

DISCIPLINARY POLICY
OF
ALL INDIA VALUERS ASSOCIATION

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**ALL INDIA VALUERS ASSOCIATION (AIVA)
DISCIPLINARY POLICY**

1. INTRODUCTION

- 1.1 The Companies (Registered Valuers and Valuation) Rules, 2017, Annexure-III, Part-II require,
- 1.1.1 That every Registered Valuers Organisation to constitute one or more Disciplinary Committee(s) consisting of at least one member nominated by the authority, and under the Chairmanship of an Independent Director of the organisation.
- 1.1.2 That the Organisation may initiate disciplinary proceedings by issuing a show-cause notice against members-
- (a) based on a reference made by the Grievances Redressal Committee;
 - (b) based on monitoring of members;
 - (c) following the directions given by the authority or any court of law;
- or
- (d) suo moto, based on any information received by it.
- 1.1.3 That The Organisation shall have a Disciplinary Policy, which shall provide for the following -
- (e) the manner in which the Disciplinary Committee may ascertain facts;
 - (f) the issue of show-cause notice based on the facts;
 - (g) disposal of show-cause notice by a reasoned order, following principles of natural justice;
 - (h) timelines for different stages of disposal of show cause notice; and
 - (i) rights and obligations of the parties to the proceedings.
- 1.1.4 That the orders that may be passed by the Disciplinary Committee shall include-
- (j) expulsion of the member;
 - (k) suspension of the member for a certain period of time;

- (l) admonishment of the member;
 - (m) imposition of monetary penalty;
 - (n) reference of the matter to the authority, which may include, in appropriate cases, recommendation of the amount of restitution or compensation that may be enforced by the authority; and
 - (o) directions relating to costs.
- 1.1.5 That the Disciplinary Committee may pass an order for expulsion of a member if it has found that the member has committed-
- (a) an offence under any law for the time being in force, punishable with imprisonment for a term exceeding six months, or an offence involving moral turpitude;
 - (b) a gross violation of the Act, rules, regulations and guidelines issued there under, bye-laws or directions given by the Governing Board which renders him not a fit and proper person to continue acting as a registered valuer.
- 1.1.6 That any order passed by the Disciplinary Committee shall be placed on the website of the Organisation within seven days from passing of the said order, with one copy each being provided to each of the parties to the proceeding.
- 1.1.7 That the monetary penalty received by the Organisation under the orders of the Disciplinary Committee shall be used for the professional development.
- 1.1.8 That the Governing Board shall constitute an Appellate Panel consisting of one independent director of the Organisation, one member each from amongst the persons of eminence having experience in the field of law and field of valuation, and one member nominated by the authority.
- 1.1.9 That any person aggrieved of an order of the Disciplinary Committee may prefer an appeal before the Appellate Panel within thirty days from the receipt of a copy of the final order.
- 1.1.10 That the Appellate Panel shall dispose of the appeal in the manner it deems expedient, within thirty days of the receipt of the appeal.
- 1.2 In compliance of the aforesaid provisions, the Governing Board of the All India Valuers Association, under due intimation and/or approval of the Insolvency and Bankruptcy Board of India, has

- 1.2.1 constituted a Disciplinary Committee headed by an Independent Director, with one member nominated by the Authority, and shall ensure that such Committee is always in place;
- 1.2.2 constituted an Appellate Panel headed by the Chairman of the Board, with one member nominated by the Authority, and shall ensure that such Panel is always in place; and
- 1.2.3 adopted this Disciplinary Policy.

2. OBJECTIVES

2.1 In line with the provisions contained in the Companies (Registered Valuers and Valuation) Rules, 2017, the core objective of this policy is to codify the process to deal with disciplinary matters of the registered valuer members based on any complaint received by the AIVA; or suo moto based on any information; or reference made by the Grievance Redressal Committee or the Monitoring Committee; or directions received from the Authority [i.e. IBBI] or court of law.

