>
<th>Location</th>
<th>2008</th>
<th>2009</th>
<th>H1, 2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aviatorilor – Kiseleff</td>
<td>3,500 – 4,500</td>
<td>3,000 – 4,000</td>
<td>2,500 - 3,800</td>
</tr>
<tr>
<td>Primaverii</td>
<td>3,500 – 4,500</td>
<td>2,000 – 3,500</td>
<td>2,000 – 3,400</td>
</tr>
<tr>
<td>Herastrau</td>
<td>2,800 – 4,500</td>
<td>2,000 – 3,000</td>
<td>1,600 – 2,800</td>
</tr>
<tr>
<td>Dorobanti</td>
<td>3,200 – 4,000</td>
<td>1,500 – 2,500</td>
<td>1,500 - 2,300</td>
</tr>
<tr>
<td>Center</td>
<td>2,000 – 3,000</td>
<td>1,500 – 2,500</td>
<td>1,200 - 2,300</td>
</tr>
<tr>
<td>Floreasca</td>
<td>3,000 – 3,500</td>
<td>1,500 – 2,000</td>
<td>1,000 - 1,800</td>
</tr>
<tr>
<td>Sisesti - Straulesti</td>
<td>1,800 – 2,800</td>
<td>1,000 – 1,300</td>
<td>800 - 1,100</td>
</tr>
<tr>
<td>Baneasa - Pipera</td>
<td>1,600 – 2,800</td>
<td>900 – 1,300</td>
<td>800 - 1,300</td>
</tr>
<tr>
<td>Corbeanca</td>
<td>900 – 1,400</td>
<td>800 – 1,000</td>
<td>800 - 900</td>
</tr>
<tr>
<td>Otopeni</td>
<td>1,100 – 1,500</td>
<td>700 – 1,000</td>
<td>700 - 900</td>
</tr>
</tbody>
</table>

*Source: CB Richard Ellis*
LEASING

Offer and demand

In the first half of 2010, the residential to let market continued the trend from the previous year, including lower demand, an increase in supply (due to completion of new residential compounds), a fall in rents and fewer closed transactions.

In the past few years, apartments were the driver of the rental market, a tendency even more obvious in 2010, when apartments represented 77% of the total rented units compared to villas’ 23%. Demand for villas is still very high, but the number of offers is limited; besides, in recent years, mostly apartment compounds have been built, a fact that has led potential tenants to turn their attention to those available units.

Demand, by the type of residential spaces

![Graph showing demand by type of residential spaces]

Source: CB Richard Ellis

The most requested properties for rent in the first half of 2010 continued to be the two bedroom apartments, which represented approximately 31% of the total number of rented properties, compared to previous years (before the credit crunch) when 3 bedroom apartments
were the most rented type. The most likely explanation for this change is lower budgets offered to expats by multinationals and embassies to rent a work dwelling.

**Rents level for completed transactions, H1 2010**

![Graph](image)

10 *Source: CB Richard Ellis*

The residential areas Herastrau, Dorobanti, Aviatorilor –Kiseleff and Primaverii are still at the top of the most wanted locations for the luxury class, and are also supported by the high quality of the available offers on the market in these areas.

New areas of interest like Stefan cel Mare, Tei, Straulesti have been developed because many apartment compounds and single developments of apartment buildings for middle and middle-high segment were completed. Lower budgets provided to expats for rentals of work dwellings also supported demand for space in these areas, with some expats being forced to renegotiate rents or to move to a smaller dwelling or to semi-central areas.

We continue to record a shortage in supply for classic villas in the city for which there remains potential demand (Downtown and Cotroceni area). In the absence of offers for city villas, some tenants have turned their attention to the Baneasa-Pipera area, where there is a diverse offer of new villas, with much more generous net areas, but as the distance to the centre of the city
is too great and because of poor accessibility and consistent traffic jams, demand for this location significantly decreased.

Over the years, residential to let market has maintained the same characteristics, in particular the same areas of primary interest (center and north), the same categories of clients (multinationals and embassies), the same requests concerning high quality finishing, extra facilities and 1-2 number of parking places.

Demand from corporations has continued its downward trend from last year, which is a consequence of cost cutting measures in regards to corporate activities in Romania, caused by the international economic and financial crisis.

Offers that benefit from a very good location and high quality finishing have been quickly rented, as their number was limited. An offer can typically be on the market for a minimum of two weeks but up to six months, in situations where the quoted rent does not correspond to market levels.

When a leasing contract is closed, the renter has to pay a guarantee deposit, meaning rent for three months in advance and one month as guarantee, an amount which will be returned at the expiry date of the contract. In 2010, leasing contracts were closed mostly for 2 years. In the near future, we believe that this period will decrease, due to the global economical slowdown.

**RENT LEVEL**

In 2010, rents decreased by a percentage of between 5–10% for the exclusive offer segment (penthouse, classic villas in the city), supported by the fact that these offers are limited in number and location. Meanwhile, rents for apartments with 1-3 bedrooms have registered a more significant reduction of 10-20%, because of the abundance of this kind of offer. Rents differ depending on location, number of bedrooms, finishing and offered facilities, whether the apartment is furnished or not, the number of parking places, the renting period, the down
payment amount, as well as the proximity to parks, green spaces, kindergartens, schools, commercial and leisure spaces.

**Rent level for 2 bedroom – apartments (€/ month)**

<table>
<thead>
<tr>
<th>Location</th>
<th>2008</th>
<th>2009</th>
<th>2010, H1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Primaverii</td>
<td>2,200 – 3,000</td>
<td>1,400 – 1,600</td>
<td>1,300 – 1,500</td>
</tr>
<tr>
<td>Herastrau</td>
<td>2,000 – 2,800</td>
<td>1,300 – 1,700</td>
<td>1,200 – 1,600</td>
</tr>
<tr>
<td>Aviatorilor</td>
<td>2,300 – 3,000</td>
<td>1,400 – 1,600</td>
<td>1,300 – 1,500</td>
</tr>
<tr>
<td>Dorobanti</td>
<td>2,300 – 3,000</td>
<td>1,500 – 2,000</td>
<td>1,500 – 1,800</td>
</tr>
<tr>
<td>Kiseleff</td>
<td>2,200 – 2,700</td>
<td>1,600 – 2,000</td>
<td>1,500 – 1,800</td>
</tr>
<tr>
<td>Floreasca</td>
<td>2,000 – 2,500</td>
<td>800 – 1,000</td>
<td>700 – 900</td>
</tr>
<tr>
<td>Center</td>
<td>1,300 – 1,800</td>
<td>1,000 – 1,200</td>
<td>900 – 1,100</td>
</tr>
<tr>
<td>Domenii</td>
<td>1,600 – 2,000</td>
<td>1,000 – 1,300</td>
<td>800 – 1,000</td>
</tr>
<tr>
<td>Baneasa - Pipera</td>
<td>1,800 – 2,000</td>
<td>1,000 – 1,300</td>
<td>800 – 1,000</td>
</tr>
</tbody>
</table>

11 Source: CB Richard Ellis

Approximately 70% of existing properties on the luxury renting markets in 2010 have been rented for values of up to 3,000 €/ month, compared to second half of last year when 75% of the offers were rented for the same values.
Compared to previous years, we noticed an increase of the negotiation range between the requested and the actual rent transacted for certain type of properties, for which there was an exaggerated level of rents.

Going forward, we expect further downward movement to rents, until supply and demand are better balanced.

2. MARKET FOR COMMERCIAL PROPERTIES

BUCHAREST OFFICE MARKET

Increase of Take-up and Total Leasing Activity (TLA)

During the second quarter of 2010, total take-up registered a level of 49,650 sq m, which represents a small increase (8%) compared to take-up for Q1 2010 – 45,700 sq m, but an increase by more 145% compared to the same period of last year. Total leasing activity (which includes take-up and renewal transactions and transactions in non-competitive stock) was of 62,950 sq m – an increase by more than 22% compared to Q1 2010.

New Completions

The quarter brought the delivery of 77,300 sq m of new office space – out of which half is represented by class A office buildings. In general developers are looking to offer within all office buildings, regardless of location, technical and construction facilities worthy of class A classification. This comes as a consequence from the tenants desire for very efficient office spaces, efficiency translated into lower costs with service charges. With these new completions, the total stock of modern office space in Bucharest reached 1,891,000 sq m, out of which around 17,9% is vacant.
Prime Rent & Prime Yield

This is the third quarter in which prime rent & prime yield remain at stable levels: EUR 19.5 / sq m / month, respectively 9.5%. Prime rent is invariably linked to the demand for top, class A office spaces, demand which has certainly increased in the past months, compared to H1 2009. Another factor which might affect prime rent is the vacancy rate for top locations, which during this quarter has remained stable or slightly increased (less than 1% increase). In terms of prime yield, considering the overall evolution at a CEE region level, we might expect a compression of the yield by 25 bps, by the end of the year. Certainly, the lack of comparables in terms of office transactions makes the forecast of prime yield very volatile.

Key indicators Office Market – Bucharest Q2 2010

<table>
<thead>
<tr>
<th>Office Indicator</th>
<th>Q2 2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>Modern office stock</td>
<td>1,891,000 sq m</td>
</tr>
<tr>
<td>New office supply in Q2 2010</td>
<td>77,300 sq m</td>
</tr>
<tr>
<td>Forecast Completions Q3 – Q4 2010</td>
<td>191,000 sq m</td>
</tr>
<tr>
<td>Take-up in Q2 2010</td>
<td>49,650 sq m</td>
</tr>
<tr>
<td>Vacancy rate (end Q2 2010)</td>
<td>17.9%</td>
</tr>
<tr>
<td>Prime rent (end Q2 2010)</td>
<td>19.5 €/ sq m/ month</td>
</tr>
<tr>
<td>Prime yield (end Q2 2010)</td>
<td>9.5%</td>
</tr>
</tbody>
</table>
NEW SUPPLY

The level of new supply to the market, of 77,300 sq m, is comparable to the one registered during the last quarter, but a decrease by 42% compared to Q2 2009. Among the buildings delivered this quarter: LakeView, Sevastopol 9 (leased completely to Sanador), Victory Business Center, EKA Business Center IV, Filipescu OB.

The market was dominated by the deliveries in the North area (41% of total new completions), followed by CBD (25%) and West area (20%). It certainly seems that North Area, with all its advantages (close connection to airports, good infrastructure, available large plots of land, satisfactory level of public transport) is becoming a close competitor to the Central-North area for the title of Central Business District (CBD).

Office new supply in Q2 2010, by area (%)

12 Source: CB Richard Ellis
Evolution of office stock, 2003 – 2010

Source: CBRE

DEMAND

The level of demand registered in Q2 2010 (49,650 sq m) – higher than both the previous quarter and compared to Q2 of last year - is one of the most encouraging signs. Indeed, almost a third of demand comes from a pre-construction lease from Unicredit, who wants to consolidate its headquarters in one built-to-suit building in the North area. In total pre-leases for this quarter accounted for almost 35% of total take-up, the highest level of pre-leases since Q1 2009.

