

# **CVSRTA REGISTERED VALUERS ASSOCIATION**

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## **Advisory No.2 (24/08/2021)**

### **An Advisory on Structure/Model/Arrangement between Valuation Service Provider, Intermediator (Digital Service Provider) and Valuation Service User**

The prime intention of this advisory is to create awareness about the Regulatory Environment under which you are providing Valuation Services and to draw attention towards the way in which Valuation Services would be used/requested through a Digital Platform.

You must be aware that in line with fast-paced technological advancements you are required to adopt the same for providing Professional Valuation Services. In the market of valuation services the credibility and integrity of professionals are of paramount importance. To practice as a Valuer one is required to be registered under various legislations, viz. Wealth Tax Act, 1957 or Companies Act 2013; only thereafter one becomes eligible to provide services as a Valuer under those legislations or policies prescribed by the various Valuation Service Users.

One of the major service users is Financial Institutions/Banks. They are using valuation services in compliance of Section 5(n) of Banking Regulation Act, 1949 by creating a panel of valuers as per Reserve Bank of India (RBI) guidelines and policies suggested by Indian Bank Association (IBA). Such panel also requires approval of the Boards of respective FIs or Banks.

On other side, Valuers are required to be registered u/s 247 of Companies Act, 2013 as 'Registered Valuer'. Being a Registered Valuer you are required to comply with provisions of Companies (Registered Valuers and Valuation) Rules, 2017 (the Rules) as well as code of conduct/Bye-laws prescribed thereunder or prescribed by Registered Valuer Organisations. Such rules and regulations mandate that Registered Valuer must maintain records of his services and confidentiality of client and information collected during the course of assignment as well as also comply with monitoring policies with respect to Valuation Services provided.

As a Valuer you are providing your Valuation Services in compliance and nexus of many interwoven legislations and policies. The non-compliance of those multiple requirements is definitely going to attract penal or disciplinary consequences.

Moreover, in absence of Valuation Standards in context of Indian environment, you are also required to comply with internationally accepted Valuation Standards under such legislations or the policies of Valuation Service Users.

It has been learnt through some of the recent developments which are leading to changes in use of Valuation Services by various Valuation Service Users that Valuation Services may be requested/routed through some Intermediator or a Digital Platform Service Provider.

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A probable structure/model/arrangement between Service Provider, Intermediator and Valuation Service User might be as under:

1. A panel of Valuers is prepared and maintained by Valuation Service User.
2. An Intermediator may register and provide access to its digital platform to such Valuers on panel of Service User. It may be merely a contract to use digital platform.
3. A Valuation Service User may request an intermediary to avail valuation report from a Valuer.
4. An Intermediator will select a Valuer amongst Valuers registered with them.
5. A Valuation Service User may provide property documents and information directly to the Valuer or through Intermediator.
6. A Valuer will provide his/her Valuation Report to the Valuation Service User through Intermediator.

Following uncertainties are also required to be considered—

- How Valuers would be paid their Professional Fees and how much a Valuer is required to pay to Intermediator for using its Digital Platform.
- A valuer may not be required to pay anything to the Intermediator for using its Digital Services but an Intermediator may take away right to extract information from Valuation Report of Valuer.
- What are the rights, duties, obligations and liability of Valuation Service User, Intermediator and Valuation Service Providers?
- There may be an independent contract between Valuation Service User & Intermediator and an independent contract between Intermediator & Valuers. In such structure, therefore, what are the remedies available to various parties in the event of breach of contracts?
- Who is responsible for security of information and data as well as confidentiality thereof?
- How requirement of independent opinion of a Valuer may be fulfilled in the above scenario?

Looking to the regulatory framework of valuation profession as well as compliance of various legislations and uncertainty of rights, duties, obligations, liabilities and remedies for the breach in multiple independent contracts between multiple parties, CVSRTA Registered Valuers Association advises its members to avoid use of such digital platform and to avoid entering into such contracts, performance of which may contravene various legislations, like Wealth Tax Act, 1957, Companies Act, 2013, Banking Regulation Act, 1949, etc. or various policies adopted by the banks/financial institutions/IBA under guidelines of Reserve Bank of India.

CVSRTA Registered Valuers Association

~~Chairman~~

Director

