INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

Subject: Draft Companies (Registered Valuers and Valuation) Rules, 2017

Various transactions under the Insolvency and Bankruptcy Code, 2016 (Code) require valuation of assets. For example, regulation 27 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 provides for the appointment of Registered Valuers within seven days of the appointment of the interim resolution professional to determine the liquidation value of the corporate debtor. The said Regulations define registered valuers to mean persons registered as such in accordance with the Companies Act, 2013 and the rules made thereunder. Though the Companies Act, 2013 envisages registered valuers, a framework is yet to be put into place. There is no other statutory regulatory framework to develop and or regulate valuation professionals.

2. The Governing Board in its meeting held on 21st March 2017 considered the matter. It was given to understand that the possibility of entrusting responsibility of registering valuers for the purpose of the Companies Act, 2013 to the IBBI under section 196(1)(u) was under the consideration of the Ministry. The Governing Board felt that it should be possible for the IBBI to regulate valuation professionals under the Code read with the Companies Act, 2013. Accordingly, it accorded approval to pursue the matter.

3. The Governing Board in its meeting held on 29th May 2017 noted that the MCA had put out the draft Companies (Registered Valuers and Valuation) Rules, 2017 (Annexure A) on its web-site on 26th May, 2017 seeking public comments**.** It was understood that MCA would notify the rules in exercise of its powers under the Companies Act, 2013 read with the Code and empower the IBBI to register valuers**.** The draft rules for registered valuers have been broadly modelled on the lines of provisions relating to Insolvency Professionals, Insolvency Professional Agencies and Insolvency Professional Entities**.**

4. Vide its letter dated 31st May, 2017, the MCA requested the IBBI to send its comments on the said rules. It also advised the IBBI to hold the discussions / meeting with the representatives of industry chambers, professional institutes and other experts to disseminate the draft framework and solicit their views, which may be used at the stage of finalization of the rules.

5. In pursuance of advice of the MCA and generally to engage with the stakeholders, the IBBI participated in 18 round-tables in different parts of the country with industry chambers, valuer organisations and professional institutes for soliciting their views. MCA was requested to send its representative(s) to these round tables. The details of such round tables are as under:

No.	Round Table			Attended by	Summary of Comments placed at Annex	Written Comments received from organiser
	Date	Venue	Organiser			
1	2/06/2017	[redacted]	[redacted]	WTM RM	B1	-
2	12/06/2017	[redacted]	[redacted]	WTM RM	B2	C1
3	14/06/2017	[redacted]		WTM AL	B3 (Consolidated summary of all the meetings)	Submitted directly to Ministry of Corporate Affairs
4	15/06/2017		[redacted]	WTM AL	B3 (Consolidated summary of all the meetings)	Submitted directly to Ministry of Corporate Affairs
5.	15/06/2017	[redacted]	[redacted]	WTM RR	B4 (Consolidated summary of all the meetings)	-
6.	16/06/2017	[redacted]	[redacted]		B4	

				WTM RR	(Consolidated summary of all the meetings)	Submitted directly to Ministry of Corporate Affairs
7.	16/06/2017	[redacted]	[redacted]	Chairperson	B5 (Consolidated summary of all the meetings)	-
9.	19/06/2017	[redacted]	[redacted]	WTM RM	B10	C2
10.	20/06/2017	[redacted]	[redacted]	WTM RR	B4 (Consolidated summary of all the meetings)	-
11.	20/06/2017	[redacted]	[redacted]	Not attended by officials of IBBI	-	C3
12.	23/06/2017	[redacted]	[redacted]	WTM RR	B4 Consolidated summary of all the meetings)	-

13.	23/06/17	[redacted]	[redacted]	Chairperson	B5 Consolidated summary of all the meetings)	-
14.	23/06/2017	[redacted]	[redacted]	Not attended by officials of IBBI	-	C4
15.	24/06/17	[redacted]	[redacted]	Chairperson	B5 (Consolidated summary of all the meetings)	C5
16.	27/06/2017	[redacted]	[redacted]	WTM RM	B6	-
17.	28/06/2017	[redacted]	[redacted]	WTM RM	B7	-
18.	30/06/17	[redacted]	[redacted]	WTM (RM), [Also WTM (RR) and Chairperson]	B8, B4	C6
19.	4/07/2017	[redacted]	[redacted]	WTM RM	B9	C7

6. On consideration of the views received at the round-tables, it is proposed to convey the comments of the IBBI to the MCA as under:

a) The regulation of valuers may start with rules, but a statute may replace the rules in a time bound manner.
b) In order to cover valuations under the Insolvency and Bankruptcy Code, 2016 (Code), and empower the Insolvency and Bankruptcy Board of India (Board) to register and regulate, the rules may be made by the MCA under the Companies Act, 2013 read with the Insolvency and Bankruptcy Code, 2016.
c) The rules may be titled 'Valuation Professionals and Valuation Rules' to cover valuation. The word 'Registering Authority' may be replaced by 'Board' to convey that the role is not limited to registration.
d) The rules may provide a complete framework for development and regulation of valuation professionals, including inspection and investigation of valuation professionals, valuation professional organisations and valuation professional entities.
e) All valuations under the Companies Act, 2013 and the Code may be undertaken only by these professionals. Valuations under any other law may be undertaken by them if permitted under that law.
f) There may be only one statutory regulatory framework for regulation and development of valuation professionals in the country eventually.
g) The international terminology such as valuation professional, discipline, valuation professional organization, etc. may be used.
h) The transition may be the least disruptive. It may build on existing professionals and institutional arrangement and facilitate them to adopt or conform to the rules.
i) The different provisions in rules may come into force in phases. For example, provisions relating to valuation professional organisation may come into force first, the examination next, and valuation professionals next. The transition period may be adequate.
j) There may be four disciplines of valuation, namely,)a(Property)Land and Building(,)b(Property)Plant and Machinery(,)c(Financial Assets, and)d(Business / Enterprises. Every asset to be valued may form part of at least one of these four disciplines.
k) Graduates in subjects of Civil Engineering, Architecture, Town Planning, Masters in Real Estate Valuation, or Graduate / Masters in any other subject, as may be specified by the Board, may be eligible for discipline of Property)Land and Building(.

l) Graduates in subjects of Mechanical Engineering, Electrical and Instrumentation, Production, Chemical Engineering, Textiles, Leather, Metallurgy, Aeronautical Engineering, or any other subject, as may be specified by the Board, may be eligible for discipline of Property)Plant and Machinery(.

m) Chartered Accountants, Company Secretaries, Cost Accountants, CFAs, MBA)Finance(or any other qualification, as may be specified by the Board, may be eligible for discipline of Financial Assets.

n) A person with qualifications as above with ten years of post-qualification experience and not presently in employment may be eligible for registration as a valuation professional in the respective discipline, on passing an objective multiple choice online valuation examination of the discipline to be conducted by the Board.

o) A person having required qualifications and passing the required examination may become a valuation professional of more than one discipline.

p) The experience requirement may be reduced by two years if a person has post-graduation qualification in the relevant subject and by five years if he has Ph. D. in the relevant subject.

q) Only a citizen of India may be registered as a valuation professional.

r) The Board may recognise qualifications acquired from foreign jurisdictions as equivalent for registration.

s) A registered valuer)with any valuation professional organization(with ten years' experience as on 31st December, 2017, irrespective of his age or number of valuations done by him, may be exempted from examination for registration. However, in lieu of examination, he may be required to undergo 20 hours of training.

t) A valuation professional in any of the above three disciplines with three years' experience as a valuation professional and on passing a comprehensive examination may be eligible for discipline of Business / Enterprises.

u) There may be separate examination committees for separate disciplines to determine syllabus and develop question bank. The examination committee may be headed by an eminent citizen, and include two senior valuation professionals of the discipline and two representatives of valuation professional organisations of the discipline.