The average transaction for competitive stock was of 1,200 sq m, coming from as much as 41 transactions (41% more than in Q1 2010). There were another 10 transactions (with a total figure of 13,300 sq m) to be included in the TLA numbers – these transactions include, renegotiations & renewals and leases in non-competitive stock.
Major transactions Q2 2010 (selection)

<table>
<thead>
<tr>
<th>Tenant</th>
<th>Office Building</th>
<th>Surface sq m</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unicredit</td>
<td>To be delivered</td>
<td>15,000 (pre-lease)</td>
</tr>
<tr>
<td>Embassy</td>
<td>City Gate</td>
<td>550 (lease)</td>
</tr>
<tr>
<td>Lidl</td>
<td>Pipera Tower</td>
<td>2,850 (lease)</td>
</tr>
<tr>
<td></td>
<td>Business</td>
<td></td>
</tr>
<tr>
<td>Porr</td>
<td>Pipera Tower</td>
<td>950 (lease)</td>
</tr>
<tr>
<td></td>
<td>Business</td>
<td></td>
</tr>
<tr>
<td>Avon</td>
<td>Euro Tower</td>
<td>1,200 (lease)</td>
</tr>
<tr>
<td>Piraeus Bank</td>
<td>Romanitza Center</td>
<td>1,330 (lease)</td>
</tr>
<tr>
<td>Lina &amp; Guia</td>
<td>Victoria Center</td>
<td>350 (sub-lease)</td>
</tr>
<tr>
<td>Medlife</td>
<td>Porumbaru OB</td>
<td>1,200 (lease – TLA)</td>
</tr>
</tbody>
</table>

13 Source: CB Richard Ellis

More than 58% of the transactions concluded (take-up level) were for class A office buildings and almost a third of them were relocations from competitive and non-competitive stock. Still the majority of transactions are considered new demand – tenants which expanded their quarters or which entered the market for the first time.
Not surprisingly, taking into account the recent development and the level of new supply, the North area dominated the transaction in competitive stock (almost 36% of take-up being completed here). CBD accounted for more than 23% of transactions, North-Pipera with 20%, while the Center area registered 11% of transactions and West area only 10%.

**Take-up by area, Q2 2010**

![Bar chart showing take-up by area](chart.png)

14 *Source: CB Richard Ellis*

The highest contribution to take-up in Q2 2010 - almost half of transactions - came from companies in the Financial Services, followed by Consumer Services & Leisure (19%), Computers / Hi Tech (15%) and Professional Services (8%). Tenants active in the second quarter of 2010 were predominantly international (almost 80%), after a first quarter when tenants were in equal parts national and international.
Office take-up in Q2 2010, by business sector

- Financial Services: 48%
- Manufacturing Industry & Energy: 7%
- Business Services: 3%
- Computers / Hi Tech: 15%
- Consumer Services & Leisure: 19%
- Professional Services: 8%

Source: CB Richard Ellis

VACANCY RATE

The higher delivery of new office space, compared to take-up, has lead to an increase in vacancy rate to 17.9%. It should be noted that the vacancy rate is significantly lower in central locations like CBD (13.5%), North area (11.2%) and Center (16%), while in secondary locations like the Pipera, West and East regions, vacancy rates are higher, above 25%. If we exclude the North-Pipera region (the area where more than a quarter of the modern office stock is located) from the calculation, the vacancy rate for Bucharest would be around 15%.

RENTS

This is the third consecutive quarter when both prime rent & prime yield are stabilized at the following levels: EUR 19.5 / sq m / month, 9.5% respectively. For Class A office buildings in CBD, rental levels range from between 17.5 – 20 €/ sq m / month, while for class B the space is rented for 14.5 – 17 € / sq m / month. As in other markets, secondary and fringe locations
generate little interest from tenants, as they have excellent options within central locations, which were previously too expensive, but now are more affordable. Thus, rents for non-central, periphery locations have reached levels like EUR 10 – 14.5 / sq m.

Net effective rents are generally at lower levels, considering the level of incentives, and especially the number of rent free months awarded (which varies between 2 – 6 months, depending on the duration of lease).

Service charges have remained at the same level since H1 2009: 3.5 – 4 €/ sq m/month. For prime office buildings the service charge can be up to 5 € / sq m / month. Increasingly, tenants are demanding that the service charge is capped at a certain level, rather than an open-book system.

Evolution of prime rent & vacancy rate, Q1 2008 – Q2 2010

Source: CBRE
FORECAST

For the second half of 2010 we expect to see delivery of 191,000 sq m, out of which 72,500 sqm are in Pipera area (38%). This figure takes into consideration only the buildings which are currently under construction or they have over 50% chances of being delivered on time.

With this new stock, we expect the vacancy rate to rise even further in the next period and to provide tenants with more leverage in negotiations with landlords and increasing level of incentives landlords are willing to offer to prospective tenants. These incentives range from rent-free periods, fit-out contributions, discounted or free parking or allowance for move, a revision of the service charge taxes and a capped rate for the service charge for a certain period of time.

RETAIL MARKET

The year 2007 was poorer compared to 2006 with respect to the number of new openings, with several remarkable exceptions - the extension of Bucuresti Mall, the extension of City Mall and the opening of the first IKEA unit from Romania within Baneasa Project. All major hypermarkets and supermarkets that have entered the Romanian market are present in Bucharest. The on-street retail market of has not faced major alterations, considering that the offer is well below the level of demand, especially when for the prime locations such as: Victoriei Avenue, Romana Square and Magheru Boulevard. Therefore, the occupancy rate is of 100% both for these on-street arteries and for the operational shopping centers.

Currently, there are 11 hypermarkets present in Bucharest (5 Carrefour units, 2 Cora units, 2 Kaufland units, one Auchan unit and one Real unit), but there is still room for new developments, considering the fact that there are several areas from Bucharest that haven’t been covered yet (especially the Southern area).

The supermarket sector is more developed, the biggest players being: Mega Image (23 units), Angst (22 units), La Fourmi (14 units) and Ethos (13 units). Other names operating in Bucharest
are Vel Pitar, G’market, Penny, Profi and Primavara. The cash&carry sector is represented by 7 units in Bucharest (out of which 4 Metro units and 3 Selgros units). The shopping mall stock in Bucharest is extremely low compared to other capital cities of neighboring countries that have similar population. Therefore, Budapest and Warsaw have over 20 modern malls each, but in Bucharest there are only 3 such developments. Currently, the on-street retail market in Bucharest registers a high demand from banks, pharmacies, casinos and show-rooms (auto, mobile phones and interior decorations). There are still very few on street premises within downtown area that have right commercial traffic and surfaces required by the tenants. The demand for on-street premises will still continue to be at a very high level during the following period, the surfaces required for such on-street premises, the easiest to be rented, but also the hardest to find, being between 80 and 100 sq m within central and secondary areas.

The rents for the on-street premises from downtown will continue to increase, but at a slower pace than the one recorded during the preceding years.

<table>
<thead>
<tr>
<th>Location</th>
<th>Rent level 2007 (€/ sq m/ month)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Downtown</td>
<td></td>
</tr>
<tr>
<td>Magheru Boulevard</td>
<td>80-150</td>
</tr>
<tr>
<td>I.C. Bratianu Boulevard</td>
<td>50-100</td>
</tr>
<tr>
<td>Victoriei Avenue</td>
<td>50-100</td>
</tr>
<tr>
<td>Dorobantilor Avenue</td>
<td>50-100</td>
</tr>
</tbody>
</table>

Source: CB Richard Ellis
INDUSTRIAL MARKET

In 2008 the logistic market in Bucharest registered a high level of demand, due to the increased activity of occupiers and the relocation to class A, modern warehouses within the city.

The modern stock in Bucharest stands now at around 720,000 sq m, most being located in the western part of Bucharest, along A1 Highway and north-western part of the city, due to the existing infrastructure, completed with additional modern facilities, most on a built-to-suit basis. A total amount of € 112 million was invested in Romanian industrial market in 2008 with a total number of approximately 280,000 sqm delivered spaces.

As a trend for 2008, the demand for industrial facilities came mainly from logistics operators, distribution and production companies and it is likely projected to continue over the following years. About 220,000 sq m were leased and sold to end-users from all over the country. They usually require spaces of approximately 10,000 sq m, but the demand for smaller units is increasing, distribution or production companies ranging between 1,000 sq m and 2,000 sq m. The high percentage of pre-lease contracts is still redounded upon 2008 with a vacancy rate in Bucharest of 5.5 %.

A problem that the occupiers must stand up to is the industrial old space, which does not meet their requirements, limiting the total take-up. But as a conclusion, the interest is directed towards A1 highway, with over 116,000 sqm leased in 2008 and the ring road area and also towards other cities like Timisoara, Brasov and Constanta, with a total lease of 45,000 sq m.

During 2008 rent and price levels were relatively stable with an average of 4.0 € – 5.0 €/ sq m/ month for new industrial schemes (even if the demand was very high). There is also another category regarding the cold storage facilities, with monthly rates between 8.0 € – 12 €/ sq m/ month. The rent level for industrial offices ranges between 8.0 € – 12.0 €/ sq m/ month. Because of the actual investment volume level, the market forced prime yields down to 8.5% in
Bucharest and rather higher in other cities as Timisoara and Ploiesti. The rent level for service charges was between 0.7 EUR – 0.9 € / sq m/ month.

Rent level for modern industrial space, 2004 - 2009

![Graph showing rent level for modern industrial space, 2004-2009](image)

*Source: CB Richard Ellis*

### 3. OTHER REAL ESTATE MARKETS – HOTELS MARKET

Primarily a business tourism destination, the Bucharest hotel market was affected by the economic downturn mainly by the short length of typical stays and budget cuts by businesses for hotel accommodation. Despite this negative trend in business tourism, in Q4 2009 the Bucharest hotel market’s occupancy rate and average daily rate (ADR) posted slow recoveries due to an increase in international leisure tourism.

Based on official statistics, we estimate an increase of 5% of tourist arrivals in Q4 2009 as compared to Q4 2008. For the full year, CB Richard Ellis – Eurisko estimates:

- tourist arrivals in Bucharest decreased by 5% in 2009 compared with 2008 and were at the same level compared with 2007;

- overnights in hotels decreased by 15% in 2009 compared with 2008 and 9% compared with 2007.
Notwithstanding this small decrease in tourist arrivals in 2009, the hotel market was severely affected in terms of operational efficiency. Strong competition between hotels was carried out through lower room rates and special packages to attract more “heads in beds”, drive-up occupancy and improve bottom line profits.

Important market factors such as new hotel supply from 2008, the lack of capital to invest and the presidential elections led to a “wait and see” attitude of demand for hotel accommodation.

Bucharest Trend: Tourist Arrivals and Overnights in Hotels 2007 - 2009

Hotel performance overview

Bucharest hotel demand suffered a contraction of 5% in 2009 as compared with 2008 that created pressure on room rates and occupancy. A positive factor that encouraged visits by foreign leisure tourists was the depreciation of Romanian currency by 13%, as the Romanian Leu moved from 4.23 Lei per 1 Euro by year-end 2009 from 3.68 Lei per 1 Euro at year-end 2008.

Around 5% of total rooms in the Bucharest hotel market were put on conservation for H2 2009 and almost 65% of new hotel project openings were postponed for delivery in H2 2009.
The economic uncertainty from the business environment translated into cuts to MICE and travel expenses. As a result, the average length of stay fell from an average of 1.6 nights in H1 2008 to 1.2 nights in H1 2009.

The average daily rate (ADR) measured in EUR decreased by 27% compared with 2008 while the occupancy rate dropped by 16% compared with 2008. As a consequence, RevPAR fell by 38% in 2009 as compared with 2008.

In local currency, ADR expressed in “lei” decreased by only 11% in 2009 compared with 2008 due to the depreciation of the Romanian currency against the Euro. It is important to stress that if the Romanian Leu appreciates against the euro, the recovery of Bucharest hotel market will likely be postponed.

**Bucharest Trend – ADR, Occupancy Rate and RevPAR in 2009**

**Hotel Development**

Economic turmoil in 2009 created difficulties in financing ongoing development projects and has caused delays of at least 12 months in delivery of future supply. Based on the information available, we estimate further delays, with projects being completed in 2011 - 2012.
However, the signing of a management agreement with Courtyard by Marriott for a 187 room hotel that will be delivered in 2011 has been officially announced.

New supply in 2009 was mainly of the 4* ranking category (Starlight Suiten – 78 suites, Capital Plaza – 100 rooms, Phoenicia Express – 180 rooms, Phoenicia Aparthotel – 55 suites) and one luxury 5* boutique hotel (Grand Hotel Continental – 59 rooms).

Hotel capacity will continue to grow in 2010 at a slower pace than in 2009 and we expect around 50% decrease in the supply of new rooms.