3. DEFINITIONS

- 3.1 In this Policy, unless the context otherwise requires -
- (a) "Act" means the Companies Act, 2013 (18 of 2013);
 - (b) "Appellate Panel" means the appellate panel constituted by the Governing Board of All India Valuers Association in accordance with Bye-law 25(1) of its Bye-Laws, and applicable provisions of the Companies (Registered Valuers and Valuation) Rules, 2017;
 - (c) "Asset Class" means distinct group of assets that have been classified as class of assets by the Insolvency and Bankruptcy Board of India and requires separate set of valuers for valuation under the Companies (Registered Valuers and Valuation) Rules, 2017; Provided that the Insolvency and Bankruptcy Board of India has so far made only three asset classes viz. Land & Building; Plant & Machinery; and Securities or Financial Assets.

- (d) "Authority" means the Insolvency and Bankruptcy Board of India [IBBI] who has been specified by the Central Government under section 458 of the Companies Act, 2013 (18 of 2013) to perform the functions under the Companies (Registered Valuers and Valuation) Rules, 2017;
- (e) "Bye-Laws" means the Bye-Laws of the All India Valuers Association as amended from time to time;
- (f) "Certificate of Practice" means the certificate of practice granted to a registered valuer member who has completed the requisite training of the All India Valuers Association in respect of valuation of an asset class or classes;
- (g) "Code of Conduct" means the code of conduct for the registered valuers as given in Annexure-I to the Bye-Laws of All India Valuers Association;
- (h) "Company" means a company registered under the Companies Act, 2013 (18 of 2013) or under the Companies Act, 1956 (1 of 1956);
- (i) "Disciplinary Committee" means the committee constituted by the Governing Board of All India Valuers Association in accordance with Article 26 of its Articles of Association, Bye-law 8(1)(d) of its Bye-Laws, and applicable provisions of the Companies (Registered Valuers and Valuation) Rules, 2017;
- (j) "Disciplinary Proceeding" means the proceedings under this Policy;
- (k) "Governing Board" means the Board of Directors of the All India Valuers Association constituted under the applicable provisions of the Companies Act, 2013 (18 of 2013);
- (l) "Grievance/Complaint" means any communication that expresses dissatisfaction about an action or lack of action, about the standard of service/deficiency of service and the complainant asks for remedial action.

The terms "Grievance" and "Complaint" may be used interchangeably unless the context requires that a specific meaning be ascribed thereto;
- (m) "Grievance Redressal Committee" means the committee constituted by the Governing Board of All India Valuers Association in accordance with Article 26 of its Articles of Association, Bye-law 8(1)(c) of its Bye-Laws, and applicable provisions of the Companies (Registered Valuers and Valuation) Rules, 2017;

- (n) "AIVA" means the All India Valuers Association duly incorporated as section 8 company under the Companies Act, 2013 with its registered office at 1007, 10th floor, New Delhi House, 27 Barakhamba Road New Delhi 110001 and recognized as registered valuers organization by the Insolvency and Bankruptcy Board of India under Rule 13 of the Companies (Registered Valuers and Valuation) Rules, 2017;
- (o) "Monitoring Committee" means the committee constituted by the Governing Board of All India Valuers Association in accordance with Article 26 of its Articles of Association, Bye-law 8(1)(b) of its Bye-Laws, and applicable provisions of the Companies (Registered Valuers and Valuation) Rules, 2017;
- (p) "Partnership entity" means a partnership firm registered under the Indian Partnership Act, 1932 (9 of 1932) or a limited liability partnership registered under the Limited Liability Partnership Act, 2008 (6 of 2009);
- (q) "Policy" means the Disciplinary Policy of AIVA ;
- (r) "Registered Valuer" means a person who has been granted certificate of registration by the authority under Rule 6 of the Companies (Registered Valuers and Valuation) Rules, 2017 and has been granted certificate of practice by the All India Valuers Association in respect of valuation of an asset class or classes and the term "valuer" shall be construed accordingly;
- (s) "Registered Valuers Organisation (RVO)" means a legal entity recognized as registered valuers organization by the Insolvency and Bankruptcy Board of India under Rule 13 of the Companies (Registered Valuers and Valuation) Rules, 2017;
- (t) "Rules" means the Companies (Registered Valuers and Valuation) Rules, 2017 as amended from time to time;
- (u) "Valuer Member" means a person who possess the required qualification and experience as per Rule 4 of the Companies (Registered Valuers and Valuation) Rules, 2017 and has completed the mandatory educational course in respect of valuation of an asset class or classes;

