

**MONITORING POLICY**

**OF**

**ALL INDIA VALUER ASSOCIATION**

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## ALL INDIA VALUERS ASSOCIATION (AIVA) MONITORING POLICY

### 1. INTRODUCTION

- 1.1 The Companies (Registered Valuers and Valuation) Rules, 2017, Annexure-III, Part- II require every Registered Valuers Organisation to constitute a Monitoring Committee under the Chairmanship of an Independent Director of the organisation. The said Rules also require that
- (a) Every Registered Valuers Organisation to have a Monitoring Policy to monitor the professional activities and conduct of members for their adherence to the provisions of the Act, rules, regulations, and guidelines issued thereunder, and the bye-laws, the Code of Conduct, and directions given by the Governing Board.
  - (b) A member shall submit information about ongoing and concluded engagements as a registered valuer, in the manner and format specified by the Organisation, at least twice a year stating inter alia, the date of assignment, date of completion and reference number of valuation assignment and valuation report.
  - (c) The Monitoring Committee shall review the information and records submitted by the members in accordance with the Monitoring Policy.
  - (d) The Monitoring Policy shall provide for the following:
    - (i) the frequency of monitoring;
    - (ii) the manner and format of submission or collection of information and records of the members, including by way of inspection;
    - (iii) the obligation of members to comply with the Monitoring Policy;
    - (iv) the use, analysis and storage of information and records;
    - (v) evaluation of performance of members; and
    - (vi) any other matters that may be specified by the Governing Board.
- 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
- (a) constituted a Monitoring Committee headed by an Independent Director and shall ensure that such Committee is always in place; and
  - (b) adopted this Monitoring Policy.

## 2. OBJECTIVES

- 2.1 The objective of monitoring is to gather necessary information, records and documents to enable the Monitoring Committee, Governing Board of AIVA and Authority [IBBI] to monitor the performance and keep them informed with unbiased decisions about the performance of Valuer Professionals registered with the authority. The objective of this policy is to create framework for implementation of the functions of the IBBI and AIVA as envisaged under section 247 of the Companies Act, 2013 read with the Companies (Registered Valuers and Valuations) Rules, 2017.

## 3. DEFINITIONS

- 3.1 In this Policy, unless the context otherwise requires -

- (a) "Act" means the Companies Act, 2013;
- (b) "Annexure " means an annexure to this policy;
- (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 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 Article of All India Valuers Association;

- (h) "Company" means a company registered under the Companies Act, 2013 or under the Companies Act, 1956;
- (i) "Governing Board" means the Board of Directors of the All India Valuers Association constituted under the applicable provisions of the Companies Act, 2013;
- (j) "AIVA" means the All India Valuers Association duly incorporated as section 8 company under the Companies Act, 2013 with its registered office at 205, Rohit House Building 3, Tolstoy Marg New Delhi -110001;
- (k) "Monitoring Committee" means the committee constituted by the Governing Board of All India Valuers Association in accordance with its Bye-Laws, and applicable provisions of the Companies (Registered Valuers and Valuation) Rules, 2017;
- (l) "Partnership entity" means a partnership firm registered under the Indian Partnership Act, 1932 or a limited liability partnership registered under the Limited Liability Partnership Act, 2008;
- (m) "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;
- (n) "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;
- (o) "Rules" means the Companies (Registered Valuers and Valuation) Rules, 2017 as amended from time to time;
- (p) "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;

- (q) "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;

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 and Rules made thereunder.

#### **4. FUNCTIONS OF THE MONITORING COMMITTEE**

4.1 The Monitoring Committee as constituted by the Governing Board of All India Valuers Association in accordance with Bye-Laws, and applicable provisions of the Companies (Registered Valuers and Valuation) Rules, 2017 shall perform the following functions:

- (i) To monitor the professional activities and conduct of members for their adherence to the provisions of the Act, rules, regulations, and guidelines issued thereunder, and the bye-laws, the Code of Conduct, and directions given by the Governing Board.
- (ii) To prescribe manner, format, frequency, and timeline of submission of information and records by the registered valuer members to AIVA about ongoing and concluded engagements.
- (iii) To review the information and records submitted by the registered valuer members in accordance with this Monitoring Policy.
- (iv) To analyse and make use of the information and records submitted by the registered valuer members for furtherance of the objectives of AIVA and profession of valuation.
- (v) To undertake or cause to undertake inspections of the information and records submitted by the registered valuer members.
- (vi) To evaluate the performance of registered valuer members.
- (vii) To ensure submission of report(s) to the authority in the manner specified by the authority with information collected during monitoring.
- (viii) Any other matters that may be specified by the Governing Board.