Hotel Development Pipeline 2008 – 2010, Bucharest

Source: CB Richard Ellis

4. BUCHAREST LAND MARKET

The specific real estate market is defined as the market for lands, the market with a geographical area which can be defined as the real estate area located in the Northern area of Bucharest.
In analyzing this market, we have investigated aspects related to the possible planning developments of the area and of the sub area, its population, its trends over the last years, the specific demand and the competitive supply for the type of property.

The effervescence of the real estate market which will continue over the next years is very well reflected in the recent evolution of the lands market. Romania’s accession to the European Union was preceded by significant increases in the prices of lands, by the entrance of new important developers on the market and thus by the acquisition of some large surfaces for the purpose of real estate developments, and less for speculative purposes.

Overview

Bucharest land market has started to fall in 2008, together with the other segments of the local real estate market. Since then, it has continuously gone down, being the most affected market, beside the residential.

The supply has increased due to the high number of former industrial sites available for sale and because many private investors had financial difficulties and tried to sell. On the other hand, effective demand and sale prices have dramatically contracted. Though the land plots available on the market are still very attractive, the potential investors are postponing the purchasing for several reasons: the decrease of the volume of liquidity on the market, restricted access to loans, as well as the psychological pressure now affecting the market according to which the prices of lands will keep on decreasing).

Supply

Between 2006 and 2007 (the boom period for land market), approximately 15 new real estate developments have been announced on former industrial locations, with more than 120 ha of land.
Real estate projects announced on the market or with construction works commenced, on former industrial sites:

- **Laromet (Bucurestii Noi)** – Africa Israel company will develop a project for 3,000 apartments and a shopping centre on 15.5 ha;

- **Grivita Industrial Company (Clabucet Street)** – Bluerose Ro Corporation (50% owned by Rosebud Medical) planned to build a mixed project (residential, offices and retail) on a 6.1 ha plot;

- **Helitube (Colentina)** – BelRom announced the construction of two office towers (12 levels) and a retail park with 100,000 sqm on 9 ha of land;

- **Frigocom (Drumul Taberei)** – 1,400 apartments to be built by the Spanish developers Gran Via on a 3.1 ha plot of land;

- **Tricodava (Drumul Taberei)** – Gran Via shall build a residential complex with 2,100 apartments on the 5.4 ha;

- **Spartac Sports Club (Titan)** – Caelum Developments announced the project Parklake Plaza consisting of a shopping mall with 110,000 sqm and 2 towers with 600 apartments.

Over 40 old factories are located inside the Capital. All of them must be relocated at the outskirts by 2013, according to the UE regulations. These former industrial sites totalize between 1,500 and 2,200 ha, meaning between 7% and 10% from the entire area of Bucharest. Some of them have already been purchased by real estate developers, others are still for sale and a part of them are ruins.

The interest for this type of sites will continue to be very high, but their sale price exceeds the available volume of liquidities available on the market, due to their large areas. Moreover, most
of them have legal problems that takes time to be solved and the ground is likely to be contaminated and a developer has to allocate a certain budget for the solving the environmental problem.

**Former Industrial sites available for sale**

<table>
<thead>
<tr>
<th>Former industrial site</th>
<th>Location</th>
<th>Land area</th>
<th>Asking price (EUR)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Policolor</td>
<td>Theodor Palady</td>
<td>14 ha</td>
<td>35 mil.</td>
</tr>
<tr>
<td>Aversa</td>
<td>Obor</td>
<td>10 ha</td>
<td>50 mil.</td>
</tr>
<tr>
<td>Plevna</td>
<td>Grozavesti</td>
<td>8 ha</td>
<td>N/A</td>
</tr>
<tr>
<td>Faur</td>
<td>Pantelimon</td>
<td>9 ha</td>
<td>N/A</td>
</tr>
<tr>
<td>Baneasa</td>
<td>Aerogarii</td>
<td></td>
<td>N/A</td>
</tr>
<tr>
<td>Anticorosiv</td>
<td>Theodor Pallady</td>
<td>6 ha</td>
<td>12 mil.</td>
</tr>
<tr>
<td>Vulcan</td>
<td>13 Septembrie</td>
<td>3.6 ha</td>
<td>64.8 mil</td>
</tr>
<tr>
<td>Titan Mar</td>
<td>Trafic Greu</td>
<td>6 ha</td>
<td>N/A</td>
</tr>
<tr>
<td>Kandia</td>
<td>Viilor</td>
<td>3 ha</td>
<td>N/A</td>
</tr>
</tbody>
</table>

**Demand**

In 2006-2007, the major part of the demand was represented by the transactions closed for development purposes, in the disfavour of speculative transactions, given the price increase. In certain situations, this led to alarming the developers, potential buyers, in respect of investment profitability. In spite of high prices, in this period there were registered numerous
transactions on the land market, with at least 7 transactions exceeding EUR 20 million. The main destination of demanded land was the development of residential projects.

In 2008-2009, there were few transactions closed, due to the high discrepancy between sellers’ and buyers’ expectations regarding the sale prices.

**Transactions with lands, 2007-2009**

<table>
<thead>
<tr>
<th>Location</th>
<th>Area (ha)</th>
<th>Buyer</th>
<th>Transact. Value (mil. EUR)</th>
<th>Land destination</th>
<th>Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Straulesti</td>
<td>11.1</td>
<td>Raiffeisen Evolution</td>
<td>90</td>
<td>Residential and commercial</td>
<td>2007</td>
</tr>
<tr>
<td>Bucurestii Noi (Laromet, former industrial site)</td>
<td>15.5</td>
<td>Africa Israel</td>
<td>77.5</td>
<td>Residential and retail</td>
<td>2007</td>
</tr>
<tr>
<td>Clabucet Str. (Grivita Industrial Company, former industrial site)</td>
<td>6.1</td>
<td>Bluerose Ro Corporation</td>
<td>72</td>
<td>Residential, offices and retail</td>
<td>2007</td>
</tr>
<tr>
<td>Pierre de Coubertaine (Electroaparata), former industrial site)</td>
<td>7</td>
<td>Real4You</td>
<td>60</td>
<td>Retail</td>
<td>2007</td>
</tr>
<tr>
<td>Colentina (Helitube,)</td>
<td>9</td>
<td>BelRom</td>
<td>60</td>
<td>Retail and</td>
<td>2007</td>
</tr>
<tr>
<td>Location</td>
<td>Area (ha)</td>
<td>Buyer</td>
<td>Transact. Value (mil. EUR)</td>
<td>Land destination</td>
<td>Year</td>
</tr>
<tr>
<td>----------------------------------------------</td>
<td>-----------</td>
<td>----------------------------</td>
<td>-----------------------------</td>
<td>----------------------</td>
<td>------</td>
</tr>
<tr>
<td>former industrial site)</td>
<td></td>
<td></td>
<td></td>
<td>offices</td>
<td></td>
</tr>
<tr>
<td>Liviu Rebreanu – Titan (former Spartac sports club)</td>
<td>8.3</td>
<td>Caelum Development</td>
<td>53</td>
<td>Residential</td>
<td>2007</td>
</tr>
<tr>
<td>Drumul Taberei (Tricodava, former industrial site)</td>
<td>5.4</td>
<td>Grand Via</td>
<td>42</td>
<td>Residential</td>
<td>2007</td>
</tr>
<tr>
<td>Drumul Taberei (Frigocom, former industrial site)</td>
<td>3.1</td>
<td>Gran Via</td>
<td>17.5</td>
<td>Residential</td>
<td>2007</td>
</tr>
<tr>
<td>Tudor Vladimirescu Blvd. (INOX, former industrial site)</td>
<td>1.7</td>
<td>Africa Israel</td>
<td>17</td>
<td>Residential and offices</td>
<td>2007</td>
</tr>
<tr>
<td>Obor Square (former industrial site)</td>
<td>3.2</td>
<td>Atlas Estates Limited</td>
<td>14.4</td>
<td>Residential and retail</td>
<td>2007</td>
</tr>
<tr>
<td>Mogosoiaia</td>
<td>5.3</td>
<td>Lewis Charles</td>
<td>13</td>
<td>Residential</td>
<td>2007</td>
</tr>
<tr>
<td>Pipera</td>
<td>3.36</td>
<td>Ablon Group</td>
<td>9.5</td>
<td>Residential and offices</td>
<td>2007</td>
</tr>
<tr>
<td>Location</td>
<td>Area (ha)</td>
<td>Buyer</td>
<td>Transact. Value (mil. EUR)</td>
<td>Land destination</td>
<td>Year</td>
</tr>
<tr>
<td>-------------------------------</td>
<td>-----------</td>
<td>-------------------------------</td>
<td>-----------------------------</td>
<td>------------------</td>
<td>------</td>
</tr>
<tr>
<td>Jilava</td>
<td>9.7</td>
<td>Sparkassen Immobilien</td>
<td>7.4</td>
<td>Retail</td>
<td>2007</td>
</tr>
<tr>
<td>Bucurestii Noi</td>
<td>1</td>
<td>Lamda Development</td>
<td>4.7</td>
<td>Residential</td>
<td>2007</td>
</tr>
<tr>
<td>Tartasesti</td>
<td>200,000</td>
<td>FADESA</td>
<td>8,000,000</td>
<td>residential</td>
<td>2008</td>
</tr>
<tr>
<td>Timisoara Bd. - Valea Cascade</td>
<td>85,000</td>
<td>Selgros, Dedeman</td>
<td>39,950,000</td>
<td>retail</td>
<td>2008</td>
</tr>
<tr>
<td>Splaiul Independentei</td>
<td>2,000</td>
<td>SEMA</td>
<td>2,600,000</td>
<td>offices</td>
<td>2008</td>
</tr>
<tr>
<td>Doina Str – Progresului</td>
<td>11,200</td>
<td>LIDL</td>
<td>3,200,000</td>
<td>retail</td>
<td>2009</td>
</tr>
<tr>
<td>Calea Floreasca (near Bordei Park)</td>
<td>4,000</td>
<td>N/A</td>
<td>2,000,000</td>
<td>residential</td>
<td>2009</td>
</tr>
</tbody>
</table>

Source: CB Richard Ellis, 2010

Thus, even if the Centre and the North shall continue to represent a very high interest on the real estate market, in order to cope with the high prices and to assure the absorption of the final product (residential units, etc.), investors had to discover the other cardinal points as well.
The East and the West are the following preferred areas, the advantage being represented first of all by the existence of the former industrial platforms and, second of all, by the two highways (especially for industrial developments - Bucharest-Pitesti Highway, for the western area and Bucharest-Constanta highway, for the eastern area).

The South generated interest in the past few years especially for low middle class residential developments destined, the low price for land (compared to the other areas) being the main attraction element. For the same reason, as well as because of the high occupancy rate for the industrial spaces located in the North area (over 85%), we have attended to an increasing number of new industrial developments located in the South area of the city, mainly in the Ring Road’s surrounding areas. This turned out to be the most suitable solution for the industrial developers, as well as for the companies looking to relocate their activities outside the city borders.

The relocation of factories from Bucharest does not impact only the land supply by the introduction in the real estate circuit of generous areas within the city, but also the demand of land for relocation of industrial/production activity.

For this purpose, the developers preferred areas where land prices are still low and availability of large land surfaces: the North-West area starting with Chitila, Sabareni, Buftea to Tartasesti, as well as the East or the South area, lands with access to Soarelui Highway or to the Ring Road.