v) A partnership may be registered as a valuation professional entity only if all its partners are registered valuation professionals.

w) The valuation work may be assigned to either an individual valuation professional or a valuation professional entity.

x) Similar to insolvency professionals, an individual may be enrolled by a valuation professional organization and registered by the Board.
y) Valuation professional is a profession of practice. There is no need to issue certificate of practice.
z) Code of Conduct for valuation professionals may be tailor-made for them.
aa) Only public companies may be allowed to be registered as valuation professional organization (VPO).
bb) A VPO may act as VPO for one discipline or more than one discipline.
cc) The Governing Board of a VPO may have a minimum of eight directors. Half of the directors may be members of the valuation professional organization, the other half being independent directors.
dd) The governance requirement of a valuation professional organization, irrespective of structure or constitution of the organization, may be uniform.
ee) The Appellate Panel of a VPOs may be headed by an eminent citizen instead of an independent director.
ff) The Advisory Committee for Standards may include a representative of each of the recognized VPOs.
gg) The rules may allow VPO to acquire membership of International Valuation Organisations and harmonize Indian Valuation Standards with International Valuation Standards.
hh) It may not be necessary for a valuation professional to have consent of the previous valuation professional, if any, before taking up an assignment.

7. The Governing Board is requested to take a view in the matter.

ANNEXURE A

COMPANIES (REGISTERED VALUERS AND VALUATION) RULES, 2017

In exercise of the powers conferred by section 247 read with sections 458 and 469 of the Companies Act, 2013 (18 of 2013), & Insolvency and Bankruptcy Code, 2016 (31 of 2016) the Central Government hereby makes the following Rules, namely: -

CHAPTER I
PRELIMINARY

1. Short title and commencement.

(1) These Rules may be called the companies (Registered Valuers and Valuation) Rules, 2017.

(2) These Rules Shall come into force on the date of their publication in the Official Gazette.

2. Definitions.

(1) In these Rules, unless the context otherwise requires-

(a) "Act" means the Companies Act, 2013 (18 of 2013);

Annexure B1

SUGGESTIONS RECEIVED DURING THE ROUND TABLE DISCUSSION HELD ON 02.05.2017 ORGANISED BY [redacted]

1. Specified categories should be defined in the rules.
2. Modification of Registered Valuer definition under the Act.
3. CS should be allowed immediately after getting the registration. No experience should be prescribed.

Annexure B2

SUGGESTIONS RECEIVED DURING THE MEETING HELD ON 12.06.2017 AT [redacted]

1. **Rule 2(1)(f):** Instead of '*Registered Valuers*', use some other terminology such as '*Registered Valuer under Companies Act*' or '*Certified Valuer*' or '*Approved Valuer*' as mentioned in the SARFAESI Act / Rules.

2. **Rule 5:**
    a. Rule 5(1)(a): Replace age criterion of 50 years with years of experience (Like 10 years). Monetary limit of Rs.5 crores be removed.
    b. Rule 5(2)(d): All partners should be valuers and not only majority of partners.

3. **Rule 6(i):**
    a. Practising valuers with more than 10 years of experience as laid down in Wealth Tax Act/Rules should be considered as the yardstick.
    b. The 'Specified Discipline' should be clearly stated for each class of asset. Further specify which degrees at Graduation and Post-Graduate level would be considered as qualifying educational degrees. The Rules should clarify 'professional institute in specified discipline' else there is ambiguity.

4. **Rule 7:** Registration under multiple class of assets should be allowed by Registering Authority after clarification by MCA in the Final Rules. This aspect is not clear in the Rules.

5. **Rule 11:** To extend the period from 6 months to 12-18 months.

6. **Rule 17(2)(j):** The number of representatives from VPOs need to be increased to five, who should be Registered Valuers.

7. **Schedule I (Clause 15):** Minimum Fee should be specified to prevent unhealthy scenario.

8. **Schedule II:** Application Fee be reduced to Rs.2000-5000.

9. **Schedule III (Clause 4):**
    a. The requirement for Directors should be Citizens of India (instead of Resident of India).
    b. More than half of the directors (instead of not more than one-fourth) should be Valuation Professionals.
    c. More than Fifty Percent should be Valuation Professionals (instead of independent directors).
    d. Chairman should be elected from among the Valuation Professionals (instead of independent directors).

Annexure B3

COMMENTS BY [redacted] BASED ON SUGGESTIONS RECEIVED DURING THE MEETING HELD ON 14.06.2017 AT [redacted]

1. Exercise of Power: The Board can exercise powers only under the provisions of IBC, 2016 but this is not given. It can exercise powers under these rules only if the power is given under the Companies Act, 2013 and not through these rules without any statutory provision.
2. In absence of the specific statutory provision, the MCA may refer in the exercise of power the provisions of section 239(1) of the IBC, 2016.
3. Instead of 'Registered Valuers' the term 'Valuation Professionals' may be adopted and definition may be amended.
4. Definition of "Partnership entity" needs modification as it includes both LLP, which is a body Corporate, as well as partnership under the Act of 1932.
5. Rule 3: Prohibits practice without registration and provides for punishment under the Companies Act, 2013. Here, he cannot be punished for the violation of the provisions of IBC, 2016. For this purpose, IBC, 2016 need to be amended to provide punishment for Valuation Professional.
6. Rule 4 (2): for expert Committee, there should be an Advisory Committee as has been constituted for the regulations made under Insolvency and Bankruptcy Code, 2016.
7. Rule 5(1):
    i. in clause (a), in the proviso, the component of "50 years of age" may be omitted. Further, it is not clear when a person shall be deemed to be "substantially involved" in 10 valuation assignment. This needs to be further explained.
    ii. in clause (a) the provision may be amended to provide that each valuation should not be less than five crore rupees.
    iii. Again, his involvement in valuation of assets amounting to 5 crore rupees during five years appears to be inappropriate, either rider of "five years" may be kept or "asset valuation" may be kept.
    iv. in clause (h), word "valuer" may be removed.
    v. in rule sub- regulation (2), in clause (d), there is no distinction between LLP and other partners, this needs to be made.
8. Rule 5(2): the provisions are applicable only to the partnership under the Partnership Act, 1932 and not to the LLP, the body corporate. Thus, inconsistent with the definition of Partnership Entity.
9. Rule 6: It needs to be revised to provide specially for CAs. Further "specified discipline" may be spelt out in the regulation itself.
10. Rule 7: The Registration Authority may be the registrar to be appointed for the purpose of examination of the application. So, that Board may redress the grievances as disciplinary authority.

11. Rule 9: In clause (d), instead of "take prior permission of Registration Authority", information may be given to such Authority, therefore, "inform the Registration Authority" may be substituted.
12. Rule 10: To be revised to provide for renewal fee for revival after surrender of membership.
13. Rule 12: After registration of professionals what is the relevance of granting certificate of practice by the Insolvency Resolution Professionals. Provisions may be made on the lines of IPAs.
14. Rule 13: Instead of 'Recognition', 'Registration' may be granted.
15. Rule 19: It does not mention violation of the provisions of IBC, 2016.

Annexure B4

SUGGESTIONS RECEIVED DURING THE MEETING HELD ON 15.06.2017 AT [redacted]

In exercise of the powers conferred by Section 247 r/w Sections 458 and 469 of the Companies Act, 2013, the Central Government has formulated the draft Companies (Registered Valuers and Valuations) Rules, 2017.

To deliberate and discuss the aforesaid Draft Rules, round table conferences have been organised by various stakeholders. The Insolvency and Bankruptcy Board of India, being the proposed regulatory authority to oversee the functioning and workings of valuers, I attended the following round table interactive sessions:

1. Interactive Session for Valuers with IBBI organised by CIMSME, Mumbai on 15th June 2017
1. Session for Valuers organised by the Institute of Chartered Accountants, Mumbai on 16th June 2017; and
2. Session for Valuers organised by the Confederation of Indian Industries, Delhi on 23rd June 2017.

