

Regulatory Framework of the Valuation Profession

written by Gaurav Purohit | June 23, 2020



Laws Applicable on Valuation Professional in India

The valuation profession in India dates back to pre-independence era. The valuation professionals render their services by providing the value of any asset, in a particular context. Such professionals cater their services to their customers as required under various laws such as company law, banking law, tax law, insolvency law, etc. The competent and accountable value professionals are needed of the hour in the market economy because the inaccurate valuation of any asset may lead to wrong decisions which may be disastrous to an economy. History has seen many financial crises caused due to poor valuation. The property crash in the UK in the 1970s, saving and loan in USA, and Schneider affair in Germany are few to name.

Across the globe, professions like advocacy, medicine, accountancy, etc. are regulated by various rules, regulations and statutes. Regulation of any profession works in three ways; it protects the interests of the people who avail the services of the professionals, it makes the professionals accountable, and lastly, it helps in developing the profession by setting particular standards to follow. Generally, the International Valuation Standards (IVS) issued by the International Valuation Standards Council (IVSC) are followed by value professionals worldwide.

After independence, in India, several committees were constituted to set up an institutional framework to regulate the valuation profession. Previously, a draft of the Valuation Professionals Bills, 2008 was prepared by the Ministry of Corporate Affairs ("MCA"), however, that never reached the desks of the Parliament. One set of laws applicable to valuation professionals in India is the Companies (Registered Valuers and Valuation) Rules, 2017 ("Rules") made under the Companies Act, 2013 which provides a centralized institutional framework for the development and regulation of the valuation profession.

However, the Rules apply to the valuations required under the Companies Act, 2013 and Insolvency and Bankruptcy Code 2016 (Code). To frame a holistic regulatory framework for the valuation profession, MCA constituted a Committee of Experts ("CoE") under the chairmanship of Mr. M.S. Sahoo to examine the need for an institutional framework to regulate and develop the profession. On 2nd April 2020, the CoE submitted its report to the Minister of Finance and Corporate Affairs, Mrs. Nirmala Sitharaman recommended for an

institutional framework for oversight of the profession.[1]

Features of the Draft Valuers Bill, 2020

- Proposed Institutional Framework under the Draft Valuers Bill, 2020
New addition to the laws applicable on Valuation Professional is being proposed by the CoE to establish the National Institute of Valuers ("Institute of Valuers") under the Valuers Bill, 2020 ("Bill") to protect the interest of the service users along with the development and regulation of the profession. The profession cannot be regulated without understanding the real issues involved in the profession thus the Bill provides for co-regularization of the profession. The state and market experts will join hands to regulate the profession efficaciously.
The Bill provides for a two-tier regulatory mechanism comprising of the Institute of Valuers which will function as the principal regulator of Valuer and Valuation Professional Organizations ("VPOs"), which will work for the development of the profession. Institute of Valuers will have a Governing Council ("GC") which will have the function of managing the affairs and business of the Institute of Valuers. However, it is to be noted that until the Institute of Valuers is established, the Insolvency and Bankruptcy Board of India ("IBBI") established under section 188 of the Code shall act as the Institute of Valuers.
- Duties, Powers and Functions of the Institutions of the Valuers[2]
Following are the powers, functions and duties of the Institute of the Valuers:
 1. registering service providers, maintaining registers of such service providers and renewing, withdrawing, suspending or cancelling their registrations;
 2. specifying the eligibility requirements for registration of service providers;
 3. laying down the syllabus and manner of delivery of the educational courses to become a valuer;
 4. specifying valuation standards for valuation services by a valuer;
 5. issuing guidelines and guidance notes for valuation services;
 6. carrying out inspections and investigations of service providers;
 7. specifying a mechanism for redressal of grievances against service providers;However, it is to be noted that the GC shall be responsible for the working of the Institute of Valuers. Thus, de-facto, it is the GC which will run the Institute of Valuers. The committee of valuers will advise the Institute of Valuers on issues pertaining to the profession of valuers and the market for valuation services[3]. Under the Bill, the Valuation Standards Committee ("VSC") shall be responsible for drafting and reviewing the valuation standards and valuation guidelines[4].
The Institute of Valuers will have to furnish an annual report to the central government. The report shall mention the performance of the Institute of Valuers and the GC. The report shall provide a summary of the financial activities of the Institute of Valuers[5]. This will put checks and balances on the functioning of the Institute of Valuers.
- Valuation Education[6]
The valuation profession is not considered as a full-time profession, valuers consider it as a part-time vocation. Lack of whole-hearted dedication towards the profession creates an inefficient cadre of professionals. The Bill aims to develop the valuation as a discipline of knowledge. The Bill woos young