**Price Level**

The land market in Bucharest continued to register a decreasing price trend since 2008. The prices fallen vary between 20-50% for lands that benefit from a good location, good urban indicators, access to utilities and public means of transportation, and up to 70-80% for lands located at the outskirts, in undeveloped areas.
Average Land Prices in North area, 2005 - 2009

<table>
<thead>
<tr>
<th>LOCATION</th>
<th>SALE PRICE (EUR/ sqm)</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sisesti</td>
<td></td>
<td>60 - 150</td>
<td>150 - 250</td>
<td>500 - 800</td>
<td>800 - 1,200</td>
<td>400 - 700</td>
</tr>
<tr>
<td>Baneasa</td>
<td></td>
<td>500 - 800</td>
<td>1,000 - 1,500</td>
<td>1,200 - 1,600</td>
<td>1,000 - 1,500</td>
<td>500 - 1,200</td>
</tr>
<tr>
<td>Bucurestii Noi</td>
<td></td>
<td>250 - 350</td>
<td>400 - 700</td>
<td>700 - 1,500</td>
<td>400 - 1,200</td>
<td>300 - 800</td>
</tr>
<tr>
<td>Damaroaia (Straulesti)</td>
<td></td>
<td>100 - 350</td>
<td>200 - 700</td>
<td>800 - 1,200</td>
<td>400 - 900</td>
<td>200 - 700</td>
</tr>
<tr>
<td>Pajura</td>
<td></td>
<td>500 - 1,000</td>
<td>800 - 1,500</td>
<td>1,200 - 2,000</td>
<td>1,000 - 2,000</td>
<td>800 - 1,500</td>
</tr>
<tr>
<td>Domenii</td>
<td></td>
<td>800 - 1,100</td>
<td>1,300 - 1,700</td>
<td>1,800 - 2,500</td>
<td>1,500 - 3,000</td>
<td>1,000 - 1,500</td>
</tr>
</tbody>
</table>

Source: CB Richard Ellis, 2010

Forecast

The prices for lands will continue their decreasing trend, the most affected being the lands in outskirts area of the city.

Potential developers will focus on plots of land that benefit of a central location, utilities and public means of transport (preferable the underground). Distressed assets will be the most sought-after type of properties.
ROMANIA PROPERTY INVESTMENT MARKET

Overview

After 2009, when Romania registered the biggest contraction of the property investment volume since 2005, with € 203 million in transaction, the first half of 2010 brought the revival of this segment. As such, the investment turnover in H1 2010 was higher than the entire volume for 2009 - € 226.6 million and 300% higher than the volume accounted in H1 2009.

The purchasers for this first half came, in rather equal terms, from UK (22.9%) and Austria (24.2%), followed by Hungary (15.6%) and Romania (14.7%). Taking into account the higher level of commitment coming from Romania we can see a follow-up of a trend which started in early 2009 – the higher level of activity from local investors. This comes after consecutive years (2007 & 2008) when no Romanian investor purchased any real-estate product.

The retail segment remains supreme – 87% of the transaction volume and 64% of the transactions (by number) were for either shopping centres or retail warehouses. Retail has been a dominant investment segment starting with 2006; since then, year after year, retail registered from 43.6% of turnover (2007) to 71.5% in 2009. What is remarkable for the turnover profile of H1 2010 and 2009 is a return to the profile from 2004-2006 when transactions were concentrated in 2 – 3 segments (retail, office and industrial), while in 2007-2008 there was an increase of diversification of investment volumes (with residential, mixed-use, hotels coming into the market).

The investment market in H1 2010 was dominated by medium size transactions, with an average of transaction of € 16.2 million, with a total of 14 transactions. Considering this, the first half of 2010 seems identical to the investment layout of 2009, when the average transaction was of € 16.9 coming from 13 transactions.
Investments Turnover in Romania and Number of Transactions

Source: CBRE

Prime yields are in general stable, at a constant level from Q4 2009, with the retail segment registering some downward movement.

Half of the deals registered in this quarter came from co-developing partners, with one party buying the other party’s shares in the scheme. This is one of the multiple reasons why retail dominated the investment market – a lot of existing & pipeline retail schemes are joint ventures of two & three developers / investors.

Romania’s investment profile by location in H1 2010 is similar with that for 2009 – thus only 11% of turnover was for products in Bucharest (in 2009 the figure was 14%), with the rest of transactions concluded at a regional or nationwide level. These figures are complete opposite to the investment profile of 2005 when 87% of turnover was for products in Bucharest and the rest at a regional level. These figures, combined with the supremacy of the retail segment in terms of investments, shows how much the retail market, especially shopping centres, has grown.
Investments Turnover in H1 2010, by Location (%)

![Pie chart showing investments turnover in H1 2010 by location: 78% Nationwide, 11% Regional, 11% Capital.]

*Source: CBRE*

**Retail Market**

The retail market dominates quite strongly the investment market in Romania for almost 5 years. In H1 2010 the retail segment accounted for € 196.9 million, based on the following major transactions: Auchan and Bricostore in Pitesti, an asset owned by Avrig 35 and sold to NEPI, which is one of the most active investors in Romania, with 28% of the total investment volume over the past 12 months.

Half of the shares for Atrium Centre Arad were bought by Arcadom, the construction company part of Trigranit Corporation for a cumulated value of € 35.5 million. Following a forward purchase agreement from 2008, Immoeast bought, from Trigranit, Polus Centre Constanta for € 40 million (the sum represents only the debt, no other payment was made).

The market also registered a novelty: one distressed shopping centre, Tiago Mall Oradea, which was never opened, was sold at a public auction (during the second round), as the construction company is facing the insolvency process.
Approximately 43% of the transaction volume is for under development schemes, the rest for operating centres.

**Office Market**

Unlike in the CEE region, where offices dominated the investment turnover in H1 2010, only one transaction for an office product was closed in Romania in H1 2010 (a partial share acquisition for the City Gate scheme in Bucharest).

Still, part of a larger cross border deal, the Europolis assets in Romania were bought by CA Immo, which include two important office assets: Europe House and Riverplace (plus other assets: Europolis Industrial Park and two developing sites. This entire transaction will be included in the Q1 2011 investment volume, based on the time of the first payment transfer, to be made by CA IMMO.

**Residential Market**

Following a very slow 2009 in terms of residential investment, in H1 2010 we registered 3 institutional residential transactions with a volume of € 19.4 million, one of the highest volume ever recorded. Particular about this market is that all vendors are local, while the vast majority of purchasers are foreign.

No transaction was recorded for other real-estate segments, like industrial (with the exception of Europolis portfolio), hotels or mixed use.

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**Investment turnover share 2003 – 2010, by sub-segment (%)**
Prime Yield

In first half of 2010 yields remained at rather constant levels with those from late 2009. One exception was registered in the retail segment, where prime yields dropped by 25 bps for shopping centres and 100 bps for retail high street. At a different rate and rhythm, Romania follows the regional CEE activity, where some markets saw the compression of prime yields for shopping centres since the first quarter of 2010, with the office market to follow in Q2. The austerity measures introduced by the Romanian government, coupled with the European sovereign debt crisis, may influence the evolution of prime yields for the next quarters and put pressure towards the appreciation of yields.

Prime Yields 2008 - 2010

Source: CBRE
<table>
<thead>
<tr>
<th></th>
<th>H1 2008</th>
<th>H2 2008</th>
<th>H1 2009</th>
<th>H2 2009</th>
<th>H1 2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>Offices</td>
<td>7.5%</td>
<td>8.5%</td>
<td>9.5%</td>
<td>9.5%</td>
<td>9.5%</td>
</tr>
<tr>
<td>Retail – Shopping Centres</td>
<td>–</td>
<td>–</td>
<td>6.5%</td>
<td>8.0%</td>
<td>9.0%</td>
</tr>
<tr>
<td>Retail – High Street</td>
<td>7.5%</td>
<td>8.5%</td>
<td>12.0%</td>
<td>12.0%</td>
<td>11.0%</td>
</tr>
<tr>
<td>Industrial</td>
<td>8.0%</td>
<td>8.5%</td>
<td>10.0%</td>
<td>10.5%</td>
<td>10.5%</td>
</tr>
</tbody>
</table>

*Source: CBRE*
Russian Federation

Professional body represented on TEGoVA:

- Russian Society of Appraisers (RSA)
- Partnership of the Russian Society of Appraisers (PRSA)

The Russian property market emerged in the beginning of 1990\textsuperscript{th} following the reform of the previously existing system that stipulated the vesture of property ownership in the state or collective sectors.

At present it is one of the most dynamic property markets in the Eastern European region which withstood well the pressures of the economic crisis of 2008. Real property assets, especially those in the cities, are viewed by investors as a sound financial alternative to volatile stock market investments and therefore have a lot of trust and confidence riding on them. Thus, this market can be represented as tying up most of the monetary economic surplus generated by the national economy plus some foreign direct investments – which in aggregate conflate to create a stupendous and beneficial economic performance due to liquidity effects. One of the salient features of this market across its various segments –both commercial and residential – is a relatively low dependence of its final buyers on the credit finance, though this decoupling of market behavior from the vicissitudes of credit is ebbing away as some standard funding mechanisms tend to permeate its reaches. This includes both the systemic trend among developers to enhance their reliance on credit and the government-sponsored efforts regarding the institution of refinancing vehicles, in the likeness of American Fannie Mae and Freddie Mac, to encourage owner-occupational borrowing and securitization of mortgages. This also comes on the wings of current efforts to cheapen mortgage credit rates (currently above 10% per annum in hard currency) thus boosting availability of credit and creating additional liquidity inflows into the market. Therefore, the national property market becomes less autarkic in its institutional underpinnings and merges into the general economic framework after the Western pattern. For example, a number of property development companies are already well-represented on the national stock market, with daily quotations.

The principal function of the valuation profession regarding property market is mainly a passive reflection of prevailing market prices, given that the commercial and residential property market is more or less well developed in major Russian cities. Only in respect of land (and other illiquid real or financial assets) some active pricing functions of valuers are still possible, as land in Russia is not so freely traded a resource, especially in the cities -- where it tends to be government-owned and let out on long-term leases subject to administrative transfer and normative valuation inputs. In fairness, with respect to land
and property, legal jurisdictional peculiarities of Russia to this day throw a veil of complications on economic valuation problems. Though value represents an integral numerical estimate of utility of economic relations, it is often believed in Russia, that actual or immediate items subject to valuation are legal property rights. To that extent, Russian Law still operates with a number of antiquated property entitlements inherited from Soviet Union practices that are not exactly freeholds or leaseholds, but something in between (e.g. “the right of continuous termless use”). Currently, there is a drive to phase out all those odd property titles and to leave only plain freeholds and leaseholds under the recognition of law. Consequently, few such titles are presented to the market for exchange today. At the same time, few existing industrial owners—especially on the low-end of the market—care to convert their titles (at some cost, not necessarily related to leasehold or freehold market value) to either freehold or leasehold in a timely manner. Therefore, the government has been compelled, for the last five years, to extend the deadline for title conversion every time it expires.

Many cities in Russia favor some characteristic ownership patterns, e.g. the standard structure of property ownership in Moscow is the fee simple interest in buildings and 49-year lease of the underlying land, though some other cities now also allow full property ownership of land. Such organic dissociation of property in land and buildings also has roots in the peculiarities of national taxation (albeit it is likewise associated with national accounting provisions for depreciating PP&E items, similar to IFRS conventions). For example, there is no stipulation of uniform tax on the whole property, but a property item is split for taxation purposes between underlying land subject to the land tax (or statutory rent, if held under lease) and land improvements subject to the corporate property tax the level of which depends on the accounting book value of the improvements.

The Land tax is assessed as a percentage of so-called ‘cadastral value’ of land updated at intervals of 5 years or so. This value is supposed to proxy for stabilized market value determined by mass appraisal methods. However, the administration of cadastral value assessments run by state-associated bureaus or companies is currently in an unsettled and chaotic state, with scarcely effective avenues of appeal open to those whose rights are unfairly breached because assessed cadastral value of their land exceeds its observed market counterpart by order of multiples. At the same time, there is a sustained and promising political trend to outsource cadastral value assessments away from state-associated firms and subsume them within oversight by the institution of independent Professional Valuation.

On the other hand, accounting book value for corporate land improvements is grounded in national accounting conventions based on depreciated historic acquisition costs, not on the current fair value of the items. In general, the national accounting pattern for property is still rooted in the prevailing historic cost concept (alternatively, cost-approach based ‘reinstatement value’ is another, rarely exercised, option).

