

# LAW GENERAL

IBBI VALUATION EXAMINATION –

LAND & BUILDING

PLANT & MACHINERY

CEV INTERNAL APPRAISERS FOUNDATION

IBBI/RVO/2018/010

REGISTERED VALUERS ORGANISATION (RVO) WITH IBBI

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# LAW - GENERAL

- Salient Features of the Insolvency and Bankruptcy Code, 2016 concerning Valuation
- Salient Features of the Companies (Registered Valuers and Valuation) Rules, 2017
- Salient Features of the Securitization and Reconstruction of the Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act, 2002) concerning Valuation
- Section 5 (n) of the Banking Regulation Act, 1949 on “Secured Loan or Advance”
- The Companies Act 2013: Section 192(2), 230 (1), 230 (2), 230 (3), 231, 232, 247 and 281(1)

# LAW - GENERAL

- The Companies Act 2013: Section 192(2), 230 (1), 230 (2), 230 (3), 231, 232, 247 and 281(1)

# The Companies Act 2013

- Section 192(2)
- Section 230 (1)
- Section 230 (2)
- Section 230 (3)
- Section 231
- Section 232
- Section 247
- Section 281 (1)

## The Companies Act 2013

Concept of Registered Valuer is First Time Introduce in Companies Act, 2013. Chapter XVII of the Companies Act, 2013 introduce concept of Valuation by Registered Valuer (**Section 247**).

# The Companies Act 2013

- **Section 247 - Valuation by registered valuers.—**

(1) Where a valuation is required to be made in respect of any property, stocks, shares, debentures, securities or goodwill or any other assets (herein referred to as the assets) or net worth of a company or its liabilities under the provision of this Act, it shall be valued by a person having such qualifications and experience and registered as a valuer in such manner, on such terms and conditions as may be prescribed and appointed by the audit committee or in its absence by the Board of Directors of that company.

(2) The valuer appointed under sub-section (1) shall,—

**(a) make an impartial, true and fair valuation of any assets which may be required to be valued;**

**(b) exercise due diligence while performing the functions as valuer;**

**(c) make the valuation in accordance with such rules as may be prescribed; and**

**(d) 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.**

**Cont.....**

# The Companies Act 2013

- **Section 247 - Valuation by registered valuers.—**

**(3) If a valuer contravenes the provisions of this section or the rules made there under, the valuer shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees:**

**Provided that if the valuer has contravened such provisions with the intention to defraud the company or its members, he shall be punishable with imprisonment for a term which may extend to one year and with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.**

**(4) Where a valuer has been convicted under sub-section (3), he shall be liable to— (i) refund the remuneration received by him to the company; and**

**(ii) pay for damages to the company or to any other person for loss arising out of incorrect or misleading statements of particulars made in his report.**

# The Companies Act 2013

- **Section 192(2)** - Valuation of Assets in case of Non – Cash Transaction with Directors.
- **Section 230 (1), Section 230 (2), Section 230 (3) and Section 231** – Valuation of Assets in Case of compromise or make arrangements with creditors and members
- **Section 232** - Valuation of Assets in Case of Merger and Amalgamation
- **Section 281(1)** - Valuation of Assets in Case of report by Company Liquidator



# LAW - GENERAL

- Salient Features of the Companies (Registered Valuers and Valuation) Rules, 2017