students to consider the valuation profession as a career option. Even experienced individuals will also be able to join the profession after completing the courses and undergoing requisite formal training. Educational courses will be offered by the valuer institutes registered with the Institute of Valuers. The Bill envisages for three types of courses namely:

1. national valuation programme, a four-year integrated full-time professional course,
2. graduate valuation programme, a two-year full-time professional course on valuation,
3. limited valuation programme, a four-hundred-hour professional course.

In professions like lawyers, doctors, chartered accountant, etc., a person is not allowed to practice without getting a practice certificate from the concerned authority. On similar lines, the Bill mandates for a certificate of registration to act as a valuer[7].

- Asset Classes

The Bill provides for three asset classes i.e. plant & machinery, land and building and financial assets. However, the Bill has flexible provision so that as and when the Institution of Valuers deems fit, it can add or delete any asset class for the purpose of educational courses, examinations and registration of valuers.[8] A valuer can not practice in all asset classes. He will have to qualify for each asset class individually by obtaining requisite credits for particular asset classes. Under the Bill along with individuals partnership, company and limited liability can also be registered as valuers.

- Valuation Professional Organizations

Valuation Professional Organizations (VPOs) must be registered under section 25 of the Companies Act, 1956 (or section 8 of the Companies Act, 2013, with the sole object of carrying on the functions of a VPO[9]. VPOs must undertake the following functions[10] :

1. Promote the professional development of its members, promote professional and ethical conduct amongst its members;
2. monitor the activities of its members to ensure compliance with this Act[11], rules and regulations made thereunder and its bye-laws;
3. redress of grievances of users against its members;
4. safeguard the rights, privileges and interests of its members; and
5. any other function as may be specified by the Institute of Valuers.

Concluding Remarks

The Bill was a much-awaited step in the right direction to streamline the valuation profession. The Bill will put the valuation profession in India at par with the other countries in the context of the institutional framework of the valuation profession. The profession evolves over the years and will have to adapt to the changes. Keeping that in mind, CoE has drafted the Bill in so malleable manner that it can be amended as and when required to meet the changes of the economy.

The valuation profession will have to keep itself paced with the emerging Artificial Intelligence ("A.I.") technology also, which will provide valuation services quicker and cheaper than the valuer. Further, to attract the talent towards the profession, the new laws applicable on Valuation Professional through this Bill should have made some provisions for the remuneration of the beginner. Otherwise, like advocates, the valuer professional will also drop out of the profession.

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- [1] http://www.mca.gov.in/Ministry/pdf/Notice_14042020.pdf
 - [2] Section 11 of the Draft of the Valuers Bill, 2020
 - [3] Section 20 of the Draft Valuers Bill, 2020
 - [4] Section 21 of the Draft Valuers Bill, 2020
 - [5] Section 9 of the Draft Valuers Bill, 2020
 - [6] Chapter IV of the Draft Valuers Bill, 2020
 - [7] Section 51 of the Draft Valuers Bill, 2020
 - [8] Section 47 of the Draft Valuers Bill, 2020
 - [9] Section 52 of the Draft Valuers Bill, 2020
 - [10] Section 54 of the Draft Valuers Bill, 2020
 - [11] Draft Valuers Bill, 2020

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