As to leases of commercial premises, short-term lease structure of well under 5 years is most widespread. Consequently, lease terms are reviewed and adjusted to current rent on a regular basis.
Overview of the National Valuation profession

The institution of the national valuation profession, in its current market-oriented manifestation, dates back to 1993 when the first professional valuation society, The Russian Society of Appraisers, has been established in the country and gained recognition for its capacity as the training and accreditation institution. Professional valuation saw its emergence without a specific linkage to any particular type of investment, property-related or otherwise. It was perceived as a universal type of economic measurements for exchange transactions, serving the primary interests of the market-oriented economy and manifesting or developing its capital prices. Real estate capital was its particular burgeoning niche, but never to the exclusion of holistic concerns with business valuation, investment-financial valuation and the assessment of investment projects. This created a link between these areas of practices and a vantage point for coherent economic thinking on the nature of capital valuation. Perhaps because of these features, professional valuation in Russia received official standing in 1996 when the Order of the Ministry of Labor established its status as “profession” and opened the way for an evolving legal framework. Subsequent decade, which received appellation as the “era of state control in valuation”, involved a measure of substantial participation by the federal government in framing the terms of the Federal Valuation Law (first adopted in 1998 as The Federal Law #135), setting up the provisions for standardized appraisal education curriculum on the basis of higher education (2002), instituting and administering the licensing mechanism for appraisal firms (2001-2007), etc. These efforts created a reliable foundation from which the current self regulatory constitution of valuation regime, elsewhere referred to as the ‘era of professional self-regulation in the appraisal industry’, was able to launch itself following the 2007 reform brought on by “The Amendments to the Federal Valuation Law” Act (Federal Law # 157).

Under the current self-regulatory constitution, the appraisal profession is comprised of both business and property valuers who are deemed to be individuals with appropriate educational qualifications and mandatory membership in one of the self-regulated professional valuation organizations (SRPOs), such as the Russian Society of Appraisers. In reality, they also can and mainly do practice as employees of appraisal firms, but the locus of professional responsibility mainly rests with them as physical persons. Valuers in Russia are liable with all their personal property in the event of damages wrought by their professional misconduct. Such unlimited personal liability of valuers is supported by more practicable mechanisms involving obligatory individual professional insurance coverage to the amount of at least 300 000 rubbles and is additionally hedged by a possibility of recourse to compensation funds of their respective SRPOs, formed out of their initial membership contributions (30 000 rubbles per head as per Federal Valuation Law provisions).

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8 English language version of the current Federal Valuation Law can be downloaded from the Russian Society of Appraisers’ web page: http://www.mrsa.ru/default_e.asp
To pre-empt the build up of systemic risks of corruption or haphazard malpractice within the profession, work of all valuers is subjected to regular scheduled and surprise audits by control departments of their SRPOs carried out on the basis of inspection of their reports. Subsequent to such audits, SRPOs are endowed with a wide variety of statutory powers to discipline their delinquent members – up to suspending their membership and terminating their right of practice. This control mechanism is proving to be quite effective and it occasioned a notable thinning of ranks in the profession: It has been estimated that on the eve of the 2007 reform, which introduced self-regulatory mode into the profession, about 40 000 persons were entitled to practice professional valuation in the context of the now-repealed licensing mechanism, whereas current membership of the Russian Society of Appraisers, which has branches in the majority of constituent entities of the Russian Federation, comprises only around 6500 members. Since at the time of the reform it was widely feared that concentrated structure of oversight build around any one SRPO would place monopoly pricing powers over capital in the market-oriented economy into the hands of that single SRPO, the Federal Valuation Law stipulated a minimum threshold of only 300 members in order to be able to register a valuation institution with the SRPO status. Consequently, some SRPO societies of regional presence have made appearance and between themselves account for about half of professional valuers affiliated with them in the country. The breakdown of SRPO membership is shown in the following table:

<table>
<thead>
<tr>
<th>SRPO</th>
<th>Membership numbers, thousand</th>
<th>% of the total</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Russian Society of Appraisers</td>
<td>6,5</td>
<td>48%</td>
</tr>
<tr>
<td>The Self regulated Association of Valuers</td>
<td>3</td>
<td>22%</td>
</tr>
<tr>
<td>(SMAOc)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Others 5 smaller and regional SRPOs</td>
<td>4 (2008 est.)</td>
<td>30%</td>
</tr>
<tr>
<td>(NKSO/RKO, ARMO, Sibyr, MSO, OPEO)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>13,5</td>
<td>100%</td>
</tr>
</tbody>
</table>

Fig. 1 Membership in national self-regulated professional organizations of valuers (as of May 2010).

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9 Aggregate mid-2008 estimate according to The Federal Reference book on Valuation Activities in the Russian Federation, М.: Центр стратегического партнерства, 2008 (p. 36)
Apart from statutory functions of oversight, SRPOs have secured for themselves a number of other important decision-making powers. For example, the imprimatur of an SRPO’s Council of Experts is indispensable for valuation reports related to some purposes (such as dissenting shareholder stock repurchases). In similar vein, SRPOs’ Councils of Experts serve as valuation-related dispute resolution venues either through an arbitrage process or on referral from the official civil court system.

It has been estimated that upwards of 80% of valuers in the country are not self-employed but actually enter service as employees of appraisal firms. Consequently, beside individual membership based institutions with SRPO status, there exist a number of business associations of appraisal firms. The largest among those are the Partnership of the Russian Society of Appraisers (PRSA) and the Russian Board of Appraisers (RKO).

The demand for valuation products is ensured by the incorporation into national legislation of 20+ “obligatory cases of valuation” in which the services of recognized professional valuers are to be called into use. Historically, these cases evolved from legal stipulations to engage independent valuers in the contexts of privatization of state properties and eminent domain that date back to the first edition of the Federal Valuation Law in 1998. Subsequently, a number of other obligatory cases of valuation have been arrayed alongside them to include such instances as mortgage deals (above a certain de minimis threshold), foreclosures, bankruptcy liquidations and multiple instances from property and business valuation in corporate management context. Notably, though, some important valuation services with public aspect, such as investment-financial valuation of public stock, are still left outside of the scope of regulated professional valuation practice.

Given such abundance of valuation purposes, it would seem fair to expect the specialization of SRPO societies on particular areas of expertise. However, all SRPOs are operating as general-purpose valuation societies, embracing business, property and technical assets appraisers. Therefore, the economies of scale accrue on the side of one or two big nationwide SRPOs.

This is not yet reflected in the constitution of the National Valuation Council (NVC) representing SRPO institutions with virtually equal weighting of their votes, while 1/3 of its seats are reserved for the government, academic advisors and banking industry quota. NVC is a coordinating body of valuers’ SRPO organizations intended to be not unlike The Appraisal Foundation in the United States and entrusted with standard-setting activities, accreditation of education providers in the valuation area, and regulation of valuation tariffs (on the basis of unit costs per man-hour of valuation-related labour). However, the unfolding of NVC’s activities in these directions has been proceeding at a glacial speed and any substantive results from them are yet awaited.

To this day, a set of national valuation standards (termed “The Federal Valuation Standards” – FSOs) in force represents a legacy of the principles that prevailed in pre-self-regulatory days, having been produced in 2007 within the Ministry for Economic Development in the dying days of the previous
regulatory approach. Nominally compliant with the International Valuation Standards, this set of “obligatory for compliance” FSO standards includes the following texts: FSO 1 «General concepts and principles of valuation»; FSO 2 «Types of Value»; FSO 3 «Requirements to the content of valuation reports». As can be seen from their titles, these are general valuation standards for all types of assets (with which professional valuers are engaged on the regular basis, such as commercial and residential property, PP&E items, invested capital and equity stock of private companies and some other financial assets, like debt and accounts receivable), not applications for any specific purposes or subject-specific guidance. None in the latter categories have been finalized as yet by the NVC, though some have already been in the pipeline for long.

Generally speaking, valuation scheme underlying the FSO standards is the coordination-of-the three-approaches-to-value doctrine. The use of all the three approaches is accorded preference over the choice of any single best one, albeit the option of motivated rejection to apply any of the approaches is left in.

Of practical consequence is also the last standard of the set which imposes a significant compliance burden by stipulating a uniform structure for all valuation reports. The only format of reports recognized is a self-contained paper-based format and, generally, FSOs are much stricter on the content of valuation reports than respective provisions in the European or International Valuation Standards. As a guiding principle of reporting, it should be possible to replicate exactly the analytical deductions of the original valuer based on the information contained in his report. A particular ordering of the sections of the report is also prescribed, together with the attachment of all supporting primary evidence at the end of the report.

The Federal Valuation Law provides for the promulgation of second-tier valuation standards developed by SRPOs for the compliance by their respective members. Such standards should not be contradictory to the Federal Valuation Standards. However, the risk of mutual contradiction between the standards of different SRPOs systemically handicaps the efforts to develop and harmonize such standards. The only valuation society that is known for the coherent set of its own standards is the Russian Society of Appraisers which chose to directly incorporate IVSs 2007 into its own corpus of valuation standards ("Svod standardov Ocenki ROO 2010") -- with minimal modifications to ensure compliance with FSOs.

To that extent, it can be said that the system of valuation standards in the country is internationally compliant and mirrors the best practice. The European Valuation Standards 2009 (and their previous versions) are also widely known in the country, having been translated by the Russian Society of Appraisers, and their use is encouraged in conjunction with EU-related valuation assignments and for valuers obtaining or aspiring to obtain the TEGOVA’s REV designation. Currently, more than a hundred valuers in the country have been awarded the REV mark of distinction through certification programs administered by the Russian Society of Appraisers and other organizations.
Definitions and methods of real estate valuations

Property valuation for the majority of obligatory cases of valuation is mandated on the basis of the market value. Definition of this basis of value takes after the market value definition that USPAP standards (and Appraisal Institute’s Dictionary of appraisal terms) contained circa 1990 and had been incorporated into the Federal Valuation Law in 1998 where it remained immutable since that time. The Market value is regarded as a positivist (market-reflecting), not a normative (commercially or socially optimizing) concept. Nevertheless, great emphasis is laid in the national valuation practice on the highest and best use (HABU) principle on which the market value is presumed to be based. The absolutist maximizing standing of this principle is not impugned, except for business capital valued on the basis of existing management projections and business plans, and rigorous application of the HABU analysis is prescribed by the FSOs for all types of property.

Standard techniques are used for the valuation of real property and their results are coordinated on the basis of the-three-approaches-to-value doctrine.

Office and industrial properties are valued by reference to the sales comparison, income capitalization and costs approaches, where the latter is applied by recourse to the Developer’s, not Contractor’s method, i.e. its results are coordinated with observable market freehold prices via appropriate allowance for developer’s incentive, even if it reached abnormal speculative rates up to 100% per annum, as at the height of the property boom in Russian capital cities.

As to the income approach, DCF analysis and direct income capitalization via rental multiplier both appear in wide use. To a first approximation, overall estimates for gross rental multipliers are comparable with similar readings in European markets, whereas the magnitude of nominal discount rates for property cashflows is almost always upwards of 20% per annum because of the rate of general price inflation in the country settling at the level above 10%, and also high cost of capital in real terms (bank interest in lending is hardly ever short of 20%, showing but a moderate tendency towards declining).

Sales comparison approach for commercial and residential property is, for the most part, based on asking prices in brokerage listings, not on cash actually passing in the transactions. Since asking prices are often set opportunistically, there is always a scope for bargaining process in the interest of buyers. Consequently, it is conventional to see discounts applied to asking prices to translate them into most likely transaction price estimates. Current distress on property markets accentuates the likely magnitude of such bargaining-down allowances into double-digit percentage figures in many freehold transactions events (but usually much less than that for rental transactions). In principle, it is possible to make use of official transaction price records for comparable sales, since such statistics is collected by state agencies, but it is not shared with the public and appraisers but rarely have access to it. In similar vein to asking prices, it is also not a reliable guide to cash actually passing in a comparable transaction, as tax
minimization incentives of transacting parties cause such statistics to be recorded on contractual ‘shadow price’ basis (organically underpriced).

In the context of commercial property valuations, both sales comparison and income approaches are usually accorded equal or comparable reconciliation weightings when the final result is being developed. The contribution, or weighting significance, of the cost approach lags slightly behind in many typical cases.