# Salient Features of the Companies (Registered Valuers and Valuation) Rules, 2017

RULES	Detail
RULE 2– DEFINITION	<ol style="list-style-type: none"><li>1. “<b>#authority</b>” means an authority specified by the Central Government under section 458 of the Companies Act, 2013 to perform the functions under these rules;</li><li>2. “<b>asset class</b>” means a distinct group of assets, such as land and building, machinery and equipment, displaying similar characteristics, that can be classified and requires separate set of valuers for valuation;</li><li>3. “<b>certificate of recognition</b>” means the certificate of recognition granted to a registered valuers organisation under sub-rule (5) of rule 13 and the term “recognition” shall be construed accordingly;</li><li>4. “<b>certificate of registration</b>” means the certificate of registration granted to a valuer under sub-rule (6) of rule 6 and the term “registration” shall be construed accordingly;</li><li>5. “<b>registered valuers organisation</b>” means a registered valuers organisation (<b>RVO</b>) recognised under sub-rule (5) of rule 13;</li><li>6. “<b>valuation standards</b>” means the standards on valuation referred to in rule 18; and</li><li>7. “<b>valuer</b>” means a person registered with the authority in accordance with these rules and the term “registered valuer” shall be construed accordingly.</li></ol> <p># Vide MCA notification dated 23rd October 2017, Central Government has delegated its powers for Registered Valuers to the Insolvency and Bankruptcy Board of India (IBBI)</p>

RULES	Detail
<p>RULE 3 - ELIGIBILITY FOR REGISTERED VALUERS</p>	<p><b>A “person” shall be eligible to be a Registered Valuer if he-</b></p> <ol style="list-style-type: none"> <li>a. is a valuer member of a RVO</li> <li>b. possesses the qualification and experience specified in rule 4</li> <li>c. has passed the Valuation Examination under rule 5 within three years preceding the date of making an application for registration under rule 6:</li> <li>d. is a person resident in India</li> <li>e. is a fit and proper person</li> </ol> <p>For determining whether an individual is a fit and proper person, the authority may take into consideration any criteria including integrity, reputation and character, absence of convictions and restraint orders and competence and financial solvency</p> <p><b>No partnership entity or company shall be eligible to be a registered valuer if-</b></p> <ol style="list-style-type: none"> <li>a. it has been set up for objects other than for rendering professional or financial services, including valuation services and that in the case of a company, it is a subsidiary, joint venture or associate of another company or body corporate;</li> <li>b. it is undergoing an insolvency resolution or is an undischarged bankrupt;</li> <li>c. all the partners or directors, as the case may be, are not ineligible under clauses (c), (d), (e), (f), (g), (h), (i), (j) and (k) of sub-rule (1);</li> <li>d. three or all the partners or directors, whichever is lower, of the partnership entity or company, as the case may be, are not registered valuers; or</li> <li>e. none of its partners or directors, as the case may be, is a registered valuer for the asset class, for the valuation of which it seeks to be a registered valuer.</li> </ol>

RULES	Detail
<b>RULE 4 :</b> <b>QUALIFICATION AND EXPERIENCE</b>	<p>An individual shall have the following qualifications and experience to be eligible for registration under rule 3, namely:-</p> <p><b>(a) post-graduate degree</b> or post-graduate diploma, <b>in the specified discipline</b>, from a University or Institute established, recognised or incorporated by law in India <b>and at least three years of experience</b> in the specified discipline thereafter; or</p> <p><b>(b) a Bachelor's degree or equivalent, in the specified discipline, from a University or Institute</b> established, recognised or incorporated by law in India <b>and at least five years of experience</b> in the specified discipline thereafter; or</p> <p><b>(c) membership of a professional institute established by an Act of Parliament</b> enacted for the purpose of regulation of a profession <b>with at least three years' experience</b> after such membership.</p> <p>Explanation-I.— For the purposes of this clause the 'specified discipline' shall mean the specific discipline which is relevant for valuation of an asset class for which the registration as a valuer or recognition as a registered valuers organisation is sought under these rules.</p> <p>Explanation-II.— Qualifying education and experience for various asset classes, is given in an indicative manner in Annexure-IV of these rules.</p> <p>Explanation III.— For the purposes of this rule and Annexure IV, 'equivalent' shall mean professional and technical qualifications which are recognised by the Ministry of Human Resources and Development as equivalent to professional and technical degree.</p>