- (v) "Valuation Standards" means the standards of valuation as notified or modified by the Central Government under Rule 18 of the Companies (Registered Valuers and Valuation) Rules, 2017;

Provided that until the valuation standards are notified or modified by the Central Government, the valuation standards would mean the standards of valuation adopted by the All India Valuers Association;

- 3.2 Unless the context otherwise requires, words and expressions used but not defined in this policy shall have the meanings respectively assigned to them in the Companies Act, 2013 (18 of 2013) and Rules made there under.

4. FUNCTIONS OF THE DISCIPLINARY COMMITTEE

- 4.1 The Disciplinary Committee as constituted by the Governing Board of All India Valuers Association in accordance with Article 26 of its Articles of Association, Bye-law 8(1)(d) of its Bye-Laws, and applicable provisions of the Companies (Registered Valuers and Valuation) Rules, 2017 shall perform the following functions:

- (a) To deal with all complaints for initiating disciplinary proceedings received by it;
- (b) To deal with all the references made to it either by the Grievance Redressal Committee or by the Monitoring Committee or the directions given by the Authority or any court of law or suo moto, based on any information received by it;
- (c) To prescribe the manner to ascertain facts in each case and to issue show-cause notice based on the facts;
- (d) To call for personal appearance of the parties and to record their oral submissions;
- (e) To dispose of the show-cause notice by a reasoned order following principles of natural justice;
- (f) To prescribe timelines for different stages of disposal of show cause notice;
- (g) To deal with the cases remitted to it by the Appellate Panel for such further enquiry as directed by the Panel;
- (h) To ensure maintenance of necessary records of all the cases received and processed by Committee;
- (i) To ensure submission of report(s) to the authority in the manner specified by the authority; and
- (j) Any other matters that may be specified by the Governing Board.

5. FUNCTIONS OF THE APPELLATE PANEL

- 5.1 The Appellate Panel as constituted by the Governing Board of All India Valuers Association in accordance with Bye-law 25(1) of its Bye-Laws, and applicable provisions of the Companies (Registered Valuers and Valuation) Rules, 2017 shall perform the following functions:
- (a) To hear the appeals filed before it by any person aggrieved of an order of the Disciplinary Committee; and
 - (b) To dispose of the appeal in the manner it deems expedient, but within thirty days of the receipt of the appeal.

6. PROCEDURE ON RECEIPT OF COMPLAINT, REFERENCE, DIRECTION, OR INFORMATION

- 6.1 Disciplinary proceedings may be initiated against a registered valuer member–
- (a) based on a reference made by the Grievances Redressal Committee;
 - (b) based on a reference made by the Monitoring Committee;
 - (c) following the direction given by Authority or any court of law; or
 - (d) suo moto, based on any information received by it.
- 6.2 Ordinarily, any grievance/complaint received by the AIVA shall be initially dealt with by the Grievance Redressal Committee as per the procedure laid down in the Grievance Redressal Policy of AIVA. Once the Grievance Redressal Committee is satisfied that the complaint filed by a complainant is tenable from the Disciplinary view-point, a copy of the complaint together with all supporting documents and reasoned order of the Grievance Redressal Committee will be sent to the Disciplinary Committee with a Complaint Number and an advice sent to the complainant by email or Speed Post, if no email id is provided.

Registration

- 6.3 Every complaint made for initiating disciplinary proceedings shall be endorsed and signed with date of receipt and shall thereafter, be scrutinized by an official, so designated by the AIVA.

- 6.4 If, on scrutiny or on resubmission, the complaint is found to be in order, it shall be duly registered and a unique case number be allotted to it, which shall be quoted in all future correspondence.
- 6.5 Every information, reference or direction shall also be endorsed, signed and registered with a unique case number to be allotted mentioning the date of receipt.
- 6.6 If the Disciplinary Committee is in receipt of more than one complaint, reference, direction or information, in respect of same subject against the same registered valuer member, it shall club the cases together for disposal and the parties/new complainant and the registered valuer member shall be informed of the same.