## 5. DUTIES OF REGISTERED VALUER MEMBERS

- 5.1 In the performance of his functions, a registered valuer member shall-
- (i) act in good faith in discharge of his duties as a registered valuer;
  - (ii) discharge his functions with utmost integrity and objectivity;
  - (iii) be independent and impartial;
  - (iv) discharge his functions with the highest standards of professional competence and professional ethics;
  - (v) continuously upgrade his professional expertise;
  - (vi) comply with applicable laws in the performance of his functions; and
  - (vii) maintain confidentiality of information obtained in the course of his professional activities unless required to disclose such information by law.
- 5.2 In addition, a registered valuer member shall also –
- (i) while conducting a valuation, comply with the valuation standards as notified or modified under rule 18 of the Companies (Registered Valuers and Valuation) Rules, 2017 or as the case may be, the internationally accepted valuation standards & the valuation standards adopted by the AIVA as provided under rule 8 of the Companies (Registered Valuers and Valuation) Rules, 2017;
  - (ii) fully comply & adhere, at all times, to the provisions of the Act, rules, regulations, and guidelines issued thereunder, and the Bye-Laws, the Code of Conduct, and directions given by the Governing Board of AIVA;
  - (iii) furnish information and records to AIVA as prescribed under this policy from time to time; and
  - (iv) fully cooperate and allow access to the AIVA and to any person authorised by AIVA, all information including the records, documents, and other matters of the registered valuer, which the AIVA or its authorised representative is aware that is relevant to the inspection and verification of the information and records of the registered valuer member.
- 5.3 As prescribed under Rule 7 of the Companies (Registered Valuers and Valuation) Rules, 2017, the registered valuer member shall –
- (i) at all times possess the eligibility and qualifications and experience criteria as

- specified under rule 3 and rule 4;
- (ii) at all times comply with the provisions of the Act, these rules and the Bye- laws or internal regulations, as the case may be, of the respective registered valuers organisation;
  - (iii) in his capacity as a registered valuer, not conduct valuation of the assets or class(es) of assets other than for which he/it has been registered by the authority;
  - (iv) take prior permission of the authority for shifting his/ its membership from one registered valuers organisation to another;
  - (v) take adequate steps for redressal of grievances;
  - (vi) maintain records of each assignment undertaken by him for at least three years from the completion of such assignment;
  - (vii) comply with the Code of Conduct of the registered valuers organisation of which he is a member;
  - (viii) in case a partnership entity or company is the registered valuer, allow only the partner or director who is a registered valuer for the asset class(es) that is being valued to sign and act on behalf of it;
  - (ix) in case a partnership entity or company is the registered valuer, it shall disclose to the company concerned, the extent of capital employed or contributed in the partnership entity or the company by the partner or director, as the case may be, who would sign and act in respect of relevant valuation assignment for the company;
  - (x) in case a partnership entity is the registered valuer, be liable jointly and severally along with the partner who signs and acts in respect of a valuation assignment on behalf of the partnership entity;
  - (xi) in case a company is the registered valuer, be liable alongwith director who signs and acts in respect of a valuation assignment on behalf of the company;
  - (xii) in case a partnership entity or company is the registered valuer, immediately inform the authority on the removal of a partner or director, as the case may be, who is a registered valuer along with detailed reasons for such removal; and
  - (xiii) comply with such other conditions as may be imposed by the authority.



## 6. MONITORING PROCEDURE

- 6.1 The AIVA shall have procedural framework comprising of collection of the information, records and documents both from the Registered Valuer Members and from independent sources to monitor the performance of Registered Valuer Members. The scope of procedure is as follows:

### Annual Data

- 6.2 Annual Data consists of information furnished by a person at the time of enrolment with the AIVA, which is less likely to change but is material in terms of the eligibility of the Member to continue as Registered Valuer Member, example, Employment Status, Conviction, Change of Nationality, Suspension or Restoration of Registration by IBBI, etc. All Registered Valuer Members shall file Registered Valuer Member's Annual Data - to be given to AIVA at the time of annual renewal of Certificate of Practice and within 15 days of any change in the data. To make it more clear,
- (i) *At the time of renewal of certificate of practice* - In all cases, the Member will be required to submit a fresh Status report to the AIVA at the time of his annual renewal of Certificate of Practice.
  - (ii) *At the time of any change* - Any change in the Annual Data will need to be informed by the Member immediately to the AIVA, but in no case later than 15 days of such change having occurred or its having come to the knowledge of the Member.

