THE RISK MANAGEMENT MODULE: HOW IT CAN SAVE VALUERS' MONEY, REPUTATIONS AND CAREERS

As many API members will be completing their compulsory Risk Management Module in 2018, the Journal examines why this module is so important and what risks valuers are facing in the current market.

In such a dynamic, emotive and challenging industry as the property market, and with ongoing pressure being put on valuers' prices and time, it is vital all valuers undertake daily practises to mitigate their risk, not only to reduce the likelihood of legal action, but also to ensure they can continue to be viably insured.

But it is precisely the time issue that has, in the past, prevented valuers from undertaking risk management.

The Risk Management Module (RMM) was implemented by the API as a compulsory part of membership in 2003 in order to help members better manage and mitigate their risk.

And with many reports of a current housing bubble in Melbourne and Sydney, managing risk has never been more important.

"The risk associated with valuation work is not decreasing. In many cases, property markets around Australia are 'hot' and there is increased talk of either a correction, or a potential decline, in market activity and property values," says James Morse, Partner at DLA Piper, the law firm which writes and delivers the RMM.

"If this was to occur, the prospect of valuers being the subject of legal proceedings by those who have suffered losses in reliance upon their valuations, such as lenders, will necessarily increase.

"Understanding the risk management practices a valuer can implement to safeguard himself/herself is very important when valuing in a 'hot' market, given the prospect of a property being worth less in the future, thereby focusing a spotlight on today's valuations," he says.

Rupert Grayston, API's National Manager – Education, agrees.

"The range of circumstances surrounding property or asset valuation continue to become more diverse and specialised. Valuers need to know when they may be at risk," he says.

Of all the changes currently facing valuers, pricing is the most contentious.

"Valuation fees and timeframes continue to get tighter, and the work environment more complex," Mr. Grayston says.

DLA Piper explains further.

"Many types of services are becoming more and more commoditised with pressure on price. However, this does not relax the risk a professional faces when providing services," Mr. Morse says.

"In an environment where speed of service is highly valued, there may be the temptation to cut corners. It is therefore vital valuers undertake the module to ensure they are adopting good risk management practices in their day-to-day life.

"The valuation profession, like all professions, is difficult and challenging. Valuers face risks on a daily basis, and continually have to make decisions in response to risk.

"As we regularly say when delivering the face-to-face modules, there is a good reason why it is called the risk 'management' module, rather than the risk 'elimination' module: there is simply no way to remove all risk. The most anyone can expect is that people identify potential risk, assess risk appropriately, and manage risk as best as possible. It goes without saying the consequences of poor risk management are dire, both commercially and reputationally," he says.

It is also important to know that the RMM is constantly updated so it covers recent changes to the industry, meaning the module is different every time a valuer undertakes it.

"The module has evolved over the last 14 years to reflect the many changes in the valuation industry over that time. Importantly, the module has evolved to take into account 'up to the minute' legislative changes and current case law, to ensure valuers are always provided with the most up-to-date information and guidance on risk management," James Berg, Partner at DLA Piper, says.

"The current module includes videos of observations made by senior valuers, senior legal advisers, and bank representatives, in order to set the scene as to the issues facing valuers, and demonstrate their importance," he says.

The valuation industry has

RISK MANAGEMENT

changed immensely over the last decade. According to many, the main change has been the consolidation of valuation firms, which has altered the market considerably, along with the profession's negotiating position with clients.

"Given valuers' clients are always seeking 'more for less', there is continual pressure to produce a better product in less time," explains Mr. Morse.

"In many cases, this can be done by the adoption of technology, the development of synergies, the deployment of automated processes, or the like. However, in some cases, we have seen valuers who attempt to meet these challenges by cutting corners, in the hope any errors which flow through to the final product are either immaterial, or unidentified.

"It remains a challenge for the valuation industry to resist this urge, and to ensure every product is the best possible product, which meets the client's needs as well as the scope and purpose for which the valuer has been engaged," he says.

Mr. Berg explains another challenge is around market forces, including that many people expect the market to either correct or decline in the foreseeable future.

"If that was to happen, there will be an increasing risk of defaults, which could result in an increased number of mortgagees in possession sales. Obviously, if those sales do not realise sufficient funds to satisfy the amount owing under the secured loan, there is an increased risk of valuers being subject to litigation, wherein lenders will seek recovery of the difference between the amount outstanding under the loan, and the amount recovered by the mortgagee in possession sale.