Freehold land is valued using any of the applicable approaches recognized by GN 1 in the International Valuation Standards. Given the prominence of long-term leasehold interests in the ownership pattern for land in cities, it should be noted that the land element applications of cost approach to valuation of commercial property or stand-alone valuations of leasehold land for corporate purposes usually follow the course of capitalizing a projected difference between the current short-term market rent and contractual rent. In most of the cases, this difference is a surplus, yielding capitalized positive value of leaseholds -- since municipal long-term leases of land were concluded at normative rates scarcely related to market considerations and still fall short of current market rents, or economic rents justified on analytical grounds. However, the leasehold review policy of the state is changing markedly in this respect toward greater recognition and extraction of real economic rents, aiding optimization of land use or its placement into most commercially effective of uses.

Apart from the Market value, FSOs provide for the use of Liquidation value, Investment value, and “Cadastral value” – the latter one for taxation purposes as described. Banking regulation also operates with the notion of Fair value of mortgages or other collateral, usually equating it to their Market value.

Liquidation value is a value-in-exchange similar to the market value concept, but subject to “restricted” marketing/exposure periods -- of lesser duration than normal marketing period which underpins the market value concept. It is usually estimated by asset liquidators in a bankruptcy context on the basis of market value of a property by using liquidation discount adjustments (LDAs) applied to previously determined market value. Multiple techniques exist to develop LDAs, the most recognized of those being the Galasyuk method and Michaletz analysis. In some instances, such as banking foreclosure and auctioning process, the size of applicable LDAs is normatively established by relevant regulations.

The Investment value concept in FSOs is interpreted in line with EVS’s and IVS’s provisions regarding it. It would seem strange, but the concept of Fair value for individuated exchanges not related to the market context that presupposes negotiation of the two distinct investment perspectives/values of the buyer and the seller (such as the one introduced in IVS 2007, distinct from fair value in accounting sense) has no traction in the national valuation standard-setting process, despite the flowering of academic interest associated with it (e.g. Smolyak approach to fair value of illiquid assets, Michaletz Model of Transactional Assets Pricing for illiquid assets, etc.). To this day, a greater portion of property and business exchanges in the country happens in the illiquid and individuated bargaining contexts than in
countries with developed competitive property markets. Because of this, a transaction pricing and valuation approach based on negotiation of individual investment values of the parties into single fair value appraisal for individuated exchange is called into use (especially with specialized properties and other illiquid assets) as a superior method to assessments relying on the averaging of widely discrepant prices observed on inefficient and inactive markets where the law of one price does not hold. Thus, the new concept of Fair value in IVS 2007, distinct from its accounting sense, has been received with enthusiasm by the national valuation community.

The Mortgage lending value (MLV), or Sustainable asset value, concept has not yet received official recognition within the FSO standards. Conceptually, like in the case with Fair value, this is connected with the fact that FSO standards are predicated on the assumption – in Russian context a rather special assumption -- of effective markets, with which the three-approaches-to-value doctrine is consonant. Another reason is that any historic MLV concept after a German fashion would require vast arrays of price and market data going decades back in time, and this is not statistically feasible in the Russian context where property and other markets are not two decades old. But sustainable value modeling and research on business and property markets is ongoing and takes the form of prospective-looking analytic concepts, such as Sloutsky-Michaletz sustainable asset value analysis for commercial property markets. Some banks already import the results of such analytical modeling techniques into their decision-making process, and the concept of MLV is gaining wider prominence by the day. Its incorporation into the FSO standards and recommendation for use in mortgage banking and other contexts (including in property and business ratings) is being widely discussed.

Professional Valuers in Russia tend to specialize on valuations of particular types of property; however, there exist no legal restrictions for this convention. According to the legislation, SRPO members are permitted to value all types of property. Business valuers are also allowed to do property valuations and trained for this specialism according to the content of standard business valuation curriculum. It usually doesn’t work in reverse, as property valuers are not qualified enough to undertake business or intangible assets valuations. They are authorized to practice plant and machinery valuations, though.

Such practice conventions have evolved because basic professional training on the basis of higher education majors is designed to educate two broad categories of valuers – business or property valuers. Such training is offered by 80 or so universities that were previously accredited by the State to conduct training of valuers according to nationwide standard higher-education valuation curriculum (developed circa 2002). The training can take up to 4-5 years of residential courses to obtain higher-education diploma in either property or business valuation. Those already having higher-education training in unrelated disciplines and wanting to join valuation profession can commit themselves to various post-graduate re-training university level courses that take under two years to complete (about 800 hours of study time, including graduation project work). Having a higher education diploma in either general, property or business valuation (certified by the State) is a prerequisite to becoming an SRPO member and entering valuation practice. Valuers who are already SRPO members are bound to commit
themselves to Continued Professional Development (CPD) training with minimum requirement of 100 study hours for every 3 years of service. Such CPD training shall increasingly be administered by SRPOs themselves via distance learning techniques in partnership with distance education providers.

Valuation research activities and methodological studies are concentrated in a number of centrally located universities affiliated with SRPOs. Some premier valuation research centers affiliated with the Russian Society of Appraisers are the International Academy of Valuation and Consulting (MAOK) and the Economic Measurements Department of the State University of Management (GYY) – both located in Moscow. Between themselves they publish such nationwide peer-reviewed professional valuation periodicals as “Voproci Ocenki/Issues in Valuation” (quarterly, since 1996) and “Imushestvennye otnosheniya v Rossiiskoi Federatsii/ Property relations in the Russian Federation” (monthly, since 2003).

**Outlook for Professional Valuation**

Valuation profession has an excellent platform from which to consolidate its pro-active economy-wide pricing authority and emerge as a regulatory profession with macroeconomic import and public interest status. As has been noted, projects are floated on the legislative level to the effect of placing land rating administration for taxation purposes within its purview and methodological guidance. Other areas of microeconomic administration are also poised to benefit from the extended or synergistic services of Professional Valuers. Such promising directions for professional expansion include: 1) creation of national public rating agencies for industry-specific equity and debt capital plus property markets, administered on the legislated public-utility principles of professional valuation (with a number of alternative projects being publicly discussed to this effect). These projects also envision charging the network of such agencies with estimating sustainable value of indices of assets traded in the markets they would monitor and alerting investors to the likelihood of markets deviating from their sustainable value trajectories. 2) Estimation or review of fair utility tariffs in the energy and petroleum sectors on the Regulatory Assets Base (RAB) principles by bodies affiliated with publicly-accountable professional valuation institutions, such as the rating agencies or SRPOs; 3) Expansion of Professional Valuation or its administrative principles into the area of unregulated investment consulting services with public dimension, e.g. writing of investment “prospectuses” (publicly distributed buy/sell/hold recommendations of equity or debt analysts) can be legislated to fall within the reach of the Federal Valuation Law principles.

Such floated projects, and a number of un-discussed minor ones, attest to the vibrancy of unified national Professional Valuation scene and optimistic prospects for its development.
Suggestions for further reading in English:

1. Real Estate Market

1.1 The real estate market in its aggregate / macroeconomic context

1.1.1 The United Kingdom economy is the 6th largest in the world by purchasing power and 5th in the world and 2nd in Europe by Gross Domestic Product. It is also one of the most globalised, due very considerably to the influence of the city of London. As a consequence it was the world’s 2nd largest recipient of Foreign Direct Investment in 2007. This global influence is also reflected in the UK property market both with overseas investors active in the UK property market and UK companies and nationals prominent in other markets both in business and personal property investment.

1.1.2 The United Kingdom has a long established and mature property market which has seen property traded both for sale (freehold) and to let (leasehold) for many years. The oldest surviving written lease agreement is from 744 AD, the Domesday Book of 1086 identifies the ownership of many properties in England and there is considerable evidence of property sales from the Middle Ages onwards.

1.1.3 Some of the ancient property holdings established at this time have persisted to the present day, whether in the hands of private families or, more commonly, traditional institutions including The Church, The Crown and some of the oldest academic institutions particularly at Oxford and Cambridge. However, as suffrage has extended so has the ownership of property with the market now populated by many private purchasers as well as corporate owners and modern financial institutions.

1.1.4 Whilst economic analysis (Office of National Statistics and others) tends to aggregate real estate activity with other Business and Consultancy Services recent analysis of ONS data for 2007 suggests:

10 Property in the Economy Digest and Review of Key Data and Statistics – RICS June 2010
The Real Estate Market represented approximately 3.5% of Gross Domestic Product.

Turnover in that year reached £51.2 billion an increase of 128% over the previous decade.

Approximately two thirds of that turnover was represented by agency activity both sales and lettings.

Total employment in the sector was approximately 540,000 with some 200,000 extra jobs having been created over the period

1.1.5 Further statistics suggest

- Identifiable property assets accounted for some £4,521 billion on the UK National Balance Sheet in 2008, approximately 72% of Fixed Tangible Assets
- Commercial, industrial and other buildings accounted for some 13% of the total value of property but some 90% was represented by residential property
- More than 90% of the value was held by households and the private sector

1.2 Structure/s of the real estate market and its participants

1.2.1 The UK has a sophisticated and essentially free market in property with no meaningful restrictions on ownership beyond financial capacity.

1.2.2 The market is segmented broadly into residential, commercial and rural property with further sub-divisions of each; commercial, for example, extending to include retail, industrial, office, logistic (transport) and leisure properties amongst a wide range of different categories.

1.2.3 The market varies significantly between these sectors with the residential market dominated by private owner occupiers and households while the commercial market is heavily influenced by investors, particularly in prime markets. The rural market sees activity from both investors and private individuals, whether farmers or lifestyle purchasers, but the trend is increasingly towards private involvement, triggered particularly by the majority of financial institutions exiting the agricultural investment market.

1.2.4 Much of the market, particularly in the residential and rural sectors, takes place with on-market transactions. In contrast there is significant off-market activity in the commercial property sector.

1.2.5 The global recession has had a marked adverse impact on the residential and commercial property markets as well as development land supplying both sectors. In practice, the
only sector that has avoided a significant downturn has been the rural sector where agricultural property in particular has generated record prices, aided by a severe shortage of supply and the sense of strengthening product prices.

1.3 Relevant legislation and regulatory requirements

1.3.1 England, Wales and Northern Ireland have a distinctive and ancient common law system. Scotland has its own legislative structure drawing on Roman law and its property law differs substantially from that in the rest of the UK. It is particularly important therefore that local advice should be sought on specific issues.

1.3.2 Focusing specifically on England and Wales; land is held freehold, nominally as a tenant of the Crown, and may then be sold, leased, given, divided, demised on death or otherwise disposed as the owner pleases, subject to any limitation in his title to the land (as may be imposed by a restrictive covenant).

1.3.3 Historically, title to property was proved by reference to deeds from previous transactions. Since 1925, a central system of land registration has progressively recorded more land and now the Government is seeking universal coverage. Since 2000, the Land Register has been a public document, providing information on transactions including the prices paid. Freehold sales and leases of more than seven years have to be registered. Covenants are more enforceable if registered. There are also registers for common land and certain other specialist aspects of property.

1.3.4 Development, which includes civil engineering works and the construction of property and structures, requires planning permission. Changes in use of property may also require planning permission although some changes may be exempt from this requirement as a consequence of general planning codes. Further permission is required to undertake most development which impacts on ancient monuments or buildings which are of “special architectural or historical interest”, commonly referred to as listed buildings.

1.3.5 While there is a background framework of common law for leases, statutory intervention has provided separate regimes for business, agricultural and residential lettings. In general, tenancy legislation has, over the last three decades, tended to become more liberal and less prescriptive. The various codes generally cover security of tenure, procedures and end of tenancy compensation for improvements.

1.3.6 Among many statutes, important laws for business tenancies in England and Wales are the Landlord and Tenant Acts of 1927 and 1954. Businesses generally have the right to seek a renewal of their lettings unless the landlord can prove certain grounds. However, there are rules that allow the parties to contract out of these provisions if they so agree.

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most commonly pursued with shorter leases. There is much less legislative intervention for commercial leases in Scotland.