During the course of such meetings, concerns were mainly raised regarding the eligibility, qualifications of valuers and the ambiguous terms used in the Model Code of Conduct.

Detailed below are the concerns expressed on the Draft Companies (Registered Valuers and Valuations) Rules, 2017:

1. **Rule 2(d):** The draft rules vide Rule 2(d) entail that a company duly registered under the Companies Act, 2013 may not be eligible for registration as a registered valuer in terms of Rule 7(2). This exclusion of Companies to act as registered valuers may limit the formation of such valuer entities. Concerns were also expressed on the exclusion of Merchant Bankers from acting as registered valuers in view of the fact that they have been made eligible under the Wealth Tax Act, 1957.

2. **Rule 4(1):** Examinations already passed by the existing valuers, conducted by Universities/Valuer Institutions may be recognised for existing members.

3. **Rule 4(2):** The Committee of Experts to be constituted by the Registration Authority may also comprise of valuers/representatives of valuers

4. **Proviso to Rule 5(1)(a)**: The condition that a person of the age of 50 years and having been involved in 10 valuation assignments amounting to 5 crores or more in the preceding 5 years of the rules is not very substantive. He/she cannot be compared with a much younger person who has qualified from a University/VPO having dealt with a large number/value of cases.

   Further, a condition based on an assignment value of 5 crore in the past 5 years may not be a true determining criterion of the abilities of a valuer. Moreover, the condition of 50 years may not substantially reflect the capabilities and experience of the individual as a valuer.

5. **Rule 5(1)(f):** Global Organisations of valuers such as RICS are operating in India. The Inclusion of such a clause may disallow them from functioning in the Indian market which may lead to a loss of expertise and experience

6. **Rule 5(1)(i):** The assessment of *integrity, reputation character and competence* are subjective in nature and should be specific in criteria evaluation. The term *net worth* may be defined appropriately to give effect to the intention of the Draft Rules.

7. **Rule 6(iii):** None of the existing valuer organisations are set-up as an Act of Parliament. Hence it is not clear as to how the concerned Rule is to be implemented in case of the registration of existing members.

8. **Rule 11:** The regulations for regulating valuers, syllabus of their examination and other related modalities are in initial stages of development. Hence the transition period of six months as prescribed under the draft Rules is not sufficient and may not be viable.

9. **Rule 12:** The draft rules essentially seek to provide for a classification of VPOs on the basis of specific class/classes of assets. Such a classification may require for the formation of a large numbers of VPOs. Furthermore, such a classification may also entail that only a particular class of valuers are to be registered with a particular VPO thus restricting the scope of a VPO.

10. **Rule 1 of the Model Code of Conduct:** The term *high standards of integrity and fairness* need to be substantially defined. Failing which, such assessment will remain subjective in nature.

11. **Rule 3 of the Model Code of Conduct:** The term *adequate* needs to be specifically detailed to ensure compliance with the Code of Conduct.

12. **Rule 13 of the Model Code of Conduct:** The presence of conflict of interest may play a vital part in the appointment of valuers. The term *wherever necessary*, while detailing disclosure of conflict of interest, is subjectively defined.

    Therefore, specific terms and conditions may be inserted in accordance with which disclosures should to be made, so as to avoid any ambiguity

13. **Rule 25 and 29 of the Model Code of Conduct:** The said Rules need to be appropriately amplified in view of the present ambiguity and scope for subjectivity and are open to a wide interpretation.

Annexure B5

Summary of Comments at Roundtable at Chennai with [redacted] on 23rd June, 2016

a. The valuers registered under the Wealth Tax Act, 1957 should be automatically migrated as valuers under the Companies Act, 2013. They should not be required to pay any fees, take any examination or comply with any other formality.
b. One should have ten years of post-qualification experience to be registered as a valuer, as valuation is a techno-legal-socio-economic exercise. No freshly qualified person should be registered.
c. The regulation may start with rules, but a statute should replace the rules in a time bound manner.
d. The valuers above a certain age or having experience of certain years or certain number of transactions should not be required to take examination for registration.

Summary of Comments at Roundtable at Chennai with [redacted] on 24th June, 2017

a) Section 34AB under the Wealth Tax Act, 1957 is very limited in application, as it is for the purpose of cost of construction and capital gains only. This is a pre-reform law and is not in tune with market developments. The transactions requiring valuations under this Act does not hold promise of a profession.
b) Once the new framework comes, the old framework under the Wealth Tax Act, 1957 should be discontinued.
c) Since most of the valuations would emanate from transactions under the Insolvency and Bankruptcy Code, 2016, the rules should be made jointly under the Companies Act, 2013 and the Code.
d) The rules should be named 'Valuation Professionals and Valuation Rules'. The word 'company, before the name should be dropped, as these professionals would provide valuation services relating to non-companies also.
e) The transition should be the least disruptive.
f) The different provisions in rules should come into force on different dates. For example, provisions relating to valuation professional organisation should come into force first, the examination next, and valuation professionals next.
g) The international terminology such as valuation professional, discipline, valuation professional organization should be used.
h) Registering Authority should be replaced by the Board.
i) The rules should provide for inspection and investigation of valuation professionals and valuation professional organisations.
j) There should be four disciplines of valuation, namely, (a) Property (Land and Building), (b) Property (Plant and Machinery), (c) Financial Assets, and (d) Business / Enterprises.
k) Graduates in subjects of Civil Engineering, Architecture, or Town Planning, Masters in Real Estate Valuation or Graduate / Masters in any other subject as may be specified by the Board should be eligible for discipline of Property (Land and Building).
l) Graduates in subjects of Mechanical Engineering, Electrical and Instrumentation, Production, Chemical Engineering, Textiles, Leather, Metallurgy, Aeronautical Engineering, or any other subject as may be specified by the Board should be eligible for discipline of Property (Plant and Machinery).

m) Chartered Accountants, Company Secretaries, Cost Accountants, CFAs, MBA (Finance) or any other qualification as may be specified by the Board should be eligible for discipline of Financial Assets.
n) The examinations for registration should be conducted by the Board.
o) The valuation professional organisations may not conduct any examination.
p) A person with qualifications as above with ten years of experience should be eligible for registration as a valuation professional, on passing an objective multiple choice online examination to be conducted by the Board.
q) The experience requirement should be reduced by two years if a person has post-graduation qualification in the relevant subject and by five years if he has Ph. D. in the relevant subject. He, however, needs to pass an objective multiple choice online examination to be conducted by the Board.
r) A valuation professional in any of the above three disciplines with three years' experience as a valuation professional and on passing a comprehensive examination should be eligible for discipline of Business / Enterprises.
s) There should be separate examination committees for separate disciplines to determine syllabus and develop question bank. The examination committee should be headed by an eminent citizen, and include two senior valuation professionals of the discipline and two representatives of valuation professional organisations of the discipline.
t) A registered valuer (with any valuation professional organization) with ten years' experience as on 31st December 2017, irrespective of his age or number of valuations done by him, should be registered by the Board without any examination. In lieu of examination, they should be required to undergo 20 hours of training. In short, they should be grandfathered. Everybody else should pass an examination for registration as a valuation professional.
u) Only a citizen of India should be registered as a valuation professional.
v) A partnership should be registered as valuation professional only if all its partners are valuation professionals.
w) The valuation work may be assigned to either an individual valuation professional or a partnership firm of valuation professionals.
x) Similar to insolvency professionals, a person should be enrolled by a valuation professional organization and registered by the Board.
y) Valuation professional is a profession of practice. There is no need to issue certificate of practice.
z) Code of Conduct for valuation professionals should be tailored-made for them.
aa) A person may be a valuation professional in one discipline or more than one discipline.
bb) A partnership firm may be a valuation professional in one discipline or more than one discipline.
cc) An entity may be valuation professional organization of one discipline or more than one discipline.
dd) The Governing Board of a valuation professional organisation should have a minimum of eight directors.
ee) Half of the directors should be members of the valuation professional organization, the other half being independent directors.
ff) The governance requirement of a valuation professional organization, irrespective of structure or constitution of the organization, should be uniform.
gg) It may not be necessary that Membership Committee, Monitoring Committee and Grievance Redressal Committee of a valuation professional organization are headed by independent directors.
hh) The Advisory Committee for Standards should include a representative each of each of the recognized valuation professional organisations.

ii) There should be arrangement for Membership of International Valuation Organisations and harmonizing Indian Valuation Standards with International Valuation Standards.

jj) The Appellate Panel of a valuation professional organization may be headed by an eminent citizen instead of an independent director.