Fees

- 6.7 Every complaint, other than a complaint made by a government department or by any authority under it, shall be accompanied by a fee of Rupees One Thousand Only, which may be revised by the Committee from time to time.
- Provided that no additional fee shall be payable if the complaint is resubmitted after rectification of defect within the stipulated period.
- 6.8 The fee shall be paid either by way of demand draft drawn in favour of “All India Valuers Association” payable at New Delhi or online by way of NEFT/RTGS and proof of online payment shall be attached with the complaint.
- 6.9 The fee once paid shall not be refunded.

Withdrawal

- 6.10 Any complaint for initiating disciplinary proceedings may be withdrawn by way of a written communication by the person preferring the complaint at any time, before an order mandating issuance of a show-cause notice is passed by the Disciplinary Committee.
- Provided that where, the complaint is received from a government department or from any authority under it, the complaint shall not be withdrawn unless a written communication is received from the person duly authorized in this regard by the government department or authority, as the case may be.
- 6.11 Any request to withdraw a complaint, after passing of the order mandating issuance of show-cause notice to the registered valuer member, shall be subject to the Disciplinary Committee accepting such request in writing.
- 6.12 The Disciplinary Committee may also, if it deems fit, impose costs, not less than Rupees Ten Thousand, against the complainant for seeking to withdraw a

complaint where an order has been passed by the Committee that the complaint warrants issuance of show-cause notice. Where the complainant fails to deposit the cost so imposed, the complainant shall be barred, from filing any subsequent complaint in future in any matter, either directly or indirectly.

- 6.13 The Committee may, in its discretion, share the details of such order imposing costs against such complainant with other Registered Valuer Organisations or with other professional bodies of which he is a member, for their information and record.
- 6.14 Notwithstanding anything contained hereinabove, the Committee may reject any request for withdrawal with reasons recorded in writing and suo moto proceed against the professional member.
- 6.15 Any person aggrieved by an order passed by the Committee rejecting a complaint, information, reference, or direction on the ground that the facts disclosed do not warrant issuance of show-cause notice, may prefer an appeal before the Appellate Panel within thirty days from the receipt of the copy of such order.
- 6.16 All fees, costs and penalties received by the AIVA shall be paid in an account which shall be opened specifically for such purpose by AIVA and shall be used for the professional development.

Initial Examination & Admission

- 6.17 A meeting of the Disciplinary Committee shall be called for within a period of four weeks from the receipt of any complaint, reference, direction or information, as the case may be. The Committee shall take a considered view whether a showcause notice is to be issued on all or any of the allegations in the complaint, reference, direction, or information or the same is to be closed for reasons to be recorded in writing by the Committee.
- 6.18 Where, based on the documents available on record and from the facts disclosed, the Committee is of the considered opinion that the complaint, reference, direction or information, does not warrant issuance of showcause notice, the Committee shall pass an order rejecting the complaint, reference, direction or information by recording reasons in writing.
- 6.19 Where, however, the Committee is of the considered opinion that the complaint, reference, direction or information, warrants issuance of showcause notice, the Committee shall proceed under this Policy.
- 6.20 Any complaint received for initiating disciplinary proceedings against a registered valuer member, if filed by or on behalf of the Central Government or any State Government or any other department or entity of the Central or State Government

or by any statutory authority, shall be accompanied by a document, to be filed in original by the person duly authorized in this regard, by the government or department or authority, as the case may be.

- 6.21 No complaint shall be entertained by the Committee unless the same is received in the office of AIVA within sixty days of the complainant becoming aware of the alleged professional or other misconduct.
- 6.22 The Committee shall, within a period of seven days from the date of passing an order under this Part, provide a copy of its decision to the concerned party.

