

E-Notes

Article – 14/2024

ADVISORY GUIDELINES dated 2024

Under standing Rules/Codes, Standards and Guidelines

Rules/codes are set to reduce the noise/ambiguity etc.

*To understand between Rules and Standard : The **Rule/code** is meant to reduce the scope of discretion for who uses this while standard grants the scope of discretion.*

*The **Rule/code** has an very important feature that reduces the role of judgment. Rule can restrict someone from doing something or instruct to do something. Eg Speed limits etc. It is expected that the Valuers must follow the rule without deviation.*

The valuers have to follow the code where the code exists. Code, which is a set of rules, it is placed to reduce the noise. It is seen that where the Rules/Codes are set noise has to be reduced severely.

***Standard** is different. When standards are followed, often valuers have to work to specify the meaning of open ended terms. So, often, valuers has to use the term 'reasonable', 'feasible', 'prudently'. But, The standards, if set without specifying details may lead to noise. Standard is based on underneath ethics. Rule / Code : If there is a speed limit of 100km/hr on a highway, and if a driver drives above 100km/hr, police would catch, but, standard would say that prudently, one shouldn't drive above 100km/hr.*

There is, however, a somewhat poorly defined conceptual difference between **guidelines** and standards, in that standards are seen as more strictly enforceable, while something called a guideline has more of the feel of advice or guidance that might be reasonably not followed in every relevant situation. The difference between these is that standards are high in authority and limited in application, whereas design guidelines are low in authority and are more general in application.

These Advisory guidance are a form of guidance advised by RVOESMA. Foundation to illustrate the applicability of standard (or what is rational) in specific situations. It is made to offer advice to overcome the problems. These are issued to illustrate the applicability of relevant standard in specific situation and to offer the resolution of valuation issues and problems.

Disclaimers

- These guidelines is also not mandatory.
- Advisory Guidelines do not establish new standards or interpret existing standards.
- Advisory Guidelines are not part of any standard.
- These are not establishing any basis or methodology or approach.
- Advisory Guidelines are based on hypothetical conditions without investigation or verification of actual circumstances.
- These Advisory Guidelines cannot give assurance that only this opinion represents the only possible solution to the problem or to the issues discussed. And the advice provided may not be applied equally to all the similar situations.
- These guide lines prepared by RVO ESMA FOUNDATION in endeavored to extend helping hands to practicing valuers.
- These may not help a valuer to arrive a desired result.

A valuation is not a fact, it is an estimate of the most probable of a range of possible outcomes based on the assumptions made in the valuation process. Market valuations are estimates of the most probable price that would be paid in a transaction on the valuation date.

Valuation of any asset mainly depends on Remaining Useful life of The Asset. This remaining Useful life can be determined by a valuer with skill and experience.

This advisory guidance is adhered to the Code of Conduct and Ethics rule of RVO ESMA FOUNDATION, where it is applicable.

Here AG1 To AG10 is general Advisory Guidelines. These Advisory Guidance given below is applicable for General but it includes “Valuation of interests for secured lending” also.

General Advisory Guideline Notes for Valuers

1.- General Guideline Notes for Valuers

Preconditions of accepting an assignment on Valuation for a Registered Valuer

Pre requisites

- ⦿ Determining the scope of work.
- ⦿ Try to determine the conflict of interest, if any.
- ⦿ Checking of background of the client.
- ⦿ Assessment of risk in doing the valuation job including ability of paying valuer’s fee.
- ⦿ Condition regarding the use of valuation report.
- ⦿ See the self competence to deliver the job.
- ⦿ Time limitation.
- ⦿ Capacity limitation.
- ⦿ Finding information sources.

The general terms of an assignment

- ⦿ Issues, those may be agreed between a valuer and a client/clients, though at the outset- those may vary from one assignment to the next.

AG1. Use and applicability of assignment letter

An assignment letter means a written or electronically transmitted agreement between a valuer and the client. Use of assignment letter is a healthy practice though no international standard requires this.

The assignment letter and its entire content to be understood by both client and valuer. This should be drafted with mutual consent of both the parties.

If the valuer and the client have an ongoing relationship, the client might initiate a new assignment by sending the valuer a new valuation request.

Establishing an Assignment

- The definition of assignment – the fact that it includes an agreement – that implies that some dialogue must have taken place between the valuer and the client as to the terms of the agreement.
- Those “terms” covers any number of items, ranging from the property to be valued to the due date.
- Sometimes the dialogue takes place in a formal manner. The valuer and client might have a number of meetings and discussions. The valuer and client might draw up a written contract spelling out the agreed upon terms.
- Sometimes, the dialogue might be so informal that both parties are hardly remember the date of occurrence. The client might be a party who takes the valuer's valuation report regularly to value more or less the same types of property, spelling more or less the same scope of work and reporting the results in the same reporting format. In such cases, the client might simply call the valuer and request the valuer to start the valuation job. But considering present scenario, at least sending the FAX or email, detailing little more than the address of the property, ie little details/character of the property is required along with the assignment.