Annexure B6

SUGGESTIONS RECEIVED DURING THE MEETING HELD ON 27.06.2017 AT MUMBAI WITH [redacted]

1. IBBI should not be regulator.
2. There shall be separate Act for Registered valuers.
3. Eligibility- Age should not be a criterion- only experience.
4. Clarify that these rules apply to companies only.
5. Define- specified field.
6. Multiple registration under various classes should be allowed.
7. Administrative machinery should be strong.
8. In case of default, other partners should not be held liable.
9. Multiple registration under various clauses.
10. In Rule5(2)(d), Administrative Mechanism should be strong so all should be held liable.
11. In case of default, other partners should not be held liable.
12. VPO: Do- we need a VPO. (There is no requirement- All should be by Regulator).

Annexure B7

SUGGESTION RECEIVED DURING THE MEETING HELD ON 28.06.2017 AT MUMBAI WITH REPRESENTATIVES OF [redacted]

1. **Rule 2 (f):** It should specifically mention that registered valuer is registered under the Companies Act, 2013.

2. **Rule (3) (2) (b):** Punishment should only be under Civil Law(CPC) and not under CRPC.

3. **Rule (4):** Existing registered valuers registered under Wealth-tax Act,1957 and who has passed degree examination (UGC recognised) should be exempted from examination.

4. **Rule (5) (1) (a):** Eligibility criterion should be modified i.e. age criterion of 50 years should not be there and only experience of 10 years as valuer should be prescribed.

5. **Rule 5 (2)(d):** Under the eligibility criterion for partnership firms, instead of majority of partners, all partners should be registered valuers.

6. **Rule (6):** Disciplines should be specified for each category.

7. **Rule (7) (1):** The non-refundable application fee should be less than Rs. 2500/-. Under Wealth-tax Act, 1957 it is 1000/-(before finalising the draft rules, section 34(AB) of the Wealth-tax Act, 1957 can be taken into consideration).

8. **Rule (11):** A person who is allowed under any provision of the Act or rules made thereunder or under any other law to act as a registered valuer may continue to act as such, without getting registered under these rules, for a period not exceeding 6 months. Here, Time of 6 months is too short. It should be increased to 12 months.

9. **Rule (17) (2) (j):** Advisory committee – member of VPO representatives should be more (one from each discipline).

10. Valuer should be allowed to be member of different VPO's. (qualified in different discipline).

11. **Schedule III - Clause 4 (3)** – all should be valuation professional.

Annexure B8

SUGGESTIONS RECEIVED DURING THE ROUND TABLE DISCUSSION HELD ON 30.06.2017 AT [redacted]

1. Qualification:
    - Instead of 'age of 50 years' keeps 'years of experience'.
    - Exam and years of experience (like 10 years) should be considered without age barrier.
    - When the professional has done master courses in valuation then number of years of work experience can be reduced.
    - Equivalence of foreign degree (as no reference of international qualification hence, should be introduced)
2. Fresher be allowed to enter the profession.
3. Some international program developing an accountable profession in India can be approached.
4. Classes of asset – specified discipline: there should be 4 major categories
5. Professional handling the cases of valuation should be based on threshold of transaction.
6. Auditor should not be valuer in the same company as there will be conflict of interest.
7. Multiple discipline registration.
8. There should be appraisal standard for individuals also.
9. Word 'discipline' needs clarity.
10. Criterion of independence should be inserted.
11. Valuation should not be 100% physically verified.
12. Under point 15 of Schedule I to Rule 12(e) of the draft Companies (Registered Valuers and Valuation) Rules, 2017, the last part i.e. 'A valuer should communicate in writing with the prior valuer if there is knowledge of any prior valuer having been appointed before accepting the assignment' should be deleted.
13. The criterion of independence should be inserted.

Annexure B9

SUGGESTIONS RECEIVED DURING THE ROUND TABLE DISCUSSION HELD ON 04.07.2017 ORGANISED BY [redacted]

1. There should be separate Act for valuers.
2. Differentiation of various classes.
3. Different category of shares should be defined (Class of assets should be made clear). Further, category should be given in definition
4. Enactments of other countries to be seen.
5. Status of valuers should be defined and experience in specified class to be specified.
6. Define- Source of Information (inclusive definition)
7. Under Rule 6: Classes of Assets- should also be defined. (Solid/Liquid/Gas)
8. Rule 17 (2)(j) representation of VPO should be more.

ANNEXURE C1

SUGGESTIONS RECEIVED IN THE MEETING HELD ON 12/6/2017 AT [redacted] WITH OFFICIALS OF IBBI FOR INTERACTION ON DRAFT COMPANIES (REGISTERED VALUERS AND VALUATION) RULES 2017

1. Use same terminology for Registered Valuers for Professionals registered under Wealth Tax Act 1957, COMPANIES ACT' or SARFAESI Act / Rules.
2. Commencement of Rules will extend to 12 to 18 months.
3. Criteria for IOV in respect of waiver of examination based on 'years of experience' and removing monetary limit of Rs.5 crores' be relaxed.
4. Dual membership of VPO's be allowed.
5. Registration of all the Partners as Valuer in case of Partnership firm.
6. Specified Discipline should be clearly stated for each class of asset and qualify education qualification should be clearly stated in the Rules.
7. Registration under multiple class of assets should be allowed.
8. The number of representatives from VPOs need to be increased to five, who should be Registered Valuers.
9. IOV insisted that this format for appointment should confirm to the prospective / incumbent valuer that there is no concealment of information and that other valuer is not appointed.
10. Minimum Fee should be specified to prevent unhealthy scenario.
11. Application Fee be reduced to Rs.2000-5000.
12. **Composition of Governing Board of VPO in respect of :-**
    - The requirement for Directors should be Citizens of India (instead of Resident of India).
    - More than half of the directors (instead of not more than one fourth) should be Valuation
    - Professionals.
    - More than Fifty Percent should be Valuation Professionals (instead of independent
    - directors).
    - Chairman should be elected from among the Valuation

Annexure C2

Minutes of Meeting of Interactive Session with IBBI officials held on 19.06.2017 at [redacted] Head Office on Draft Companies (Registered Valuers and Valuation) Rules 2017

Date	:	19.06.2017
Time	:	15.00 to 17.00 hours
Venue	:	[redacted]
IBBI Official Present	:	[redacted]

[redacted]

Meeting Convened by : [redacted]

Members present in the meeting :

1.	[redacted]	[redacted]
2.	[redacted]	[redacted]
3.	[redacted]	[redacted]
4.	[redacted]	[redacted]
5.	[redacted]	[redacted]
6.	[redacted]	[redacted]
7.	[redacted]	[redacted]
8.	[redacted]	[redacted]
9.	[redacted]	[redacted]
10.	[redacted]	[redacted]
11.	[redacted]	[redacted]

[redacted]

[redacted]

[redacted] suggested to go through the Draft **Companies (Registered Valuers and Valuation) Rules -2017** in orderly manner and asked the participants to raise queries / suggestions.

