Response to the EBA Consultation on Draft Regulatory Technical Standards on Independent Valuers – EBA/CP/2014/18 of 11 July 2014

9 October 2014

TEGoVA European Commission Register of Interest Representatives identification number: 070444714545-60

About TEGoVA

The European Group of Valuers' Associations (TEGoVA) is the European organisation of 59 national associations of valuers or valuation companies from 32 countries, uniting valuation professionals, either self-employed or working for property consultancies, private and public sector companies, investment funds, banks and government departments. It sets European standards for valuation practice, education and qualification as well as for corporate governance and for ethics for valuers through its European Valuation Standards (EVS), Minimum Educational Requirements and Recognised European Valuer qualification. www.tegova.org

Unlike other international standards, European Valuation Standards are focussed exclusively on real estate, referring wherever relevant to EU law and being in turn the reference for EU authorities. For instance, in the context of its Asset Quality Review, the European Central Bank has stipulated that where a conflict is seen between international standards, EVS 2012 will apply.

General Comments

TEGoVA acknowledges the appropriateness of valuers being legally, structurally and operationally separate from the resolution authorities and the institutions subject to valuation and its affiliate undertakings in the context of bank resolution, and TEGoVA furthermore acknowledges that, in this particular context, these requirements equate to 'independence of the valuer'.

However, we would like to take this opportunity to underline that in other contexts, notably in the context of the valuation of property for lending purposes, independent valuers can be either internal or external to the lender. What matters here is that there be adequate and tested mechanisms in place to ensure that all valuers, both internal and external, are protected from undue influence from any unit involved in the lending process and from the participants in the transaction. Significantly, this important principle was recognised by the EU institutions during the negotiations on the Mortgage Credit Directive, and internal valuers are subsequently explicitly recognised in the text.

Specific Comment on Article 2, Expertise and resources, paragraph 1 *"*The independent valuer shall possess the necessary qualifications, experience, ability and knowledge in all relevant subjects and in particular in economics, accounting, and finance, including banking."

It is important that the independence of the valuer be ensured at every level of the bank resolution valuation chain including for valuations of real estate collateral, in which case the independence criteria must be adapted to real estate valuers.

We understand that 'valuation' in the sense of Directive 2014/59/EU and the draft RTS does not encompass in the first instance real estate valuation. However, there will be situations in which the valuing auditor values the asset side of the balance sheet, i.e. the mortgage loan, and in order to determine the fair value of the loan, has to assess the value of the underlying collateral. This might occur in cases of high LTV mortgage loans where the value of the security has an impact on the value of the loan. This could also occur when the resolution authority imposes on the auditor to systematically value the underlying securities, e.g. in the case of a mortgage bank to be resolved.

In these property-relevant cases, the bank auditor may or may not be qualified to do the property valuation. If not, he will outsource to qualified property valuers. *In both cases, it is important that the independence of the valuer – including the expertise and resources aspects of independence – be ensured for property valuers as well.* To ensure this, the RTS should stipulate that auditors valuing property or property valuers brought into the process must be qualified in property valuation and independent in line with European Valuation Standards.

This extra stipulation in the RTS is necessary because the text of Article 2(1) with its exclusive emphasis on economics, accounting and finance, while valid for the auditors and the primary tasks that the RTS envisages, does not provide for the expertise required of property valuers. Yet, when valuations of real estate collateral become necessary within the context of the complex, multidisciplinary process of valuing a bank's assets, it is important to avoid the risk of an unqualified valuer assessing the market value of real estate assets, treating them as "ordinary" assets (applying auditor's/ accountant's logic) and not taking into consideration the special characteristics of real estate.

This matter could be resolved by a footnote to Article 2(1) in line with the guidance of the ECB's AQR:

> "Where valuations of underlying real estate collateral are required, property valuers must be qualified and independent *in line with European Valuation Standards EVS 2012 (Blue Book) and other international standards such as the Royal Institute of Chartered Surveyors (RICS) guidelines – where a conflict is seen EVS 2012 will apply.*" (segment in italics extracted from ECB Asset Quality Review March 2014, Collateral and Real Estate Valuation", page 144, last indent)"

Please note that the relevance of EVS for valuers' qualifications also stems from its organic link to TEGoVA's Minimum Educational Requirements.

To access EVS and MER:

- Download the Blue Book See in particular EVS3 (The Qualified Valuer), including section 5 (Independence of the valuer).
- MER

We would be delighted to discuss any of the above in more detail if that would be helpful. Please contact Michael MacBrien at TEGoVA (info@tegova.org +32 2 503 32 34) in the first instance.