RULES	Detail		
<b>Summary of Annexure –IV</b>			<b>“Annexure IV”</b>
	Asset Class	Eligibility  Qualifications	Experience in specified discipline.
	Plant and Machinery	(i) Graduate in Mechanical, Electrical, Electronic and Communication, Electronic and Instrumentation, Production, Chemical, Textiles, Leather, Metallurgy, or Aeronautical Engineering, or Graduate in Valuation of Plant and Machinery or equivalent;  (ii) Post Graduate on above courses.	(i) Five years  (ii) Three years
	Land and Building	(i) Graduate in Civil Engineering, Architecture, or Town Planning or equivalent;  (ii) Post Graduate on above courses and also in valuation of land and building or Real Estate Valuation (a two-year full time post-graduation course).	(i) Five years  (ii) Three years
	Securities or Financial Assets	(i) Member of Institute of Chartered Accountants of India, Member of Institute of Company Secretaries of India, Member of the Institute of Cost Accountants of India, Master of Business Administration or Post Graduate Diploma in Business Management (specialisation in finance).  (ii) Post Graduate in Finance	Three years
	Any other asset class along with corresponding qualifications and experience in accordance with rule 4 as may be specified by the Central Government.		
	Note.- The eligibility qualification means qualification obtained from a recognised Indian University or equivalent Institute whether in India or abroad.		

RULES	Detail
<b>RULE 5</b> <b>VALUATION</b> <b>EXAMINATION</b>	<p>The authority shall, either on its own or through a designated agency, conduct valuation examination for one or more asset classes, for individuals, who possess the qualifications and experience as specified in rule 4, and have completed their educational courses as member of a registered valuers organisation, to test their professional knowledge, skills, values and ethics in respect of valuation:</p> <p>Provided that the authority may recognise an educational course conducted by a registered valuers organisation before its recognition as adequate for the purpose of appearing for valuation examination:</p> <p>Provided also that the authority may recognise an examination conducted as part of a master's or post graduate degree course conducted by a University which is equivalent to the valuation examination.</p>
<b>RULE 6</b> <b>APPLICATION</b> <b>FOR</b> <b>CERTIFICATE OF</b> <b>REGISTRATION</b>	<p>(1) An <b>individual eligible for registration as a registered valuer</b> under rule 3 may make an application to the authority in <b>Form-A of Annexure-II</b> along with a non-refundable application fee of five thousand rupees in favour of the authority.</p> <p>(2) A <b>partnership entity or company eligible for registration as a registered valuer</b> under rule 3 may make an application to the authority in <b>Form-B of Annexure-II</b> along with a non-refundable application fee of ten thousand rupees in favour of the authority.</p> <p>If the authority is satisfied, after such scrutiny, inspection or inquiry as it deems necessary, that the applicant is eligible under these rules, it may grant a certificate of registration to the applicant to carry on the activities of a registered valuer for the relevant asset class or classes in Form-C of the Annexure-II within sixty days of receipt of the application</p>

RULES	Detail
<b>RULE 7 : CONDITIONS OF REGISTRATION</b>	<b>The valuer shall –</b> <ul style="list-style-type: none"><li>a) At all times possess the eligibility qualification and experience</li><li>b) At all times comply with provisions of the Act, these Rules and internal regulations of the respective RVO</li><li>c) Not conduct valuation of assets other than for which he/it has been registered</li><li>d) Maintain records of all assignments undertaken by him for at least 3 years from the completion of such assignments</li><li>e) Comply with code of conduct of the RVO</li><li>f) Allow only the partner/Director who is a Registered valuer for the asset class that is being valued to sign and act on behalf of it</li><li>g) 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;</li><li>h) in case a partnership entity/company is the registered valuer, be liable jointly and severally along with the partner/director who signs and acts in respect of a valuation assignment on behalf of the partnership entity/company;</li></ul>

RULES	Detail
<b>RULE 8 : CONDUCT OF VALUATION</b>	<p>The registered valuer shall, while conducting a valuation, comply with the valuation standards as notified or modified under rule 18:</p> <p>Provided that until the valuation standards are notified or modified by the Central Government, a valuer shall make valuations as per-</p> <ul style="list-style-type: none"><li>(a) internationally accepted valuation standards;</li><li>(b) valuation standards adopted by any registered valuers organisation.</li></ul> <p>The registered valuer may obtain inputs for his valuation report or get a separate valuation for an asset class conducted from another registered valuer, in which case he shall fully disclose the details of the inputs and the particulars etc. of the other registered valuer in his report and the liabilities against the resultant valuation, irrespective of the nature of inputs or valuation by the other registered valuer, shall remain of the first mentioned registered valuer.</p>