Chapter I PRELIMINARY Rule 2 - Definitions (f) Registered Valuer

[redacted] shall mean the Valuers registered under **Companies (Registered Valuers and Valuation) Rules -2017** while the Valuers registered under Wealth Tax Act may continue to use the prevalent term "Government Registered Valuer" till the law permits. He gave the idea of using prefix like **RV** for Registered Valuer.

Chapter-II ELIGIBILITY, QUALIFICATIONS AND REGISTRATION OF VALUERS Rule 3 (2) & 3 (3) Prohibition

[redacted] that while the liability and punishment are provided u/s 247(3) of the Act for a person who, not being a registered Valuer (a) practices as a registered valuer under any name, title, style or description ;or (b) holds himself / itself out ,whether directly or by implication, to be a registered valuer, what are the liabilities/ punishments provided for a person / who after being registered as a valuer for specified class of assets, makes misrepresentations as valuer for any other class of assets.

[redacted] that registered valuer should not be allowed to practice in other than the category in which he/she is registered.

If a registered valuer does not work in the specified class of assets registered with RA, the disciplinary committee of concerned VPO should take punitive action.

Rule 4 Valuation Examination

[redacted] that the syllabus and question bank shall be prepared by the eminent experts in the respective fields. A person would be allowed to attend the examination for any number of times.

Rule 5 Eligibility

Rule 5 (1) (a) Eligibility
The person who passed the valuation examination should apply for registration within three years from the date of passing the examination.

[redacted] that for exemption for Exams for persons above Fifty years of age may not be the best criterion and rather an experience of 10 years is more indicative qualitative superior criteria for professionals.

[redacted] meeting and he has noted the suggestion for further action. Deliberating further on the issue, [redacted] he experience to which [redacted] responded that experience may be counted from date after getting the registration with CBDT of letter of empanelment issued PSUs, banks, FIs, etc.

Rule 5(2) (d)

[redacted]that in partnership entity, **all the partners** should be registered valuers instead of **majority of partners and** all the registered valuers should be Citizen of India instead of Residents of India.

[redacted]some very large-scale projects / high tech projects where India has limited talent, the exposure and expertise of foreign expertise of valuers may be required and for the development of profession, the field should be open. Thus, the word "Citizen" of India cannot be adopted. To this [redacted]whether a provision can be made for Citizens only in Traditional areas of Valuation to [redacted]

Rule 6 (i) Qualifications and experience
[redacted]sought clarification on term "Specified discipline" and asked about the flow of Graduate and Post-Graduate Degrees in Engineering and other disciplines.

[redacted]of all relevant degrees/ discipline wise with justifications to avoid unreasonable overflow of people trying to become registered valuer and IBBI will forward it to MCA. He suggested that VPO should prepare the qualification requirements and share it with IBBI with thrust upon the idea that bachelor degree should be a 4 years professional degree.

Rule 7 (i) Application for certificate of registration
[redacted]the method adopted for charging fee for Life time membership. [redacted] appreciated the Scientific method adopted by IOV for charging fee in terms of age.

Rule 9 (a) & 9 (b) Conditions of registration
[redacted]that a Technical Committee will notify Valuation Standards. Till then what is followed should be given in Rule 16 (2).

Chapter III RECOGNITION OF VALUATION PROFESSIONAL ORGANISATIONS

[redacted] informed that a professional body can be recognized as VPO for one class of assets or more classes of assets.

[redacted]that IOV is interested to get recognition for four classes of tangible assets viz. (1) Real Property Interests, (2) Plant & Equipment; (3) Agricultural Lands & Plantation and (4) Mines & Quarries.

Rule - 12, 13 & 14 define the procedures and responsibilities of a VPO.
[redacted]as a company under section 8 of the Act within a period of one year from commencement of Rules.

He explained that IOV itself can register as VPO or a separate body may be created as VPO by IOV.

[redacted]that the Council of IOV decided to form a VPO on lines with VPO of ICAI due to the various types of memberships i.e. members who are practicing valuation, members who are not practicing valuation, employees, life membership, etc.

[redacted]that the Council of IOV has passed a resolution to create a company u/s 8 of Act and how IOV is trying to meet the deadline of July 15th, 2017 i.e. the date of enactment.

[redacted]

[redacted]o register the VPO without conducting an EGM and how EGM can't be conducted without Gazette Notification of Rules.

SCHEDULE I under Rule 12 (e)

MODEL CODE OF CONDUCT FOR REGISTERED VALUERS

[redacted]suggested that these are Model Code of Conduct only and welcomed IOV to prepare and submit its own draft of "Code of Conduct'.

25[redacted] remuneration for services and requested that minimum and maximum fee should be defined as it affects the quality of report. He submitted that the remuneration should be on percentage basis on lines with WT Act.

[redacted]enquired that any criterion has been set for allotment of assignment.

[redacted]informed that fee may be allow ed on % basis as fees for IP is on percentage basis but it shall be market driven without interference from IBBI. Creditors and Debtors have to decide the fee.

SCHEDULE III

GOVERNANCE STRUCTURE AND MODEL BYE LAWS FOR VPOs

4(3[redacted] suggested the representation of Valuers be increased from maximum 1/4th to maximum 1/3rd.

[redacted]enquired whether a person can be allowed to register in two VPOs if he has dual qualifications for two different classes of assets. [redacted] [redacted]that person having dual qualification should be allowed to become member of another VPO provided that 1st VPO does not having the recognition for another class of assets.

The meeting ended with vote of thanks to representatives of IBBI.

ANNEXURE C3

SUGGESTIONS RECEIVED FROM [redacted] ON DRAFT RULES ON COMPANIES (REGISTERED VALUERS AND VALUATION) RULES, 2017

Serial No.	Rule Number	Suggestions / Comments	Justification
1	New to be inserted	Definition of "class of assets" may be inserted. "Technical" means Plant and Machinery, immovable properties, ship, aircraft and other tangible assets "Intangibles" means all types of intangible assets "Non-Technical" means other than "Technical" and "Intangibles"	The registration of valuers under the rules is based on class of assets. Hence it is necessary to have in place a proper definition of "class of assets"
2	3(3)	The prohibition of practice as a registered valuer for a further period of 3 years after the date of completion of punishment should be deleted.	It is unfair to punish a person again, if he / she is otherwise eligible to practice as a registered valuer.
3	5(i)(i)(iii)	The words "including financial solvency and net worth" with respect to competence may be deleted	Financial solvency and net worth may not be a relevant factor for determination of professional competence for fit and proper criteria
4	5 (1) (a),	need to specify what would constitute proof of substantial involvement in Valuation	Fee is charged for Valuation Services together with a self-declaration that the underlying value is in excess of Rs. 5 Crores and /or Certificate from the Clients confirming that the Professional was appointed in relation to the Valuation Services and the underlying Value was in excess of Rs. 5 Crores may be considered acceptable.
5	5(1) Proviso	Existing Proviso to Rule 5(1)(a) may be deleted. Instead, the following proviso be added: - Provided that if an individual is a member of a professional	Validating the requirement of the proviso of ten valuation assignment or value of assets can be subjective and can lead to unintended results. Further, the logic of this exemption is not on

		institute or technical institute having more than 10 years of post-membership experience and has attended a training programme of not less than five days organized by Valuation Professional Organization	proper backing. Instead, Provision for exemption based on years of experience, membership of professional institute and attendance / participation in a training programme are clearly verifiable requirements as compared to the existing proviso.
6	5(1) (a)	Existing Proviso to Rule 5(1)(a) should also include professionals as mentioned in Section 6(iii)	Section 5 (a) exempts some professionals from the valuation examination. Similarly, persons having qualification and experience under section 6 (iii) as in the rule may be consider for exemption from examination and allowed to practice as they are having sufficient qualification and experience for undertaking valuation accordingly in the application at schedule II Form A sl No 3 in (3.2)
7	16 (2) (b)	Specified Organization be prescribed	IVSC or International Valuation Standards Council is a widely recognized Valuation Standards setting authority. There would be many others like American Society of Appraisers etc. and this could confusion. Reference to anyone will help in bringing clarity and a common platform for Valuers till the Standards are set by IBBI.
8	17	We recommend that ICAI CMA should be included as one of the permanent member of the Advisory Committee.	New Rule 6 (iii) – Our Institute members are eligible for the exam. Our Institute is working for Standards.
9	17(1)	The following sentence may be added after the words – Valuation Standards and policies pertaining to valuation namely, a) Industry / sector specific parameters keeping in view the size and scale of operations b) Parameters to be set for valuation of intangibles	This is necessary to rationalize the principles and practices relating to valuation.