7. PROCEDURE UPON INITIATION OF DISCIPLINARY PROCEEDINGS

- 7.1 Where, the Committee is of the considered opinion that the complaint, information, reference or direction, warrants issuance of show-cause notice, it shall issue a show-cause notice, in such format as may be prescribed, at the last known address of the registered valuer member updated in the records of AIVA requiring the registered valuer member to, inter alia, submit a reply in his defense within four weeks of receipt of the show-cause notice, along with supporting documents, if any, failing which, the Committee shall proceed on the basis of material available on record.
- 7.2 Upon receipt of the member's response, the Disciplinary Committee will deliberate and may call the party(s) to appear before it for presenting their case and related evidence. Witnesses, if any, will be permitted to depose from either side only with the approval of the Disciplinary Committee, which will not be unreasonably denied. However, if the member, against whom the complaint has been lodged, does not respond, the Disciplinary Committee may proceed with the case and reach an ex-parte decision based on the evidence at hand.
- 7.3 On consideration of documents available on record and after affording an opportunity of hearing to the complainant and the registered valuer member, where, the Disciplinary Committee holds that the registered valuer member is –
- (a) not guilty of professional or other misconduct, the Committee shall dispose of the show-cause notice by recording reasons in writing within thirty days of passing such order and may also impose cost on the complainant, if the Committee is of the opinion that the complaint was frivolous; or
 - (b) guilty of professional or other misconduct, it may pass any one or more of the following orders:
 - (i) reprimand or admonishment of the member;

- (ii) imposition of monetary penalty, which shall not be less than Rupees Ten Thousand;
- (iii) suspension of the member for a period as determined by the Committee;
- (iv) expulsion of the member;
- (v) refer the matter to the Authority, which may include, in appropriate cases, recommendation of the amount of restitution or compensation that may be enforced by the Authority;
- (vi) directions relating to costs; or
- (vii) any other order, as the Committee may deem fit

74 The Disciplinary Committee may pass an order for expulsion of a registered valuer member if it has found that the member has committed–

- (a) an offence under any law for the time being in force, punishable with imprisonment for a term exceeding six months, or an offence involving moral turpitude;
- (b) a gross violation of the Act, rules, regulations and guidelines issued thereunder, bye- laws or directions given by the Governing Board which renders him not a fit and proper person to continue acting as an registered valuer.

75 The Disciplinary Committee shall send, free of charge, to the registered valuer member, complainant and Authority [IBBI], a certified copy of the final order.

76 Any order passed by the Disciplinary Committee shall be placed on the website of AIVA within seven days from the passing of the order.

77 No order passed by the Disciplinary Committee shall become effective until thirty days have elapsed from the date of receipt of the order by the registered valuer member.

78 The Disciplinary Committee shall endeavor to dispose off the show-cause notice within a period of six months from the receipt of complaint, information, reference or direction, as the case maybe.

79 While disposing off any show-cause notice under this Policy, the Disciplinary Committee shall follow its own procedure and shall be guided by the principles of natural justice.

7.10 Any person aggrieved by any order passed by the Disciplinary Committee under this Policy may prefer an appeal before the Appellate Panel within thirty days from the date of receipt of copy of the order.

8. APPEAL TO THE APPELLATE PANEL

- 8.1 Any person aggrieved by an order passed by the Disciplinary Committee may prefer an appeal before the Appellate Panel within thirty days from the receipt of the copy of such order.
- 8.2 The Appellate Panel may call for the records of any case and may–
- (a) confirm, modify or set aside the order passed by the Disciplinary Committee;
 - (b) impose any penalty or set aside, reduce or enhance the penalty imposed by the Disciplinary Committee;
 - (c) remit the case to the Disciplinary Committee for such further enquiry as the Appellate Panel considers proper in the circumstances of the case; or
 - (d) pass such other order(s) as the Appellate Panel deems fit.
- 8.3 The Appellate Panel shall follow its own procedure while deciding the appeal and shall be guided by the principles of natural justice.
- 8.4 The Appellate Panel shall endeavour to dispose of the appeal, within thirty days from the date of holding the first meeting of Appellate Panel, in the manner as it deems appropriate.

9. MISCELLANEOUS MATTERS

Quorum

- 9.1 The quorum for a meeting of the Disciplinary Committee or the Appellate Panel shall be one third of its total strength or two members, whichever is higher, wherein the representative of IBBI must be present.
- 9.2 The meeting of the Committee shall be presided by the Chairperson and in his absence, the members may elect, from amongst themselves, a member to preside the meeting.