RULES	Detail
<b>CONTENTS OF VALUATION REPORT</b>	<p>The valuer shall in his report state the following</p> <ul style="list-style-type: none"><li>• Background information of the asset being valued</li><li>• Purpose of Valuation and Appointing authority</li><li>• Identity of Valuer and any other experts involved in valuation</li><li>• Disclosure of Valuer interest/conflict, if any</li><li>• Date of appointment, valuation date and date of report</li><li>• inspections and/or investigations undertaken;</li><li>• Nature and sources of the information used or relied upon;</li><li>• Procedures adopted in carrying out the valuation and the valuation standards followed</li><li>• Restrictions on use of the report, if any;</li><li>• Major factors that were taken into account during the valuation</li><li>• Conclusion and</li><li>• Caveats, Limitations and Disclaimers to the extent they explain or elucidate the limitations faced by valuer, which shall not be for the purpose of limiting his responsibility for the valuation report.</li></ul>

RULES	Detail
<b>RULE 10 : FUNCTIONS OF A VALUER.</b>	A valuer shall conduct valuation required under the Act as per these rules and he may conduct valuation as per these rules if required under any other law or by any other regulatory authority.
<b>RULE 11 : TRANSITIONAL ARRANGEMENT</b>	<p>Any person who may be rendering valuation services under the Act, on the date of commencement of these rules, may continue to render valuation services without a certificate of registration under these rules upto 31st January, 2019:</p> <p>Provided that if a company has appointed any valuer before such date and the valuation or any part of it has not been completed before 31st March, 2018, the valuer shall complete such valuation or such part within three months thereafter.</p> <p><i>Explanation.— It is hereby clarified that conduct of valuation by any person under any law other than the Act, or these rules shall not be effected by virtue of coming into effect of these rules unless the relevant other laws or other regulatory bodies require valuation by such person in accordance with these rules in which case these rules shall apply for such valuation also from the date specified under the laws or by the regulatory bodies.</i></p>

RULES	Detail
<b>RULE 13 : APPLICATION FOR RECOGNITION AS RVO</b>	<p>An eligible organisation which meets the conditions specified in rule 12 may make an application for recognition as a registered valuers organisation for asset class or classes to the authority in Form-D of the Annexure-II alongwith a non-refundable application fee of rupees one lakh in favour of the authority.</p> <p>If the authority is satisfied, after such scrutiny, inspection or inquiry as it deems necessary that the applicant is eligible under these rules, it may grant a certificate of recognition as a registered valuers organisation in Form-E of Annexure-II.</p>

RULES	Detail
<b>RULE 14 : CONDITIONS OF RECOGNITION AS RVO</b>	<p>The recognition granted under rule 13 shall be subject to the conditions that the registered valuers organisation shall-</p> <ul style="list-style-type: none"> <li>(a) at all times continue to satisfy the eligibility requirements specified under rule 12;</li> <li>(b) maintain a register of members who are registered valuers, which shall be publicly available;</li> <li>(c) admits only individuals who possess the educational qualifications and experience requirements, in accordance with rule 4 and as specified in its recognition certificate, as members;</li> <li>(d) make such reports to the authority as may be required by it;</li> <li>(e) comply with any directions, including with regard to course to be conducted by valuation organisation, issued by the authority;</li> <li>(f) be converted or registered as company under section 8 of the Act, with governance structure and bye laws, within a period of one year from the date of commencement of these rules if it is an organisation referred to in proviso to sub-rule (1) of rule 12;</li> <li>(g) shall have the governance structure and incorporate in its bye laws the requirements specified in Annexure-III within one year of commencement of these rules if it is an organisation referred to in clause (i) of sub-rule (1) of rule 12 and existing on the date of commencement of these rules;</li> <li>(h) display on its website, the status and specified details of every registered valuer being its valuer members including action under rule 17 being taken against him; and</li> <li>(i) comply with such other conditions as may be specified by authority.</li> </ul>