		c) Illiquidity discount in case of valuation of securities of unlisted entities d) Such other parameters separately for each class of assets with the object of bringing in uniformity in approach, procedures, methodology, application and objective of the valuation in question	
10	18(c)	The inclusion of the term "any other experts" should be reviewed, in: *"18(c) identity of the valuer and **<u>any other experts</u>** involved in the valuation;"*	Under Section 247 of the company Law, a Valuer has to exercise due diligence while performing functions of valuation and as per Regulations under Corporate Insolvency Resolution Process - A valuer has to personally and physically verify all inventory and other items Such being the case how other experts will be involved in the valuation is to be reviewed (on account of confidentiality)
11	Schedule I Point No. 8	Clause to be reworded as under :- In the preparation of a valuation report , the valuer should not disclaim liability for his / its expertise or deny his / its duty of care, except to the extent that deviations of actuals from projections have occurred and in the valuation report, the assumptions about these future projections wherever made were prima facie reasonable having regard to past performance, industry / sector scenario, macroeconomic parameters and concrete business plans as represented by the company and duly approved by its Board of Directors as a strategic goal	Valuation is a scientific art and subjectivity is at the centre of any valuation exercise. Without this protection, no valuer would come forward to do any valuation.

ANNEXURE C4

SUGGESTIONS RECEIVED IN THE ROUND TABLE CONDUCTED BY [redacted] ON 20.06.2017

1. Exempts some persons from the valuation examination.
2. Under Sec 18 (c), the Identity of the valuer and any other experts involved in the valuation to be disclosed.

ANNEXURE C5

SUGGESTIONS RECEIVED IN THE MEETING OF INTERACTIVE SESSION WITH [redacted] HELD ON 24.06.2017 AT [redacted] ON DRAFT COMPANIES (REGISTERED VALUERS AND VALUATION) RULES 2017

CHAPTER I

PRELIMINARY

Rule 1 (1): These Rules may be called the "**Valuation Professionals and Valuation Rules 2017**".

Rule 1 (2): The **different Rules** out of these Rules shall come into force from **different dates**.

Rule 2 (1)(f): "Registered Valuer" may be replaced by the word **"Valuation Professional"**

Rule 2(1)(g): "Registration authority" may be replaced by the word **"Board"**

CHAPTER II

ELIGIBILITY, QUALIFICATIONS AND REGISTRATION OF VALUERS

4(1) "Registration authority" may be replaced by the word **"Board"**

4(2) The "**Board**" shall on the recommendations of a committee of experts constituted by it, determine the syllabus for the Valuation Examination **for the different disciplines of valuation.**

4(4) ~~A person who passes the Valuation Examination, shall receive acknowledgement of passing the examination.~~ **To be deleted**

4(5) ~~A person may appear for the Valuation Examination any number of times.~~ **To be deleted**

5(1) No individual shall be eligible to be a "Valuation Professional"

(a) *The second paragraph may be replaced by*

Provided that if an individual has completed 10 years of experience in Valuation Practice as on __________, he / she shall not be required to pass the Valuation Examination. However, he/she has to undergo 20 hours of CEP to be conducted by the recognized VPO after the notification of these rules but before registration

5(1)(f) No individual shall be eligible to be a "Valuation Professional" **is a person not Citizen of India**

Rule 5(2)(d) No partnership entity shall be eligible to be a Valuation Professional i***f all partners* practicing in India are not Valuation Professionals.**

Rule 6.

(i) Post graduate degree in the specified discipline from a University established, recognized or incorporated by law in India and 8 years experience in valuation practice in the discipline thereafter

(ii) a Bachelor's degree in the specified discipline from a University established, recognized or incorporated by law in India and 10 years' experience in valuation practice in the discipline thereafter as stipulated below:

For the discipline "Real Property":
Graduate Degree in Civil engineering, Architecture, Town Planning, AMIE (Civil), AMIE (Arch. Engg.), Master Degree in Real Estate Valuation with any basic degree or equivalent degree

For the discipline "Plant & Equipment"
Graduate Degree in Mechanical Engineering, Electrical Engineering, Production Engineering, Automobile Engineering, Aeronautical engineering, Electronics & Communication, Electronics
& Instrumentation, Textile Technology, Chemical Technology, Leather Technology, Metallurgical Engineering, Master Degree in Plant & Machinery with any basic degree & AMIE in the above disciplines or equivalent degree.

A Valuation Professional who is in practice if passes the Post-Graduate examination in another discipline, the prerequisite of post degree experience in the additional discipline is waived for registration as Valuation Professional in that additional discipline.

For the discipline "Financial Assets"
IBBI will decide.

For the discipline "Business Valuation"
Valuation Professionals registered under the above disciplines to undergo higher level examination to be conducted by the "Board" or "an authorized body under its supervision" to qualify.

CHAPTER III

RECOGNITION OF VALUATION PROFESSIONAL ORGANISATIONS

12(c) Grants membership ~~or certificate of practice,~~ to individuals ~~or partnership entities~~, who fulfil the requirements laid down by it in this regard, in respect of valuation of class of assets for which it is recognized as a Valuation Professional Organization.

12(d) conducts training for the individual members ~~before a certificate of practice is issued to them;~~

CHAPTER IV

17(2)(j) the words "three members who are representatives of "may be replaced by **"one member representing each** Valuation Professional Organization**"**.
~~Provided that till such period that representatives of all valuation professional organisations have been nominated at least once to form part of the Advisory Committee, the Central Government shall not nominate a representative of a valuation professional organisation more than once.~~

18: Entire rule may be deleted - Because this forms part of valuation standards

Schedule I
Model code of conduct for Valuation Professionals to be entirely redrafted by IOV

Schedule III (Rule 12) GOVERNANCE **STRUCTURE AND MODEL BYE LAWS FOR VPOs**

Part I
1(b) it is not under the control of person(s) ~~resident outside~~ **"not citizens"** of India,

4(1) The governing board shall have a minimum of **8** directors

4(2) ~~More than half of~~ **All** the directors shall be ~~persons resident in~~ **citizens of** India at the time of their appointment, and at all times during their tenure as directors.

4(3) May be deleted

4(4): ~~More than~~ half of the directors shall be independent directors at the time of their appointment, and at all times during their tenure as directors.

Part II
V. Committees of the Organization

8(1)(b) ~~a~~ **One or more** Monitoring Committee consisting of such members as it deems fit;

8(1)(d) One or more disciplinary committee(s) "consisting of at least one member nominated by the Board "and chairperson of this committee(s)shall be an independent directors of Organization "

8(2) may be deleted

X (25) (1) The Governing Board shall constitute an Appellate Panel consisting of one independent director of the Organization, one member from amongst the persons of eminence having experience in the field of law, and one member nominated by the **Board.**

The Chairperson of the Appellate Panel shall be member from amongst the persons of eminence having experience in the field of law.