1.3.7 While older residential tenancies may still be subject to restrictive legislation, most lettings now will be Assured Shorthold Tenancies (ASTs) offering the landlord greater access to possession and providing for a market rent. An equivalent regime applies in Scotland.

1.3.8 Agricultural tenancies in England and Wales originating from before 1995 will be subject to the Agricultural Holdings Act 1986 with its extensive and detailed provisions, particularly entrenching long term security of tenure for the tenant. Those freshly let since 1995 will generally be Farm Business Tenancies under the Agricultural Tenancies Act 1995, allowing the parties much greater freedom over almost all aspects of the letting including its term.

In Scotland, traditional and longer term tenancies will be under the Agricultural Holdings (Scotland) Act 1991 as amended. Since 2003, 5 year Short Limited Duration and 15 year Limited Duration Tenancies have also been available.

There is little legislative background for agricultural tenancies in Northern Ireland.

1.4 Market for residential property

1.4.1 The market for residential property in the UK is dominated by owner occupiers; approximately 69% of households live in property owned by a member of the household. In general terms, while values of residential investments have increased relative to vacant property recently, this is an owner-occupier dominated market and there is a premium for vacant property.

1.4.2 This trend increased markedly from the 1950s with owner-occupation overtaking the private rented sector in the early 1960s and being further boosted by the progressive sale of local authority housing in the 1980s. Owner-occupation rose to a peak of over 71% in 2000 but has stalled and subsequently fallen slightly due to the increase in values and the consequent problems of affordability.

1.4.3 The purchase of residential properties as investments, then let to tenants under Assured Shorthold Tenancies (Buy to Let) has increased in recent years, particularly amongst amateur investors encouraged by the dilution of security of tenure for tenants, the relaxation in restrictions on mortgage funding for residential investments and concern over more traditional means of pension provision. Indeed, prior to the recession, it was suggested that some 10% of new mortgages were for “buy to let” properties. However,

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13 Extending in certain circumstances to two further generations beyond the original tenant.
this is a relatively recent trend, which has not significantly reduced the dominance of owner-occupation. It appears to be the sector of the market which has been most adversely affected by the recession starting in 2007.

1.4.4 The period immediately prior to the recession had seen very substantial increases in house prices to the extent that there was considerable anxiety amongst policy makers that significant numbers of first time buyers in particular would be unable to purchase a home. This problem was particularly evident in the areas of most economic activity, such as the south-east of England and, conversely, in the more remote and scenically attractive areas including the Lake District and the south-west peninsula where wealthy purchasers invested in second homes.

1.4.5 Whilst house prices were rising, the entry cost to the market had reduced significantly with mortgage lenders willing to offer mortgages of 100% and in some cases more, of the purchase price. At the same time, competition, increased use of technology and consumer and finance house pressures were driving down legal and other professional costs.

1.4.6 The Average House Price in the UK\textsuperscript{14} rose by 128% from £80,935 in Quarter 3 of 2000 to £184,131 subsequently falling by almost 19% to £149,709 before recovering to £167,354 by Quarter 3 2010, still an increase of 107% over the decade.

1.4.7 This average figure marks very significant regional differences within the UK; for example over the same 10 year period:

- Average house prices in London rose from £144,205 to peak at £303,739 and now average £293,582 (+ 104% over decade)
- Average house prices in the North of England rose from £52,757 to peak at £134,534 and now average £117,234 (+117% over decade)
- Average house prices in Scotland rose from £64,760 to peak at £152,479 and now average £139,313 (+115% over decade)
- Average house prices in Wales rose From £60,778 to peak at £154,957 and now average £138,603 (+ 128% over decade)
- Average house prices in Northern Ireland rose from £70,051 to peak at £227,970 and now average £130,877 (+ 86% over decade)

1.5 Market for commercial properties

1.5.1 The market in commercial property covers a wide range of disparate property types from major out of town retail and business parks to traditional factories, workshops and small corner shops.

\textsuperscript{14} Nationwide Building Society House Price Index Series
1.5.2 Such a diverse market attracts a wide range of owners and occupiers and is difficult to summarise in general terms. However at the more valuable, higher lot size, end of the market property owners are more likely to be investors, including financial and traditional institutions, property companies and pensions funds letting the properties to occupying tenants. Tenants, in turn, may occupy a single property or, particularly in the case of multi-outlet retailers, many hundreds of properties. The leading charities are amongst the largest occupiers of high street retail property with Oxfam, for example, occupying more than 700 shops in the UK, almost the same number as the leading retailer Marks and Spencer.

1.5.3 The investment model generally applies across the market although there is a greater tendency for smaller businesses, particularly those which are privately owned and managed, to own the premises they occupy, often held as part of the business owners’ pension arrangements.

1.5.4 That said, as an investment driven market there is generally a premium for commercial property which is let, particularly to a high quality (“blue chip”) tenant. To this extent the commercial market differs from residential and agricultural property where vacant property normally attracts the greater premium.

1.5.5 The commercial property market has been more volatile than the residential market over recent years (at least until the impact of the recession on the residential market) with both volumes of property traded and values fluctuating with economic sentiment. This echoes the performance of the market over the last 30 years where IPD\textsuperscript{15} All Property Returns have followed the wider economy showing sharp falls in the mid 1970s and early 1990s. The most recent downturn in the market (2007 onwards) is more marked and appears likely to be more sustained than in the 1990s. Income returns have remained relatively consistent but overall performance has been adversely affected by dramatic falls in capital values: -22% overall in 2008.

1.5.6 The total amount of commercial floorspace in England, Scotland and Wales is approximately 606 billion square metres. Figures provided by DCLG\textsuperscript{16} for England and Wales and the Scottish Property Network show that industrial premises account for the greatest proportion of commercial property by floorspace, 64% compared to approximately 18% each for retail and office premises. However, analysed by rateable value\textsuperscript{17} the distribution is more even with offices and industrial premises amounting to 32% each of total rateable value and industrial premises 36%.

\textsuperscript{15} Investment Property Databank
\textsuperscript{16} Department of Communities and Local Government: Commercial and Industrial property summary statistics England and Wales 1998 - 2007
\textsuperscript{17} Rateable value is the basis of local business taxation and is normally assessed on an imputed rental value
1.5.7 Assessed by the number of rateable hereditaments retail premises account for 40% of the total, offices for 26% and industrial 34%.

1.5.8 Commercial property ownership is now relatively evenly balanced between the public sector (44%) and the private sector (48%). This reflects the significant recent fall in ownership amongst non-financial corporations from 40% of the total to 32% represented in part by declines in ownership within property development and investment companies. Ownership shares by value are as follows:

- Central Government 17%
- Local Government 23%
- Public non-financial 4%
- Private non-financial 32%
- Financial 16%
- Households 8%

1.5.9 Overseas flows into the UK commercial property market have eased significantly since the recession, falling from £16 bn in 2007 to £6 bn in 2009. However, growing opportunities for indirect investment mean that it is extremely difficult to identify controlling interests in the ownership of some property.

1.5.10 The UK market for prime commercial property has been driven by traditional institutional leases, historically of 25 years plus clearly favoured by landlords. Latterly, however, tenants have been demanding greater flexibility, particularly through shorter lease commitments. Various industry and government interventions (by way of support for voluntary codes rather than legislation) have seen some reduction in lease lengths although this appears to have stalled recently.

1.5.11 Analysis by the BPF\(^\text{18}\) and IPD show that lease lengths fell between 2000 and 2006 but appear to have stabilised although analysis is clearly distorted by the impact of the recession. Average lease lengths over all lettings have changed in the period 2000 to 2008 as follows:

- Retail – reduced from 9.6 to 7.3 years
- Office – reduced from 8.5 to 6.8 years
- Industrial – reduced from 7.5 to 6.1 years

1.5.12 However, if leases are weighted by rent, so that the higher rented properties have greater influence, whilst terms have still reduced the average terms lengthen as follows:

- Retail – reduced from 15.3 to 11.6 years
- Office – reduced from 14.1 to 10.2 years
- Industrial – reduced from 13.9 to 9.3 years

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18 British Property Federation
1.5.13 This influence is reflected in lease length for new lettings. These show significant changes over the period 2000 to 2008 indicating a major shift in the landlord and tenant relationship. Changes across the period were as follows:

All leases unweighted
- Proportion of leases less than 10 years – rose from 72% in 2000 to 87% in 2008
- Proportion of leases less than 5 years – rose from 53.5% in 2000 to 65.7% in 2008

All leases weighted by rent
- Proportion of leases less than 10 years – rose from 36.4% in 2000 to 64.7% in 2008
- Proportion of leases less than 5 years – rose from 21.4% in 2000 to 37.5% in 2008

1.5.14 The recession has seen landlords keen to ensure property is occupied, not least to mitigate the costs from empty property rates. However, owners are also keen to maintain headline rents and this has seen longer rent free periods, in some cases more than half of the term, as well as other incentives to offset the rent reductions which would otherwise be required to let property.

1.6 Other real estate markets

1.6.1 There are particular markets in specialist sectors, most notably the licensed (hotels, inns, restaurants) and social care sectors. However, the most significant other markets are in rural property and development land

1.6.2 The rural market includes both residential and commercial property, in a rural rather than urban environment but in terms of land use, if not value, it is dominated by agricultural property.

1.6.3 Until the early part of the 20th Century agricultural property was chiefly held as investments either by private landed families or traditional institutions and let to tenant farming families. However, this trend has been reversed since the First World War with owner occupation now covering up to 70% of the agricultural property in the UK.

1.6.4 Unsurprisingly this is reflected in a premium for property with vacant possession and with a shortage of supply and active investment from other sectors, values rose to unprecedented levels during 2008, even while the remainder of the property market was subsiding. This, in turn, has seen the value of tenanted land and farm property increase driven by bids both from landlords seeing the opportunity to negotiate with the tenant to secure possession and release the premium and by wealthy home owners seeing ownership of the land around them as an affordable way to secure their homes against intrusive development.
1.6.5 As with other sectors the market is stratified but location, rather than land quality, is perhaps the most significant influence on value. Smaller lot sizes have attracted interest from non-farming buyers but this interest has extended to larger rural properties, driven both by increased equity in residential property amongst longer-term owners and city bonuses, although the latter influence dissolved during the depths of the recession.

1.6.6 However, there is also strong demand from farming buyers, driven by lack of supply and relatively cheap credit. As a consequence average land values have doubled in the period since 2001 with the RICS Rural Market Survey for the first half of 2010 showing an average of £16,126 per hectare (£6,526 per acre), an increase of more than 100% over the decade.

1.6.7 The development land market for both residential and commercial development has been severely affected by the recession. The market is fragmented with many different types of purchaser depending on the use, scale and value of the site.

1.6.8 Larger tracts of development land, particularly in the residential sector, are often acquired on conditional arrangements by developers who then pursue planning permission themselves. Often such sites are assembled from various different landowners and land is split amongst consortia of builders once permission has been secured.

1.6.9 Values of both residential and commercial development land are heavily influenced by the potential value of developed property. Most recent Valuation Office Agency reports show residential development land ranging from £850,000 per hectare in North Wales to £4.7 million on the London outskirts and industrial development land from £225,000 per hectare in the North East to £2.2 million per hectare on the London outskirts.

1.7 Main customer groups requesting valuation services (corporates, auditors, financial services industry)

1.7.1 Property valuations are required for a range of purposes including securing finance, probate and taxation, sales and purchase and in the resolution of disputes. Valuations may be commissioned by principals or agents acting on their behalves.

1.7.2 Residential lending in the UK grew substantially during the period from 2000 increasing from an average of £13.3 billion per month to peak at £30.2 billion average in 2007. Since then it has declined to an average of approximately £12 billion per month. According to the Council of Mortgage Lenders, whose members supply over 94% of mortgages, there are now some 11.4 million mortgages in the UK with loans worth over £1.2 trillion. Commercial property funding is more diverse.
1.7.3 Real estate finance is provided in a range of different forms, depending particularly on the sector. Traditionally much residential property finance has been provided through mortgage by mutual savings associations, commonly referred to as “building societies”. Many of these have now demutualised and converted to banks, whether independently or as a consequence of acquisition by other financial institutions.