RULES	Detail
<b>RULE 15 : CANCELLATION OR SUSPENSION OF CERTIFICATE OF REGISTRATION OR RECOGNITION</b>	The authority may cancel or suspend the registration of a valuer or recognition of a registered valuers organisation for violation of the provisions of the Act, any other law allowing him to perform valuation, these rules or any condition of registration or recognition, as the case may be in the manner specified in rule 17.
<b>RULE 16 : COMPLAINT AGAINST A REGISTERED VALUER OR REGISTERED VALUERS ORGANISATION</b>	A complaint may be filed against a registered valuer or registered valuers organisation before the authority in person or by post or courier along with a non-refundable fees of rupees one thousand in favour of the authority and the authority shall examine the complaint and take such necessary action as it deems fit: Provided that in case of a complaint against a registered valuer, who is a partner of a partnership entity or director of a company, the authority may refer the complaint to the relevant registered valuers organisation and such organisation shall handle the complaint in accordance with its bye laws.
<b>RULE 18 : VALUATION STANDARDS</b>	The Central Government shall notify and may modify (from time to time) the valuation standards on the recommendations of the Committee set up under rule 19.
<b>RULE 19 : COMMITTEE TO ADVISE ON VALUATION MATTERS</b>	The Central Government may constitute a Committee to be known as "Committee to advise on valuation matters" to make recommendations on formulation and laying down of valuation standards and policies for compliance by companies and registered valuers.
<b>RULE 20 : PUNISHMENT FOR CONTRAVENTION</b>	Without prejudice to any other liabilities where a person contravenes any of the provision of these rules he shall be punishable in accordance with sub-section (3) of section 469 of the Act.

RULES	Detail
<b>RULE 21 : PUNISHMENT FOR FALSE STATEMENT</b>	<p>If in any report, certificate or other document required by, or for, the purposes of any of the provisions of the Act or the rules made thereunder or these rules, any person makes a statement,—</p> <p>(a) which is false in any material particulars, knowing it to be false; or</p> <p>(b) which omits any material fact, knowing it to be material, he shall be liable under section 448 of the Act.</p>
<b>ANNEXURE I : MODEL CODE OF CONDUCT FOR REGISTERED VALUERS</b>	<ul style="list-style-type: none"> <li>• Integrity and Fairness</li> <li>• Professional competence and Due care</li> <li>• Independence and disclosure of Interest</li> <li>• Confidentiality</li> <li>• Information Management</li> <li>• Gifts and Hospitality</li> <li>• Remuneration and cost</li> <li>• Occupation, employ ability and restrictions.</li> </ul>

# LAW - GENERAL

- Salient Features of the Insolvency and Bankruptcy Code, 2016 concerning Valuation

# Salient Features of the Insolvency and Bankruptcy Code, 2016 concerning Valuation

REGULATIONS	Detail
<p data-bbox="141 451 407 839"><b>INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (INSOLVENCY RESOLUTION PROCESS FOR CORPORATE PERSONS) REGULATIONS, 2016 –</b></p> <p data-bbox="141 893 343 961">Regulation 2 - Definition</p>	<p data-bbox="432 451 1870 611">(m) “registered valuer” means a person registered as such in accordance with the Companies Act, 2013 (18 of 2013) and rules made thereunder;</p> <p data-bbox="432 686 1870 1022">(hb) “fair value” means the estimated realizable value of the assets of the corporate debtor, if they were to be exchanged on the insolvency commencement date between a willing buyer and a willing seller in an arm’s length transaction, after proper marketing and where the parties had acted knowledgeably, prudently and without compulsion.</p> <p data-bbox="432 1098 1870 1258">(k) “liquidation value” means the estimated realizable value of the assets of the corporate debtor, if the corporate debtor were to be liquidated on the insolvency commencement date.</p>