Mode of sending notice

- 93 Every notice or letter issued by the Disciplinary Committee or by Appellate Panel or by AIVA under this policy shall be sent by registered/speed post, except where specified otherwise in the policy as well as by electronic mail service at the email address provided by the member to AIVA.
- 94 If any notice or letter is returned unserved with an endorsement to the effect that the addressee had refused to accept the notice or letter, the notice or letter shall be deemed to have been served.
- 95 If the notice or letter is returned with an endorsement to the effect that the addressee cannot be found at the address given, the Committee shall ask the complainant or any other person who may be in a position to provide another address of the member or person whose address is found to be not correct, and on production of the correct address, a fresh notice or letter shall be issued at such address.
- 96 Where the notice or letter is returned under sub clause 9.5 above, it may be served by fixing a copy thereof in some conspicuous place at the professional address or residence of the respondent which was last registered with AIVA or in such other manner as the Committee may think fit and such service shall be deemed to be sufficient service for the purposes of the policy.

Hearings

- 97 The complainant and the registered valuer member may attend the hearing in person or e- hearing through Video Conferencing, submit evidence in writing or be represented by any person authorized by the complainant/ registered valuer member who may be a Chartered Accountant/Cost Accountant/Company Secretary/Advocate:.
- 98 If the complainant or the registered valuer member chooses neither to attend nor to send a representative, then the Disciplinary Committee will consider the evidence in hand and reach a decision on that basis.
- 99 If the registered valuer member or his/her representative attends, he or she will be invited to present the member's response to the allegations. The Disciplinary Committee may ask questions and will then consider its decision in private. The AIVA officer, who attends the hearing to take a record of the proceedings and advise on procedural matters, shall not take part in the decision-making.
- 9.10 The Chairman of the Disciplinary Committee may adjourn the meeting if the Committee decides that additional information or clarification on a particular point is required, and reconvene it at a later date. Once the decision has been made, the Chairman prepares and signs formal minutes of the meeting, recording the decision and the rationale. A copy of the formal minute is sent to the member and to the

complainant as soon as possible after the hearing, but within 30 days at the latest from the hearing date.

- 9.11 The complainant, registered valuer member or any other person/official shall not be eligible for reimbursement of expenses incurred for attending or not being able to attend the hearing, even if the date of hearing has been suddenly called off.

Residuary Provisions

- 9.12 Matters relating to the procedure of conduct of cases, with respect to which no express provision has been made in the policy, shall be regulated by the Disciplinary Committee and the decision of the Committee shall be binding.
- 9.13 The Disciplinary Committee, subject to consent of the Governing Board of AIVA, shall be competent to amend/alter/add any clause in the Policy, as it deems fit and proper.
- 9.14 The Disciplinary Committee shall be at liberty, at any stage of the proceedings, to follow any procedure prescribed under the Code of Civil Procedure, 1908

10. RIGHTS AND OBLIGATIONS OF THE PARTIES

- 10.1 The Complainant and the Registered Valuer Member, in addition to the rights & obligations written at relevant places in this Policy, shall be entitled to the following rights and obligations:
- (a) The member must be given at least 21 days' notice in writing.
 - (b) The AIVA Officer will also inform the complainant who may attend the hearing to present their case in person, but they will be heard by the Disciplinary Committee separately.
 - (c) The Disciplinary Committee may ask the complainant, the member, or any other interested party for further information or clarification of any of the points of evidence prior to the hearing.
 - (d) Copies of all the documents which the Committee is going to consider will be sent to the member prior to the hearing.

11. REPORTS TO THE AUTHORITY

11.1 The Disciplinary Committee shall submit a report to the authority in the manner specified by the authority with the complaints, references, directions or information relating to disciplinary proceedings received, and processed during each reporting period.

12. REVIEW OF THE DISCIPLINARY POLICY

- 121 The Disciplinary Policy will be reviewed by the Disciplinary Committee annually and bi- annually by the Governing Board of AIVA.
- 122 The Disciplinary Policy may be amended from time to time by the Governing Board and will remain in force till further instructions of the Governing Board of AIVA or by the IBBI.