1.7.4 While some of the finance houses and agents involved in residential property are also active in the commercial market there are also distinct sources of funds and increasingly complex funding instruments at the larger lot sizes. Funding sources include the main clearing banks as well as specialist commercial property funds. However, many UK banks have either withdrawn from or significantly scaled down their lending in recent years. Research from Savills and Cushman and Wakefield identified the growing influence of European banks with 8 of the top 12 commercial property funders being German banks.

2. Real estate valuation

2.1 Terms of/for value

2.1.1 Real property can be valued for many purposes in the UK, including sale or lease, lending, accounting and business structure purposes, taxation, and compulsory purchase. The standard basis for valuations generally is Market Value unless any other basis is required by statute or the specific contract. The concept of market value is supported as a common law concept by a long history of interpretation by the courts and then generally defined locally in the RICS Valuation Standards (The Red Book). Estimates of market value must have regard both to the value of the property in its existing use and hope value for alternative development.

2.1.2 Alternative bases of value may be required for particular purposes. In some circumstances, most obviously taxation and compulsory purchase, the law may make specific valuation provisions. Again, these are often the subject of judicial interpretation generally relying on the broad understanding of the concept of market value to apply them in practice – what would willing, informed parties with equal power be expected to pay for the asset on the terms stated? Beyond these statutory interactions between the state and the property holder, Market Value is the dominant and core concept.

2.1.3 Further alternate bases of valuation include “worth” and “fair value”. Worth, which may be used as the basis of valuation for investment properties, reflects the value of that investment to a particular investor and reflects the benefit of holding the assets.

2.1.4 Fair value reflects the value that might be paid for an asset between two specific parties and does not necessarily contemplate the full market exposure implicit in market value. It
may, however, take account of the particular advantages of acquiring the property to a particular party and hence include special value. Fair value is commonly used in accounting statements and for assessing the value of shareholdings in a business. Valuations on an Existing Use Value basis may also be used in financial reporting where the property is owner-occupied by the relevant business or entity.

2.1.5 Valuations for secured lending purposes will often be to Market Value but they may be qualified by specific assumptions, most commonly over the period within which contracts should be assumed to be exchanged. Mortgage Lending Value is not a commonly adopted basis in the UK. Where valuations are of residential development sites valuers may also adopt Projected Market Value, reflecting the value of the property at some point in the short-term future.

2.1.6 Generally, the valuer will be asked to provide the lender with the market value of a property. It will then be for the lender to determine the loan-to-value ratio as a commercial judgement. Conventionally, UK lenders will ask for valuations to be undertaken in accordance with the RICS’ Red Book.

2.2 Valuation methodology

2.2.1 Estimates of market value will typically be made by reference to comparables with the valuer making judgements from his knowledge of the market as to the relevance of the proposed comparables and how they should be analysed. An investment approach will be taken where (as with the reversion of a tenanted property) an income stream or future change in the status of the property is the key feature, but the appraisal of that income stream will be made with a knowledge of the market and the capitalisation rates used will usually be chosen on the basis evidence from comparables.

2.2.2 Particular properties may have a special value to a special purchaser. This may include circumstances where additional value may be unlocked from the uniting of neighbouring properties or interests in the property, traditionally known as marriage value, but latterly referred to in some countries as synergistic value. It is likely that special value will have to be assessed although special value, including synergistic value, is disregarded for the purposes of market value.

2.2.3 Special value is likely to be assessed by reference to comparables but there is some guidance, if not precedent, from previously decided cases, particularly in the area of securing access to development land.\(^{19}\)

2.2.4 Where the assets to be valued are such that they are rarely if ever sold, other than as part of a sale of the entire enterprise of which they form part, market value may be derived

\(^{19}\) Stokes v Cambridge Corporation 1961
from Depreciated Replacement Cost (DRC). Where this is the case it may also be appropriate to include reference to the market value for an alternative use. There may be circumstances with specialist public sector property in particular where DRC is the most appropriate method of valuation.

2.2.5 Estimates of value of development property may be made by reference to comparables but also by estimates of the residual value after a calculation of potential gross development proceeds and costs.

3. Types of real estate valuers

3.1 Organisation of the profession (organisations / associations of valuers)

3.1.1 The UK has a longstanding tradition of voluntary and liberal professions with free-standing self regulating organisations. There is no specific statutory regulation, licensing or registration of property valuers. While anyone may be instructed to value, skilled valuers for all, except some very specialist, assets will be almost always be professionally qualified with one or more of the relevant professional associations which have their own qualification and regulatory structures.

3.1.2 For real estate valuation these are:

- the Royal Institution of Chartered Surveyors (RICS) – qualified membership is designated by the letters FRICS or MRICS and most valuer members will be members of its Valuation Faculty
- the Central Association of Agricultural Valuers (CAAV) – specialising in agricultural and rural valuations, qualified membership is shown by the letters FAAV
- the Institute of Rating and Revenues Valuation (IRRV) – qualified members specialising in rating and Council Tax valuations are designated by the letters FRRV
- in Scotland, the Institute of Auctioneers and Appraisers in Scotland (IAAS) -

3.1.3 Residential property brokerage is handled by a very substantial number of firms of estate agents ranging from sole practitioners to large corporate operators. While some estate agents may be members of an accredited organisation, including the National Association of Estate Agents and the various other professional bodies referred to above, there is no legal requirement for agents to be members of a professional body or to be licensed by any statutory scheme. Despite some discussions of such a move, practice remains regulated by the Estate Agents Act 1979.

3.2 Certified valuers (ISO 17024)
3.2.1 As set out above there is no specific statutory regulation, licensing or registration of valuers. However, the RICS is introducing a valuers registration scheme from 2011 onwards in the UK, mandatory on its members who undertake valuations, and additional to its ordinary membership requirements.

3.3 **Publicly appointed valuers**

3.3.1 Whilst the majority of valuers operate in the private sector there are also valuers throughout central and local government.

3.3.2 Many of these valuers are working in asset management or valuation in exactly the same way as private sector valuers, simply employed by public sector clients in advising them on the occupation and management of operational property.

3.3.3 Valuations for statutory purposes, particularly national and local taxation and some compulsory purchase, are generally undertaken in England, Wales and Scotland by valuers within the Valuation Office Agency, an arm of Her Majesty’s Revenue and Customs. In Northern Ireland, the Land and Property Service fulfils a similar function.

4. **Outlook**

4.1 The outlook for property in the UK generally remains uncertain in the light of the recession and the continued shortage of finance for both commercial and residential lending.

4.2 Whilst there have been signs of recovery in most markets there remains a degree of volatility and vulnerability across all sectors, except rural property. Whilst the residential element of rural property has suffered in common with other residential properties, overall values have been sustained by the very strong demand for rural property.

4.3 Looking beyond issues of short term supply and demand there are a number of longer-term trends likely to impact on the property sector.

4.4 In the **residential sector**, affordability remains a key concern with a more conservative approach amongst lenders now demanding increased equity from purchasers. While this is a reversal of the trend of previous years, where lenders were offering mortgages in excess of the purchase price, the impact is essentially the same, acting against first time buyers and purchasers at the lower end of the market in particular.

4.5 In the **commercial sector**, weakening demand and the lack of funding for speculative development has seen significant retrenchment, particularly in the regeneration industry much of which had been founded on an unsustainable mix of public funding, escalating residential values and the buy to let market for urban flats. The unfortunate consequence
is that while those areas with more robust markets, with consequently less rationale for public intervention, have been regenerated, often with substantial public investment, lagging behind areas where support would have had greater impact, are no longer viable for regeneration. This is unlikely to change in the near future given the public sector funding environment.

4.6 As highlighted above, the trend to shorter-term more flexible leases is likely to continue, albeit with some of the details masked by the complex discounted transactions being driven through in the face of the recession. The anticipated strong demand for more sustainable buildings does not appear to have materialised, despite advocacy from commentators, governments and professional institutions. At present, headline rents, driven by construction costs, appear to be a block for many potential occupiers despite the potential savings elsewhere.

4.7 Significant changes to the planning regime, involving the abandonment of Regional Spatial Strategies, have upset many expectations in the development industry. Coupled with the new government’s “localism” approach to local government, including planning, this may see a general pressure against development, particularly economically unsupported residential development, in many areas. A particular challenge for valuers will be viability assessment in the face of whichever approach is eventually adopted to taxing planning gain.

4.8 The valuation profession also faces considerable pressures for change. The UK has seen an increasing stratification of the profession between larger national and multi-national practices and smaller regional and local firms. Increasing calls for standardisation and compliance amongst major purchasers of professional services, including the banks and local and central government and transport and infrastructure sectors have seen much of their work move away from smaller firms. The recession has seen increased pressure for and activity in mergers and acquisitions both within the profession and also, in a more novel development in 2009, between one of the big five accountancy practices, Deloittes, and a major property consultancy, Drivers Jonas.
Appendix - Taxation of Real Property

Note – This is a very basic account of the structure of taxation of real property in the UK. UK taxation legislation has steadily become more complex in recent years and may change with new government. This cannot be an exhaustive account. Specific advice should be sought on each case. It is hoped that the text will offer a general understanding of the basic framework in which that advice will be sought and given. Tax rates and detailed provisions have not been given as these may alter from year to year. These notes do not consider the taxation of companies themselves.

Taxation in United Kingdom

A common system of taxation applies throughout the UK under statutes passed by the UK Parliament and supervised by Her Majesty’s Revenue and Customs (HMRC). Where property valuations are required by HMRC, it will generally rely on the Government’s Valuation Office Agency (VOA) – the Land and Property Service in Northern Ireland.

Disputes can be referred initially to specialist tribunals and thence into the courts.

Registered charities are generally exempt from property and income taxes.

Taxation of Occupation

The occupation of non-domestic property is generally subject to the National Non-Domestic Rate (also known as the Uniform Business Rate). This charged on the basis of a standard tax rate (expressed as pence in the £ and set separately for England, Wales and Scotland) applied to the rateable value. That value is assessed as a hypothetical rent on a historic common date on statutory assumptions.

The occupation of domestic property is generally assessed under the Council Tax based on the sale value of each dwelling as at a stated common date on statutory assumptions. A structure of tax rates is then applied by each local authority to each band of values within which properties fall.

Taxation of Transactions

Transactions in real property are usually subject to Stamp Duty Land Tax which is paid by the purchaser. This is levied on the basis of the value of the property (including any VAT that may be applied) with higher rates applying to more expensive properties. Rents are capitalised at a prescribed rate of 3.5 per cent to produce a capital value for this purpose.

Property is generally exempt from VAT so that VAT is not levied on rents or sales. However, an owner can waive that exemption (the option to tax) for non-residential property only. The sale or rent of non-residential parts of the property will then attract VAT but VAT can be reclaimed on inputs. Where there is also residential property, the value will need to apportion between the two.
classes, with remaining input VAT being potentially recoverable in whole or part under the partial exemption rules. VAT on business property will be recoverable by the business tenant.

Where property is sold by individuals, the gain in value will be subject to Capital Gains Tax with an equivalent regime applying within Corporation Tax for companies. However, where the business is found to be dealing in land, then the profit will be assessed to Income Tax (for individuals) or Corporation Tax.

On the death of an individual owner, the property value may be subject to Inheritance Tax with anti-avoidance rules for prior gifts, especially where there is any reservation of benefit by the donor. Full relief on their market value is available for business assets provided that the business has been owned for two years and does not consist wholly or mainly of investments. Agricultural property can benefit from Agricultural Property Relief on its agricultural value (a statutory valuation basis).

There are now specific provisions for Real Estate Investment Trusts.

**Environmental Taxation**

The UK government has introduced a range of environmental taxes which have an impact on the occupation and exploitation of certain types of land and property. These include Landfill Tax, which may be offset by investment in environmental trusts and aggregates levy applying to the mineral industry.

These specialist taxes will be augmented by more generic charges, including the climate change levy.