# Salient Features of the Insolvency and Bankruptcy Code, 2016 concerning Valuation

REGULATIONS	Detail
<p data-bbox="92 401 359 786">INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (INSOLVENCY RESOLUTION PROCESS FOR CORPORATE PERSONS) REGULATIONS, 2016 –</p> <p data-bbox="92 839 311 872"><u>Regulation 27 -</u></p>	<p data-bbox="392 401 1213 444"><b>27. <u>Appointment of registered valuers-</u></b></p> <p data-bbox="392 462 1889 736">The resolution professional shall within seven days of his appointment, but not later than forty-seventh day from the insolvency commencement date, appoint two registered valuers to determine the fair value and the liquidation value of the corporate debtor in accordance with regulation</p> <p data-bbox="392 811 1889 915">Provided that the following persons shall not be appointed as registered valuers, namely:</p> <ul data-bbox="392 986 1889 1322" style="list-style-type: none"><li data-bbox="392 986 1271 1029">(a) a relative of the resolution professional;</li><li data-bbox="392 1043 1309 1086">(b) a related party of the corporate debtor;</li><li data-bbox="392 1100 1889 1208">(c) an auditor of the corporate debtor at any time during the five years preceding the insolvency commencement date; or</li><li data-bbox="392 1222 1889 1322">(d) a partner or director of the insolvency professional entity of which the resolution professional is a partner or director.</li></ul>

# LAW - GENERAL

- Salient Features of the Insolvency and Bankruptcy Code, 2016 concerning Valuation

# Salient Features of the Insolvency and Bankruptcy Code, 2016 concerning Valuation

REGULATIONS	Detail
<p data-bbox="92 401 359 786"><b>INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (INSOLVENCY RESOLUTION PROCESS FOR CORPORATE PERSONS) REGULATIONS, 2016 –</b></p> <p data-bbox="92 839 311 872"><b><u>Regulation 35 -</u></b></p>	<p data-bbox="390 401 1166 444"><b><u>35. Fair value and Liquidation value</u></b></p> <p data-bbox="390 462 1885 558">(1) Fair value and liquidation value shall be determined in the following manner:-</p> <p data-bbox="390 576 1885 853">(a) the two registered valuers appointed under regulation 27 shall submit to the resolution professional an estimate of the fair value and of the liquidation value computed in accordance with internationally accepted valuation standards, after physical verification of the inventory and fixed assets of the corporate debtor;</p> <p data-bbox="390 872 1885 1086">(b) if in the opinion of the resolution professional, the two estimates of a value are significantly different, he may appoint another registered valuer who shall submit an estimate of the value computed in the same manner; and</p> <p data-bbox="390 1105 1885 1200">(c) the average of the two closest estimates of a value shall be considered the fair value or the liquidation value, as the case may be.</p> <p data-bbox="1696 1282 1885 1325">Cont.....</p>

# Salient Features of the Insolvency and Bankruptcy Code, 2016 concerning Valuation

REGULATIONS	Detail
<p data-bbox="92 401 359 786"><b>INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (INSOLVENCY RESOLUTION PROCESS FOR CORPORATE PERSONS) REGULATIONS, 2016 –</b></p> <p data-bbox="92 839 311 872"><b><u>Regulation 35 -</u></b></p>	<p data-bbox="392 401 1889 853">(2) After the receipt of resolution plans in accordance with the Code and these regulations, the resolution professional shall provide the fair value and the liquidation value to every member of the committee in electronic form, on receiving an undertaking from the member to the effect that such member shall maintain confidentiality of the fair value and the liquidation value and shall not use such values to cause an undue gain or undue loss to itself or any other person and comply with the requirements under sub-section (2) of section 29:</p> <p data-bbox="392 925 1889 1029"><b>(3) The resolution professional and registered valuers shall maintain confidentiality of the fair value and the liquidation value.</b></p>