"A third challenge which should be mentioned is that there are increasing requests for valuers to assume their client's risk, or provide indemnities in respect of their client's losses, howsoever caused. As you would no doubt expect, we address this issue in the risk management module, along with the need for valuers to use clear qualifications and disclaimers, and provide a detailed yet precise valuation report, in order to minimise the risks associated with these issues," he says.

"THERE ARE INCREASING REQUESTS FOR VALUERS TO ASSUME THEIR CLIENT'S RISK"

While some may baulk at the RMM being compulsory, the API has made it so to better protect its members.

"We are managing community risk, as well as risk for the valuer, so it is important all practitioners participate in the RMM," Mr. Grayston says.

"The impact of the RMM in evolving valuation practice and reducing risk of flaws is recognised by major banks and valuation firms. Much valuation panel work is available only to those with a current API RMM certificate," he says.

Mr. Berg says while they would like to think all valuers would undertake such risk management courses even if it was not compulsory, it may not be the case.

"It is important the module is compulsory to ensure all valuers are kept informed of the most recent developments in this space, on a regular basis, in order to ensure the risk management of the industry as a whole remains as high as possible," Mr. Berg says.

"At the very least, valuers can take comfort from the fact insurers regard the module as an important factor when assessing a firm's appetite for risk and attendance on the risk management module.

"Like all professionals, valuers have considerable competing priorities, particularly for their time. We also accept that spending a few hours on risk management is not always what people would choose to do, and valuers would no doubt prefer to be doing what they do best - valuing property. However, in order for valuers to do their best, they need the tools to make the right decisions when faced with risk," he says.

There are different modules available for completion by valuers. Those different modules have been developed to focus on issues specific to valuers undertaking work in different market segments, for example, volume residential, commercial, government, plant and machinery, etc.

"The module commenced in 2003, and we have been working with the API in relation to the module since. The module came about not long after the insurance crisis hit Australia and valuers found it very difficult to obtain policies from insurers on reasonable terms. The module was designed to alert valuers to the risk management tools they could implement to minimise their exposure to risk and, frankly, make them more insurable," Mr. Morse says.

"The module has also evolved to be offered in an online format, to be completed by valuers at their leisure and in the comfort of a location which suits them best.

"The face-to-face module is, however, interactive, with feedback suggesting a highlight for valuers is the ability to engage in interactive discussions with presenters," he says.

Mr. Grayston says the RMM has been vital for API members.

"The RMM has been very successful over the years in upskilling professional valuers to reduce their individual and collective risk profile. The RMM provides a practical understanding of legal principles and precedents, and a foundation for professional valuation decisions that may hinge on points of law," he says.

And as the valuation industry heads into even more uncertain times in the future, the API is calling for its members to ensure they complete the module.

"The challenges which the valuation industry faces today are unlikely to reduce in the future," Mr. Morse says.

"We expect the valuation industry will continue to see increased time and cost pressure from its clients. In many ways, that has been a common theme of the module over the last 14 years, and we expect it will remain a common theme over the next 14.

"One of the greatest aspects of the module is that it is an organic and living tool. We expect the module will continue to evolve over time to take into account the most recent legislative updates and changes in case law, whilst also continuing to be delivered in the most appropriate way.

"We expect this will remain in a combination of online and face-to-face methods, yet always promoting interaction and engagement around real life issues faced by valuers," he says.

Mr. Grayston concludes by adding the RMM will be reviewed before 2018.

"We need to keep the RMM course content relevant and engaging, reflecting current valuation practices and contemporary risk issues. We also need to consider future directions in valuation, such as the implications of data aggregation and reuse.

"The RMM is due for renewal in 2018, so we plan to rethink the format and duration, and refresh the online course design," he says.

For more information, go to:
api.org.au/risk-management-modules ■

WHAT IS REALLY IMPORTANT FOR VALUERS TO KNOW RIGHT NOW?

- Clarity in the relationship – do you have a contract with your client which sets out the basis on which you are prepared to provide your services?
- Clarity of instructions – you should be on the same page as the instructing party in terms of what type of valuation is required.
- Keeping good records in relation to the work you undertake – turn telephone file notes into electronic records.
- Understand your insurance arrangements – particularly the relationship with your broker, who you should be able to rely on.