

TEGoVA at the heart of real estate and valuation regulation

A tour of the kitchen

Plat du jour: rogue AVMs

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You work with the EU to get what you need. *So what do we want from the Union?*

- TEGoVA sovereignty over the making of European Valuation Standards and Qualifications ... *Don't take it for granted*
- EU statutory recognition of EVS as the template for national valuation standards (Mortgage Credit Directive) ... *which is a big step toward EVS simply replacing national standards*
- EU Declaration of the Primacy of EVS over all other standards, national or international (ECB Asset Quality Review, reconfirmed in June)
- EU policy that recognises the importance of the qualified valuer in protecting consumers and buttressing financial and housing markets

EU policy that recognises the importance of the qualified valuer: *Regulation of AVMs*

Both the Mortgage Credit Directive and the Capital Requirements Regulation restrict the use of automated valuation models (AVMs) without any intervention by a qualified valuer.

But the law isn't of much use if it's not enforced.

And if it's hard to enforce, then we need better law.

There is no better illustration of the complexities and challenges of making EU law work for the valuation profession ... and for society.

Recap of where we were when I last saw you:

- The Dutch disease
- TEGoVA's legal opinion
- Commission off-handedness
- The European Parliament's intervention
- Commission reversal and conversation with the Dutch authorities

The situation on the ground in the Low Countries

TEGoVA got the Commission to get the Dutch government to open a national debate.

State of play:

- The Interior Ministry (includes housing), Finance Ministry and Financial Market Authority (AFM) are all involved, but not necessarily in agreement.
- The AFM is concerned about the **quality** of valuations and is pressing for regulation of the valuation profession.
- Neither the AFM nor the Finance Ministry trust the **independence** of the professional valuer. They equate AVMs with objective valuations.

The situation on the ground in the Low Countries (2)

- Both the AFM and the Finance Ministry agree with the use of stand-alone valuations for mortgage credit.
- They expect AVM **technology** to improve, making them both more accurate and more transparent about their level of accuracy (*with self-evaluations, etc.*).
- They may be considering altering their MCD transposition legislation, allowing stand-alone AVMs not when the Loan-to-Value is below a certain threshold as today, but when the **accuracy** of the AVM is above a certain threshold. They may be looking at IAAO standards.
- The consumer protection organisations prefer to spare the cost of paying a valuer.

The Dutch case will have consequences beyond Holland

The European Commission is watching

- It was one thing for a couple of members of the Dutch Parliament to propose a consumer money-saving amendment to the MCD transposition law and get it voted by distracted colleagues.
- It's another thing for the Dutch Finance Ministry and Financial Markets Authority to tell the Commission that valuers are unreliable and that machines are better because 'independent' – *Independence is one of the two requirements of MCD Art. 19 along with professional competence!*
- This wouldn't have been so bad in the past when the EU and its member states were in silos. But now there is this constant meshing. They feed off of each other and events in one state can't be contained.

There's another way out of this: *A better Mortgage Credit Directive*

Article 44

Review clause

- The Commission shall undertake a review of this Directive by 21 March 2019. The review shall consider the effectiveness and appropriateness of the provisions on consumers and the internal market.

Article 45

Further initiatives on responsible lending and borrowing

- By 21 March 2019, the Commission shall submit a comprehensive report assessing the wider challenges of private over-indebtedness directly linked to credit activity. ... That report shall be accompanied, where appropriate, by legislative proposals.

The Golden Rule: Change as little as possible

The current text:

2. Member States shall ensure that internal and external appraisers conducting property valuations are professionally competent and sufficiently independent from the credit underwriting process so that they can provide an impartial and objective valuation, which shall be documented in a durable medium and of which a record shall be kept by the creditor.

Ideally I wanted this change to Article 19(2):

2. Member States shall ensure that **valuations are undertaken by** internal and external appraisers **who** ~~conducting property valuations~~ are professionally competent and sufficiently independent from the credit underwriting process so that they can provide an impartial and objective valuation, which shall be documented in a durable medium and of which a record shall be kept by the creditor.

But had to settle for this:

2. Member States shall ensure that **valuation at loan initiation and valuation review are undertaken by** internal and external appraisers **who** ~~conducting property valuations~~ are professionally competent and sufficiently independent from the credit underwriting process so that they can provide an impartial and objective valuation, which shall be documented in a durable medium and of which a record shall be kept by the creditor.

Why?

To restrict the limitation on the use of stand-alone AVMs:

- solely to the forms of valuation that serve to protect the consumer-borrower,
 - and not to operations such as:
 - monitoring the value of the property
- or
- identifying property that needs revaluation,

for which statistical methods are adequate, as laid down in the Capital Requirements Regulation's Art. 208(3), last sentence.

Two further drafting remarks in light of:

The Golden Rule: Change as little as possible

The Platinum Rule: Stay focused, don't overreach, pick fights you can win

2. Member States shall ensure that ***valuation at loan initiation and valuation review are undertaken by*** internal and external appraisers ***who*** ~~conducting property valuations~~ are professionally competent and sufficiently independent from the credit underwriting process so that they can provide an impartial and objective valuation, which shall be documented in a durable medium and of which a record shall be kept by the creditor.

By letter of 25 June, we asked the Commission to include Article 19 in its Review of the Directive

A review is not a new legislative text. We included our alternate text as part of the illustration of the problem and of the solution.

We went farther and suggested a paragraph 3:

3. Member States shall ensure that manufacturers of automated valuation models (AVMs) provide in their AVM reports the minimum information set out in Annex IV.

Annex IV was the ten pieces of minimum information in AVM reports stipulated in the Matysiak Report.

The Commission never answered

They have reasons for avoiding us:

- The situation in the Netherlands
- German mortgage banks
- Accusations of Eurocreep and of insulting the future of technology

They won't budge without serious political pressure

For valuation, that pressure has always come from the European Parliament

Brian Hayes MEP, Vice Chairman of Parliament's Economic and Monetary Affairs Committee, is going to put a Parliamentary Question that the Commission must answer.

He needs backup. TEGoVA's members must provide it.

We have dealt with a recalcitrant Commission before.

TEGoVA got this whole campaign going thanks to its members getting their MEPs to write to the Commissioner.

This time it's easier. All they have to do is write in support of the Hayes letter.

The wind is turning in our favour

“Companies must be able to explain what was integrated into their algorithms’ recommendations, what sources are used and why. Users must know who taught the machine. It’s fundamental, so that each of us can understand why the system recommends such or such a conclusion and consider it, modulate it or discard it according to our intuition or experience.”

“Artificial Intelligence: neither naïveté nor pessimism”, Nicolas Sekkaki,
president of IBM France, Le Monde, 1st March 2018 (translation by TEGoVA)

For more on the scientific, professional and political fallacy of relying on stand-alone AVMs for valuations at initiation

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... see my article

[*"Shedding light on AVM accuracy and debating their regulation in the open"*](#)
[in the October issue of European Valuer](#)