# Salient Features of the Insolvency and Bankruptcy Code, 2016 concerning Valuation

REGULATIONS	Detail
<p data-bbox="141 451 405 882"><b>INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (FAST TRACK INSOLVENCY RESOLUTION PROCESS FOR CORPORATE PERSONS) REGULATIONS, 2017</b></p> <p data-bbox="141 932 343 1001"><b>Regulation 2 - Definition</b></p>	<p data-bbox="434 451 1868 611">(p) “registered valuer” means a person registered as such in accordance with the Companies Act, 2013 (18 of 2013) and rules made thereunder;</p> <p data-bbox="434 689 1868 1025">(gb) “fair value” means the estimated realizable value of the assets of the corporate debtor, if they were to be exchanged on the insolvency commencement date between a willing buyer and a willing seller in an arm’s length transaction, after proper marketing and where the parties had acted knowledgeably, prudently and without compulsion.</p> <p data-bbox="434 1096 1868 1260">(n) “liquidation value” means the estimated realizable value of the assets of the corporate debtor, if the corporate debtor were to be liquidated on the insolvency commencement date.</p>

# Salient Features of the Insolvency and Bankruptcy Code, 2016 concerning Valuation

REGULATIONS	Detail
<p data-bbox="92 401 359 829"><b>INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (FAST TRACK INSOLVENCY RESOLUTION PROCESS FOR CORPORATE PERSONS) REGULATIONS, 2017</b></p> <p data-bbox="92 882 311 911"><b>Regulation 26-</b></p>	<p data-bbox="392 401 1161 444"><b><u>26. Appointment of registered valuer.</u></b></p> <p data-bbox="392 519 1885 736">The resolution professional shall within seven days of his appointment, appoint one registered valuer to determine the fair value and the liquidation value of the corporate debtor in accordance with Regulation 34:</p> <p data-bbox="392 812 1885 915">Provided that the following persons shall not be appointed as registered valuers, namely:-</p> <ul data-bbox="392 929 1885 1262" style="list-style-type: none"><li data-bbox="392 929 1267 972">(a) a relative of the resolution professional;</li><li data-bbox="392 986 1296 1029">(b) a related party of the corporate debtor;</li><li data-bbox="392 1043 1885 1146">(c) an auditor of the corporate debtor at any time during the five years preceding the insolvency commencement date; or</li><li data-bbox="392 1160 1885 1262">(d) a partner or director of the insolvency professional entity of which the resolution professional is a partner or director.</li></ul>

# Salient Features of the Insolvency and Bankruptcy Code, 2016 concerning Valuation

REGULATIONS	Detail
<p data-bbox="59 386 324 819"><b>INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (FAST TRACK INSOLVENCY RESOLUTION PROCESS FOR CORPORATE PERSONS) REGULATIONS, 2017</b></p> <p data-bbox="59 868 278 901"><b>Regulation 34-</b></p>	<p data-bbox="363 391 1112 434"><b><u>34. Fair value and Liquidation value</u></b></p> <p data-bbox="363 451 1875 725">(1) The registered valuer appointed under regulation 26 shall submit to the resolution professional an estimate of the fair value and of the liquidation value computed in accordance with internationally accepted valuation standards, after physical verification of the inventory and fixed assets of the corporate debtor.</p> <p data-bbox="363 742 1875 1250">(2) After the receipt of resolution plans in accordance with the Code and these regulations, the resolution professional shall provide the fair value and the liquidation value to every member of the committee in electronic form, on receiving an undertaking from the member to the effect that such member shall maintain confidentiality of the fair value and the liquidation value and shall not use such values to cause an undue gain or undue loss to itself or any other person and comply with the requirements under sub-section (2) of the section 29.</p> <p data-bbox="363 1268 1875 1365">(3) The resolution professional and registered valuer shall maintain the confidentiality of the fair value and the liquidation value.]</p>

# Salient Features of the Insolvency and Bankruptcy Code, 2016 concerning Valuation

REGULATIONS	Detail
<p data-bbox="141 451 407 722"><b>INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (LIQUIDATION PROCESS) REGULATIONS, 2016</b></p> <p data-bbox="141 772 343 841"><b>Regulation 2 - Definition</b></p>	<p data-bbox="436 458 1868 634">(h) “registered valuer” means a person registered as such in accordance with the Companies Act, 2013 (18 of 2013) and rules made thereunder; ;</p>