ANNEXURE C6

SUGGESTIONS RECEIVED ON BEHALF OF [redacted]

Sr. No.	Rule No.	Suggestion/Comments	Rationale/Justification
1.	2 – Definitions And Chapter II - Rules 3 to 9	Based on the current draft, only individuals and partnership firms/ LLPs are eligible to be registered valuers. It is submitted that Companies (including SEBI registered merchant bankers) should also be made eligible to become registered valuers.	In developed economies, there is no restriction on the corporate structure of the organization that can provide valuation services. Individuals, partnerships, private companies and even publicly listed companies provide valuation services. The regulatory emphasis is on ensuring that the necessary level of training is provided to valuers, that they are current with the latest developments in the field, that they adhere to a code of ethics and that they follow a defined "performance framework" (i.e., that they carry out certain prescribed procedures while carrying out a valuation). We believe India will also benefit from such an open environment as it will encourage healthy participation of various types of entities/ individuals, including internationally renowned organizations that have been bringing global best practices into the valuation profession in India and making the profession more robust. A corporate entity (company) will generally be better placed to execute a complex valuation engagement given its larger scale of resources. In terms of limitation of liability, a company is not much different compared to an LLP and a Director of a Company is not

			different from a Partner in a partnership. Additionally, SEBI registered merchant banks have been providing valuation services to Indian corporates for years, if not decades. Their valuation opinions are sought by and relied upon by not just companies but also the Government, the Tax authorities, the RBI and SEBI. They have the experience of providing valuation services in highly contentious situations (for example, protection of the interests of minority shareholders, ensuring propriety in related-party transactions, ensuring that shares of Indian companies are not sold to foreign entities for less than they are worth, etc.) In the process, they have built a vast body of knowledge and experience. Further, such entities are regulated by SEBI which exercises a high level of supervision and ensures compliance to ethical standards. Perhaps for this reason, the earlier draft rules specifically created an enabling provision for Merchant Bankers to be eligible for becoming registered valuers. However, the new draft rules make Merchant Bankers ineligible to be registered valuers, since most Merchant Bankers are incorporated as companies. For these reasons, the rules should allow Companies, including the SEBI registered Merchant Bankers, to be

			eligible to become Registered Valuers.
2.	5(1) (h)	The rule requires an individual to be valuer member (holding certificate of practice) of a valuation professional organization, to be eligible as a RV. The present clause will restrict a large pool of talented and well qualified professionals from practicing and becoming eligible to become registered valuers.	In practice, there are a fair number of experienced and practicing valuers who are qualified MBAs, CFAs, engineers, Masters/M.sc in Finance/Economics, or Commerce graduates, etc. and are/may not be members of any valuation professional organization (as per the definition given in the draft rules). Hence this clause should be broadened to include them. Also, the Rules need to incorporate a one-time window for such professionals, who are not members of VPOs, to enable them to become registered valuers.
3.	2(1) (f)	RV is defined as valuer carrying out valuation of assets belonging to a class or classes of assets. The Rules need to define clearly the class/classes of assets e.g. • Securities (including shares, stock, bonds, debentures, derivatives), Businesses, Intangibles (including goodwill), and all other assets and liabilities excluding Tangible assets- plant, property and equipment • Tangible assets- plant, property and equipment • Assessors and loss surveyors • Jewelry • Art	While Schedule II Form D alludes to grant of certificate in respect of classes of assets, it may be beneficial if the Rules were also to define clearly the class/classes of assets for which registration can be sought as RV to avoid ambiguity.

4.	5(2) (a) read with 5 (2) (h)	Rule 5 (2) (a) read with Rule 5 (2) (h) disqualifies a firm from being a LLP unless it is a valuer member, holding certificate of practice, of a VPO.	The government is encouraging a multi-disciplinary setup within professional organizations to meet challenges of current business and regulatory environments. This is also reflected in the changes in Companies Act 2013 to encourage firms/LLPs with large number of partners. This has seen many firms set up with partners having different skillsets arising from qualifications from different professional institutes (e.g. Chartered Accountant, Cost Accountant, MBA etc.) coming together to meet diverse and complex requirements of businesses that they serve. Such multidisciplinary firms will have partners, including registered valuer partners, who are members of various VPOs. It would not be practically possible for such firm to have a valuer membership of only 1 VPO. Hence one solution could be that where the firm has registered valuer partners who are members of different VPOs, this should suffice, for enabling the firm to register as a RV. Also Refer point 2 above.
5.	5(2) (c)	Rule disqualifies a firm from being a RV if any of its partners is disqualified under sub rules 5 (1) (a) to (i). It is submitted that only the disqualified partner should be disallowed.	It is submitted that, when a firm is seeking to be a RV, following disqualifications under: • sub rule 5 (1) (a)- non-passing of Valuation Examination • sub rule 5 (1) (b)- non-meeting of qualifications and experience required by an individual to be a RV • sub rule -5 (1) (h)- not being a valuer member holding certificate of practice of a valuation

			professional organization (VPO) should not be applicable to such partners of such firm who are not RVs, as these disqualifications are relevant for those partners of such firm who are RVs.
6.	5 (2) (d)	Rule disqualifies a firm from being a LLP if majority of its partners practicing in India are not RVs. As mentioned in Sr. No. 6 above, multi-disciplinary setup is being encouraged for professional firms with them having large number of partners.	Rule disqualifies a firm from being a LLP if majority of its partners practicing in India are not RVs. In the case of multidisciplinary firms, the majority of partners could invariably be, partners not providing valuation services only, hence in the spirit of encouraging multi-disciplinary organizations, it is suggested that rule 5 (2) (d) be dropped or an exception be made to firms of certain size in terms of partners.
7.	6	Talks about "Post Graduate Degree". It is submitted that a clarification be provided to make sure that courses like Post Graduate Diploma in Management ("PGDM") from prestigious institutions like the IIMs are included.	Certain prestigious institutions (e.g., the Indian Institutes of Management or IIMs) confer a Post-Graduate Diploma in Management ("PGDM") to their graduates. This is a highly valued qualification and enjoys the same stature as a post-graduate degree. Further, their curriculum includes good grounding in financial concepts, including M&A and valuations. To ensure such highly regarded qualifications are not inadvertently excluded from being eligible to become registered valuers, it may be included in the rules.
8.	6	Talks about "Bachelor's and Post Graduates from a University established, recognized or incorporated by Law in India."	There are quite a few very good and globally well recognized universities like Harvard, Stanford, New York Stern, INSEAD, etc. A large and increasing number of Indian

		It is not clear whether certain highly regarded foreign educational institutions like Harvard, Stanford, New York Stern, INSEAD, etc. will qualify as being recognized by Indian Law. It is submitted that a clarification be provided to make sure that graduates/ post graduates of such globally renowned educational institutions are eligible to be registered valuers.	students are getting educated in such institutions. There should be a mechanism for graduates from these institutes to be eligible. This would also make sure there are more opportunities in India for Indian students of these foreign Universities and there is less brain drain. Also, such students will bring global best practices to the valuation profession in India.
9.	11	Rule provides for transitional arrangement for a person who is allowed under any provision of the Act or rules made thereunder or under any other law to act as a registered valuer to continue to act as such, without getting registered under these Rules, for a period not exceeding six months from the commencement of these rules. It is submitted that this period be increased to at least 12 months.	Presently under the Companies Act, 2013, wherever requirement arise for RV to provide valuation services, chartered accountants in practice and SEBI registered merchant bankers are permitted by the Act and Rules to provide such valuation services. It may be mentioned that there are individuals, firms and LLPs (who are not chartered accountants in practice or SEBI registered merchant bankers) currently providing valuation services for various purposes and assets. Such valuation services are not required to be provided under the Companies Act, 2013 or rules made thereunder or under any other law by registered valuers. The benefit of such transitional arrangement of Rule 11 should therefore be given to all such individuals, firms and LLPs who are providing such valuation services. At least one year will be necessary since the process of setting up a VPO, getting it registered and recognized by the

