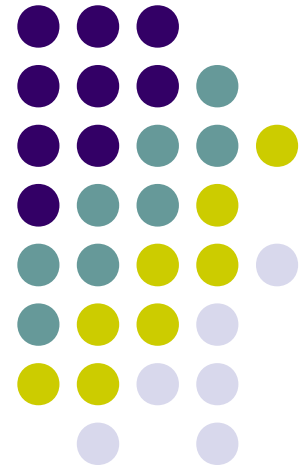


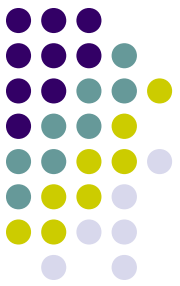
# Legal trends of asset valuation in the real estate finance sector

ERES 2010  
Industry Seminar “Mortgages, risk and valuation”

Milan, 24 June 2010

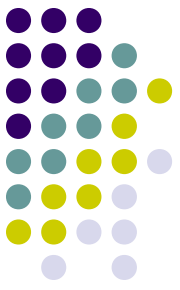
**Avv. Francesco DIALTI**





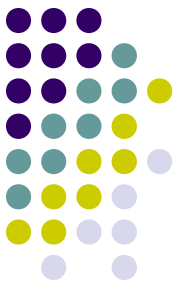
# Introduction

- Increased request, at international, European and Italian level, for more disclosure in respect of real estate financial products and assets underlying real estate financing;
- This is only in part due to the financial crisis;
- However, the financial crisis has made it even more relevant.



# International level (I)

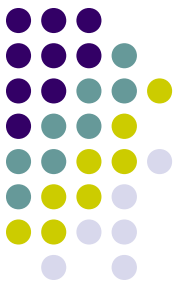
- It is important to reduce uncertainty around performance of the underlying assets (see. e.g., “*Restoring confidence in the Securitization Markets*”, 12/2008, by ASF, SIFMA, ESF, AuSF).
- The adoption of sound valuation standards plays a key role (see, e.g., “*Review of the Differentiated Nature and Scope of Financial Regulation, Key Issues and Recommendations*”, The Joint Forum, Basel Committee on Banking Supervision, 1/2010, in particular Recommendation no.7).
- Transparency and appropriate valuation of real estate assets used as collateral for advanced financial products might reduce the probability of future financial crises (see UNECE, “*Policy Framework for Sustainable Real Estate Markets*”, 2010).



# International level (II)

During the last years, various sets of best practices and recommendations have been issued by influential associations to guide valuers:

- “*International Valuation Standards*” (White Book), issued by the International Valuation Standards Committee (IVSC);
- “*Appraisal of Real Estate*”, by the Appraisal Institute;
- “*European Valuation Standards*” (Blue Book) by The European Group of Valuers Association (TEGoVA);
- “*Red Book*”, by the RICS (Royal Institution of Chartered Surveyors).

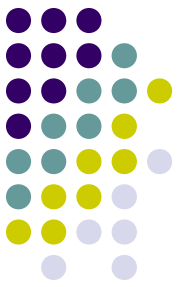


# European Union level (I)

Even before the financial crisis, there was the conviction that a reliable system of valuation standards is needed and that common standards should be adopted.

See, e.g.:

- Green Book by the Commission on the mortgage loan in the EU (July 2005);
- Report of the Mortgage Funding Expert Group (12/2006);
- White Book by the Commission on the integration of mortgage loan EU markets (12/2007).



# European Union level (II)

- After the financial crisis, there have been many initiatives aiming at increasing transparency and disclosure in respect of financial products having underlying real estate assets.
- Focus is, however, mostly on loan-level analysis, and less on real estate valuation.

See, e.g., “*Public Consultation by the European Central Bank on the provision of ABS loan-level information in the Eurosystem collateral framework*” (ended 26 February 2010, with results published in April 2010).

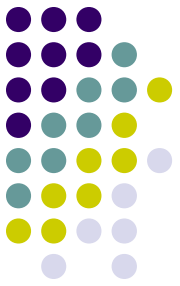
# Italy (I)



- Real estate valuation is currently debated on, as a result of:
  - publication by Consob of Finance Paper no. 65 on evaluation of assets of real estate funds by independent experts.

Consob's conclusions: (i) opportunity to re-examine the professional standards for independent experts; (ii) opportunity to ascertain whether independence of the experts should be increased; (iii) need to improve the structure and the quality of the valuations.

# Italy (II)



- publication by the Italian Banks' Association (ABI) of a draft Code for the valuation of real estate assets used as collateral for financial exposures (November 2009).

ABI Code aims at introducing common principles to be followed in order to determine the “market value” (as provided for by rules adopted by Bank of Italy in order to implement into the Italian system the CRD).

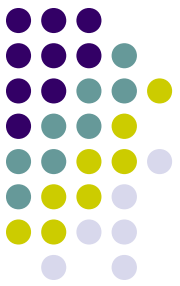
ABI draft Code has been strongly criticised by valuers and real estate companies.



# Why is valuation so important in financial law?

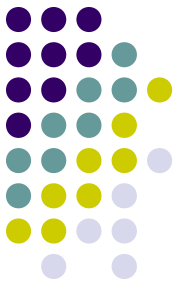


- Real estate financing: more transparency/certainty might help syndication (see English case Helmsley Acceptances/Lambert Smith Hampton) and reduce pricing;
- Financial products with underlying real estate assets (CMBS, RMBS, real estate funds): more transparency might attract new investors and reduce pricing;
- Regulatory capital: preferential risk weighting of mortgage loans under CRD requires consistent property valuation.



# Conclusions

- Need for standards/regulation re. valuation, most likely at EU level;
- Need to choose, at policy level, between soft law and hard law (Consob: soft law not satisfactory);
- The introduction of a system of real estate rating might increase transparency, in particular in the following sectors: (i) real estate financing, (ii) real estate funds and (iii) CMBS.



**Thank you**