# Salient Features of the Insolvency and Bankruptcy Code, 2016 concerning Valuation

REGULATIONS	Detail
<b>INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (LIQUIDATION PROCESS) REGULATIONS, 2016</b>	<b>35. Valuation of assets intended to be sold.</b> (1) Where the valuation has been conducted under regulation 35 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 or regulation 34 of the Insolvency and Bankruptcy Board of India (Fast Track Insolvency Resolution Process for Corporate Persons) Regulations, 2017, as the case may be, the liquidator shall consider the average of the estimates of the values arrived under those provisions for the purposes of valuations under these regulations.
<b>Regulation 36-</b>	(2) In cases not covered under sub-regulation (1), the liquidator shall within seven days of the liquidation commencement date, appoint two registered valuers to determine the realisable value of the assets or businesses under clauses (a) to (f) of regulation 32 of the corporate debtor:

Cont....

# Salient Features of the Insolvency and Bankruptcy Code, 2016 concerning Valuation

REGULATIONS	Detail
<p data-bbox="92 434 359 876"><b>INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (LIQUIDATION PROCESS) REGULATIONS, 2016</b></p> <p data-bbox="92 996 297 1082"><b>Regulation 36-</b></p>	<p data-bbox="390 434 1889 531">Provided that the following persons shall not be appointed as registered valuers, namely:-</p> <ul data-bbox="390 542 1889 859" style="list-style-type: none"><li data-bbox="390 542 977 588">(a) a relative of the liquidator;</li><li data-bbox="390 599 1248 645">(b) a related party of the corporate debtor;</li><li data-bbox="390 656 1889 753">(c) an auditor of the corporate debtor at any time during the five years preceding the insolvency commencement date; or</li><li data-bbox="390 765 1889 859">(d) a partner or director of the insolvency professional entity of which the liquidator is a partner or director.</li></ul> <p data-bbox="390 928 1889 1188">(3) The Registered Valuers appointed under sub-regulation (2) shall independently submit to the liquidator the estimates of realisable value of the assets or businesses, as the case may be, computed in accordance with the Companies (Registered Valuers and Valuation) Rules, 2017, after physical verification of the assets of the corporate debtor.</p> <p data-bbox="390 1256 1889 1353">(4)The average of two estimates received under sub-regulation (3) shall be taken as the value of the assets or businesses.</p>

# LAW - GENERAL

- Salient Features of the Securitization and Reconstruction of the Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act, 2002) concerning Valuation

# The Securitization and Reconstruction of the Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act, 2002)

## **Provision relating to Valuation is contained in The Security Interest (Enforcement) Rules, 2002.**

- Rule 5 - Valuation of movable Secured Assets
- Rule 8(5) –Valuation of Immovable Secured Assets

# The Securitization and Reconstruction of the Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act, 2002)

## **Rule 5 - Valuation of movable Secured Assets—**

After taking possession under sub-rule(1) of rule 4 and in any case before sale, the authorised officer shall obtain the estimated value of the movable secured assets and thereafter, if considered necessary, fix in consultation with the secured creditor, the reserve price of the assets to be sold in realisation of the dues of the secured creditor.

# The Securitization and Reconstruction of the Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act, 2002)

## **Rule 8(5) –Valuation of Immovable Secured Assets**

Before effecting sale of the immovable property referred to in sub-rule (1) of rule 9, the authorised officer shall obtain valuation of the property from an approved valuer and in consultation with the secured creditor, fix the reserve price of the property and may sell the whole or any part of such immovable secured asset by any of the following methods:—

- a) by obtaining quotations from the persons dealing with similar secured assets or otherwise interested in buying the such assets; or
- b) by inviting tenders from the public;
- c) by holding public auction; or
- d) by private treaty

# LAW - GENERAL

- Section 5 (n) of the Banking Regulation Act, 1949 on “Secured Loan or Advance”

# The Banking Regulation Act, 1949

5 (n) “**secured loan or advance**” means a loan or advance made on the security of assets the market value of which is not at any time less than the amount of such loan or advance; and “unsecured loan or advance” means a loan or advance not so secured;



# THANKS

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