			competent authority will take some time. Once that is done, the VPO will need time to come up with the curriculum, examination process, ethics requirements, etc. After that, various individuals will need time to prepare for and write and clear the exams, get themselves registered, etc.
10.	Rule 12	Rule covers eligibility to be recognized as VPO	There should be clarity provided and uniformity practiced in how VPOs treat already existing members, including one-time windows, as regards: • granting membership/certificate of practice for conducting valuation of assets • examinations that they need to undergo for the same • qualifications that they need to possess for the same
11.	16 (2) (a)	Rule 16(2) lays down how valuations can be done, till such time the Central Government notifies Valuation Standards under these Rules.	It is suggested that Rule 16 (2) (a) be worded as follows: "(a) one or more internationally accepted valuation methodologies" This is by way of clarification as a valuer usually applies one or more valuation methodologies, depending on the facts and circumstances of every case, rather than just one valuation methodology.
12.	Rule 18	Rule 18 should be widened to permit non-disclosure in the valuation report of confidential information used by the Registered Valuer which could be used by a competitor and/or is in	Rule 18 should be widened to permit non-disclosure in the valuation report of confidential information used by the Registered Valuer which could be used by a competitor and/or is in the nature of forward looking statement. This is

		the nature of forward looking statement.	necessary as such information could be misused by interested parties and thereby result in unnecessary litigations.
13.	18 (d) read with Section 247 (2) (d) of the Companies Act 2013	Per the rule, valuation report should contain disclosure of valuer interest/conflict, if any. This disclosure in valuation report needs to be read in conjunction with Section 247 (2) (d) of the Companies Act 2013 which provides that the valuer shall "not undertake valuation of any assets in which he has a direct or indirect interest or becomes so interested at any time during or after the valuation of assets" • It is not clear, what is considered as direct interest or indirect interest of a registered valuer i.e. the individuals/LLP/firm registered as valuer, in an asset. This needs to clearly define in the rules. The rules should also lay down reasonable thresholds (monetary limits / percentage holding/ Key Managerial Person relationship) below which such restrictions would not apply, similar to various materiality thresholds laid down in the Companies Act, 2013 and Rules for various purposes. • As regards the period for which holdings of interest in the asset can	• To avoid any ambiguity

		be restricted, provisions like SEBI Insider Trading could be adopted where if the valuation personnel carrying out the valuation are holding securities in the client or target they cannot buy/sell these securities during the closed window period and disclosures of interest be kept on record by the valuer. This aspect may also be set out in the rules and Section 247 (2) (d) of the 2013 Act can be accordingly amended • Disclosures of conflict by valuer should be made to the client (as set out in Schedule I- para 13). They need not be in valuation report, given confidentiality considerations • Also, the rules need to clarify in the case of a VPO should these restrictions apply to all partners.	
14.	Schedule I- para 8	Rule provides valuer cannot disclaim liability or duty of care except to the extent that assumptions are statements of fact provided by the company and not generated by the valuer.	It is suggested that the rule should also cover projections provided by the client as also information available in public domain used by the valuer and other situations such as unauthorized use of report by client or any other person gaining unauthorized access to the report, fraud, lack of care, misrepresentation or negligence by the client and force majeure events.

15.	Schedule I- para 11	The rule requires that valuer should not take up an assignment if valuer/relatives/associates are not independent in relation to the company/assets being valued	To reduce any ambiguity, it is suggested that: • The definition of what constitutes independence should be defined in rules • As regards independence in so far as holdings of interest are concerned, the rules should also lay down reasonable thresholds(monetary limits / percentage holding/ Key Managerial Person relationship) for testing independence, similar to various materiality thresholds laid down in the Companies Act, 2013 and Rules for various purposes. • The definition of relatives under Companies Act, 2013, is too wide to be capable of practical application. Relatives should cover immediate family viz spouse, spouse equivalent, and dependents • The definition of associates should be defined in rules
16.	Schedule I- para 28	The rule provides that a valuer should not engage in any employment, except when he has temporarily surrendered his certificate of membership with the Valuation professional Organization with which he is registered. It is submitted that an individual employed with a	It is suggested that an individual employed with a RV Firm be allowed to retain/obtain RV registration. This is to encourage such individuals to undergo training/examinations and operate under these Rules including the Model code of conduct for RVs irrespective of whether they are authorized to

		company or firm that is recognized as a registered valuers ("RV") be allowed to retain/ obtain RV registration.	sign a valuation report on behalf of the RV firm. In many developed countries like the US, UK and Singapore, registered valuers (or the equivalent professionals) are individuals, but most of them work as employees of organizations, which could be companies (including local or foreign owned), partnership firms, etc.
17.	Schedule 1 - Model Code of Conduct - Clause 17	The rules propose that "In any fairness opinion or independent expert opinion submitted by a valuer, if there has been a prior engagement in an unconnected transaction, the valuer should declare the past association with the company" It is submitted that there should be a limit to the declaration of past association. It might not be practical to declare all past engagements.	There should be an element of materiality and time-bar in order to ensure that valuers do not end up spending endless hours in remembering all past associations/ engagements with a client and get pulled up for small, irrelevant misses. Maybe engagements carried out in the past 3 years need only be listed, or those above a certain threshold.
18.	Schedule II Form A Section F	Personally, Identifiable Information (PII) such as Income Tax Returns are being sought as part of the form. It is submitted that only non-PII information be sought	PII is very sensitive data and needs to be handled carefully. Data provided at the initial stages should be limited to non PII. For example, individual tax returns could be misused if the information goes into the wrong hands.

ANNEXURE C7

COMMENTS RECEIVED IN FOCUSED GROUP DISCUSSION ORGANIZED BY [redacted] HELD AT [redacted], [redacted] ON 04-07-2017 IN RESPECT OF DRAFT COMPANIES (REGISTERED VALUERS AND VALUATION) RULES, 2017

Comments received on the following issues: -

- Disparity in valuation figures arrived by two different valuers.

- There are several court judgments which could be referred to. Basically, it must be ensured that the valuation process was correct and the principles of valuation properly adopted.

- In the definition part, **Source of Information** (may be internal source or external source) need to be clearly defined. When the valuer will value the asset, he will require the proper source of information. If there will be more than one valuers then due to lack of proper source of information outcome of the valuation of the concerned valuer may differ.
- International Experience – foreign counterparts experience in the technical and accounting aspect about valuation of assets (In reference to policies).
- Foreign countries rule of valuers
- Different Valuers for different class of assets
- Status of Valuers:
  - Training required
  - Difference in Value

- Should there be a stringent check on valuation of share on the basis of share market transaction, profit declaration and other positive possibilities.
- Definition of assets for valuation (Stock, bond, land, building)? Whether Building be depreciate? Treatment in P/L and balance sheet.
- Class of assets for valuation (under definitions, what is the international valuation standard)
- The sensitivity of the stock exchanges towards decision making in respect to any country budget preparation in the proposal stage and the decision-making stage.
- What happens when there is different valuation process offered by different professionals.
- Patent role of stock exchange in rise or fall of share value without plausible reason.
- Whether valuation standard be applicable to the companies under the Companies Act 2013 or can be extended to partnership firm, sole proprietorship or LLP also.
- Whether the valuation professionals be engaged to valuation of companies beyond the companies act 2013?
- International Experience
- Action on the end user (difference if any) on the part of valuation like NSE & BSE

- Guideline standards
- Industry member is less, need more members in advisory committee
- Prohibition conflict (Reg.valuer for wealth tax Act)