### Activity Data

- 6.3 Every Registered Valuer Member is required to report details of each ongoing and concluded engagement relating to valuation under the Companies Act, 2013 (18 of 2013) read with Rule 8 of the Companies (Registered Valuers and Valuation) Rules, 2017. In compliance with these provisions, all Registered Valuer Members shall file Form M4 – Registered Valuer Member's Activity Data - to be given half- yearly by 10th April and 10th October of each year and submit a copy of all the relevant records to the Monitoring Committee of AIVA. The report should, inter alia, include comments for all the engagements being handled and/or concluded, on the following:
- (a) Background information of the asset being valued.
  - (b) Purpose of valuation and appointing authority.
  - (c) Identity of the valuer and any other expert(s) involved in the valuation.
  - (d) Disclosure of valuer interest or conflict, if any.

- (e) Date of appointment, and valuation date and date of report if submitted.
- (f) Inspection and/or investigations undertaken.
- (g) Nature and sources of information collected, used or relied upon.
- (h) Procedure adopted in carrying out the valuation and valuation standards followed.
- (i) Restrictions on use of the report, if any.
- (j) Major factors that were taken into account during the valuation.
- (k) Conclusions.
- (l) Caveats, limitations and disclaimers to the extent they explain or elucidate the limitations faced by the valuer, which shall not be for the purpose of limiting his responsibility for the valuation report.
- (m) Non adherence to directions/regulations/laws, if any, with reasons.
- (n) Details of complaints received with respect to the valuation engagements, if any.
- (o) Valuations challenged in any Court, if any.

6.4 In case of completed engagements, the reports are not required to be attached; only the details thereof as sought shall be provided.

6.5 In case of ongoing engagements, the Member would be required to submit a Status report till the valuation is completed and report is finally submitted.

6.6 The Member will be required to report within 48 hours any warnings or penalties or strictures imposed by the competent authority; or initiation of legal action against the member.

## **7. USE, ANALYSIS & STORAGE OF INFORMATION AND RECORDS**

7.1 Monitoring Committee shall appoint a Monitoring Officer whose role is to perform:-

- (a) Maintain the data / reports received from the registered valuer member.
- (b) Receive and communicate with all stakeholders on behalf of monitoring committee.

- (c) Prepare summary reports in the prescribed as required under the Act & Rules for onwards submission to the Monitoring Committee, Governing Board, and Authority (IBBI).
- (d) Prepare summary reports in the prescribed formats regarding non- compliance of the monitoring policy by the registered valuer members and present before the Monitoring Committee on monthly basis.
- (e) Correspondence on behalf of the Monitoring Committee with the members.
- (f) Any other matters that may be specified either by the Monitoring Committee or by the Governing Board.

7.2 A designed email Id would be provided on the website on AIVA enabling members to submit all the information as required under this policy.

7.3 The data, information & records so collected shall be stored and recorded in a physical and/or digital manner for a period of not less than 8 years, having due regard to the following:

- (a) ensuring the privacy of members and confidentiality of information received, except when disclosure of information is required by the authority or by law;
- (b) in a non-discriminatory; and
- (c) with proper safeguards, including Disaster Recovery Mechanism procedures.

## 8. PRIVACY

8.1 All information and records received by the AIVA from the registered valuer members in accordance with this policy shall be kept fully confidential except when disclosure of such data/information is required by the authority or by law.

8.2 The AIVA shall take adequate steps for proper and safe storage, including digital storage, of the information and records received from the registered valuer members. No person, other than the authorised officials of AIVA, shall be given access to such information and records. There shall be complete audit trail of the retrieval and use of any part of such information and records made by any official of the AIVA.

- 8.3 The AIVA shall take adequate precautions to maintain complete privacy of its members and about their ongoing & completed engagements except when disclosure thereof is required by the authority or by law.

## 9. INSPECTION & MONITORING VISITS

- 9.1 In pursuance of its monitoring objectives and in fulfillment of its obligations as set out in this Monitoring Policy, the AIVA` shall draw a scheme to undertake monitoring visits to its Registered Valuer Members for inspection of their information and records and to review of compliance of obligations under the Act & Rules. The frequency of such visits will be determined using a risk-based approach and will have regard to the following:
- (a) Review of the information / documents received from the registered valuer members;
  - (b) Any information received from other stakeholders and regulators;
  - (c) Any information received from the third party resources; and
  - (d) On the direction of the Monitoring Committee and Governing Board of AIVA.
- 9.2 The Monitoring Committee may direct the inspection to be carried out and also prescribe the scope of inspection by any member of the Committee, any officer of AIVA , any member of the Governing Board of AIVA , or by any other professional valuer member(s), either individually or jointly with other members or officers in any manner as determined by the Monitoring Committee.
- 9.3 On completion of a monitoring visit to the registered valuer member, the Monitoring Team shall submit its report setting out the scope of the monitoring visit, the extent to which the registered valuer member comply with the terms of reference of Team and relevant law and practice and other legislation, the extent to which professional competence has been tested and achieved and any other information which the Monitoring Team would like to add in the report.
- 9.4 To remove subjectivity of the evaluation process, the Monitoring Committee may design and implement an appropriate check list and evaluation format to calculate 'overall compliance point index (OCPI)' which shall determine degree of compliance with respect to provisions of the act, rules, regulations, and guidelines issued thereunder and the bye-laws, the code of conduct and the directions given by the Governing Board.

## 10. REVIEW OF INFORMATION, RECORDS AND DOCUMENTS

10.1 The Monitoring Committee shall review the information and records submitted by the registered valuer members in its meeting. The Monitoring Committee shall take all adequate measures to preserve the privacy and confidentiality of all submitted information & records unless required by the authority or by law enforced in the country. Based on the records submitted by the registered valuer members, the Monitoring Committee will evaluate the performance of the members and categorize them into three categories:-

- (i) **Category A – Compliant:** Members submitting the information regularly and fully complying with the provisions of the Act, rules, regulations, and guidelines issued thereunder, and the bye-laws, the Code of Conduct, and directions given by the Governing Board.
- (ii) **Category B – Semi-Compliant:** Members submitting information with delay or are irregular in complying with policy or partly comply with the provisions of the Act, rules, regulations, and guidelines issued thereunder, and the bye-laws, the Code of Conduct, and directions given by the Governing Board.
- (iii) **Category C – Non-Compliant:** Members who are not filing any information with the Monitoring Committee at all are considered as Non-Compliant.

10.2 The Committee shall post the status of each member on its website.

## 11. REPORTS TO THE AUTHORITY

11.1 The Monitoring Committee shall submit a report to the authority in the manner specified by the authority with information collected during monitoring including information pertaining to:-

- (a) the details of the appointments made under the Act/Rules;
- (b) the transactions conducted with stakeholders during the period of the appointment;
- (c) the transactions conducted with third parties during the period of his appointment; and
- (d) the outcome of each appointment.

## 12. OBLIGATIONS TO COMPLY WITH THE MONITORING POLICY

- (a) Every Registered Valuer Member registered with AIVA is obliged to comply with the requirements of this Monitoring Policy.
- (b) The Monitoring Committee shall review the information and records submitted by the Registered Valuer Members with the objective of monitoring the professional activities and conduct of each member.
- (c) Falsification, misreporting or non-reporting of information required under the Monitoring Policy or sought separately by the Monitoring Committee or any other competent authority shall lead to initiation of Disciplinary Proceedings against the member.
- (d) The guidelines set here should be strictly adhered to, failing which action against the Registered Valuer Member shall be recommended by the Monitoring Committee to the Disciplinary Committee of AIVA .
- (e) If any registered valuer member conducts any misconduct of any nature whatsoever or fails to do the following, he shall be liable for appropriate action under the stated Disciplinary Policy of AIVA. -
  - (i) comply with this Monitoring Policy; or
  - (ii) comply with the duties prescribed for registered valuer members; or
  - (iii) provide prescribed information & records to AIVA ; or
  - (iv) allow access to AIVA or its authorised representative to undertake inspection of information and records; or
  - (v) comply with the provisions of the Act, rules, regulations, and guidelines issued thereunder; or
  - (vi) comply with the Bye-Laws, the Code of Conduct, and directions given by the Governing Board of AIVA .

## 13. REVIEW OF THE MONITORING POLICY

- 13.1 The Monitoring Committee will take reasonable step in seeking to confirm compliance on the part of Registered Valuer Members with all relevant aspects of the Act, Rules, Regulations, and Guidelines issued under the Act, and other legislations that may impact an individual while acting as Valuation Professional.

The above includes the requirements of Code of Conduct prescribed under the Companies (Registered Valuers and Valuation) Rules, 2017 which have been adopted by the AIVA.

13.2 The implementation of the Policy will be monitored and reviewed by the Monitoring Committee at half-yearly interval and annually by the Governing Board of AIVA.

13.3 The Monitoring Policy may be amended from time to time by the Governing Board and will remain in force till further instructions of the Governing Board or by the IBBI.

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