Format for valuation instruction

The valuer may write a format for valuation instruction or Assignment which can be designed to enable the valuer to obtain from the client all the

information necessary in order to carry out the valuation even before the actual job commences. The minimum content of assignments are

1. INSOLVENCY PROFESSIONAL NAME & REGISTRATION NO :
2. REGISTERED VALUER NAME & REGISTRATION NO :
3. CORPORATE DEBTOR'S & CREDITOR'S NAME, ADDRESS & OTHER DETAILS :
4. ASSIGNMENT DATE & NUMBER :
5. DATE OF VALUATION (As the date of insolvency commencement to be given by RP/IF)
6. COPY OF THE ORDER OF THE ADJUDICATING AUTHORITY
7. ASSET CLASS :
8. PURPOSE OF VALUATION :

SCOPE OF WORK WITH DETAILS : Any Changes to Scope of Work Some of the items may not be determinable until the valuation assignment is in progress, or changes to the scope may become necessary during the course of the assignment due to additional information becoming available or matters emerging that require further investigation. As such, whilst the scope of work may be established at the outset, it may also be established over time throughout the course of the assignment. In valuation assignments where the scope of work changes over time, and any changes made over time must be communicated to the client before the assignment is completed and the valuation report is issued. If a new scope of work emerges within a job. Valuer should promptly inform its client about this and will not proceed further without the consent and will inform the client about the procedure taken by the Valuer to address.

9. IDENTIFICATION OF INTENDED USER

The term "Intended Use" is defined as the use(s) of a reported valuation or a valuation review assignment results, as identified by the valuer based on communication with the client at the time of the assignment.

The term “Intended User” is defined as: The client and any other party as identified, by name or type, as users of the valuation report/service by the value, based on communication with the client at the time of the assignment.

10. IDENTIFICATION OF THE PROPERTY :
11. FEE FOR VALUER :
12. LIST OF DOCUMENTS SUBMITTED (As necessary)
13. SPECIFIC TERMS & CONDITION OF THE ASSIGNMENT i.e TIMELINE ETC. (After negotiation):
14. NON-DISCLOSURE OF CONFIDENTIAL INFORMATION Valuers must not allow conflicts of interest to override their professional or business judgment and obligations, and must not divulge confidential information.
15. ACCEPTANCE OF ASSIGNMENT WITH DATE / IN CASE OF REFUSAL REASON BE GIVEN :
16. SPECIFIC INFORMATION to be sourced from the relevant authorities (e.g. relevant seismic registered information) if any.
17. WHAT CLIENT wants to achieve from the inspection and report.
18. SAFETY AND ACCESS ISSUE which may affect the nature of the inspection.

A Valuer has to understand the client’s real need

- WHAT CLIENT wants to achieve from the inspection and report.
- The real qualities and efforts a Registered valuer needs to develop or utilize that lead to the results they desire.
- SPECIFIC INFORMATION to be sourced from the relevant authorities (e.g. relevant seismic registered information) if any.
- While appropriating the real need, a Registered Valuer needs to consider the actual market need.
- *SAFETY AND ACCESS ISSUE which may affect the nature of the inspection.

Stages

Meetings This involves general planning with the client, the process of data validation including to identify the risk involved. The workplan will detail how the staged outputs are achieved and payment points.

Analysis - inspections, data accumulation, sales analysis It is the data collection and analysis stage. It comprises; collection of sales and leasing data, property inspections of sales (outliers and specialist properties/high risk properties), confirmation or collection of property attributes and any remedying of data gaps identified.

Confirming the instruction

- i. The valuer should ensure that a clear scope of works is established and that a contract exists before each Technical Due Diligence process even starts. Misunderstandings can be eliminated or at least minimised by establishing clear terms of engagement at the outset and confirming all of the client's instructions in writing. The disputes are more often if it is not based on a clear understanding of the terms at the outset.
- ii. It should be remembered that once those terms of engagement have been agreed, they cannot be amended without the client's agreement.
- iii. It is advisable that the valuer requests that the client signs a copy of the property professional's letter of confirmation to ensure that the terms and conditions of engagement are understood and agreed by both parties.

Documentation (may called as back paper) or work file

- Documentation is the written record of the *valuation* or *valuation review* and may include communications with the *client*, working papers, or both, used to support the conclusions reached and compliance with IVS.
- Documentation records *must* be maintained to describe the *valuation* or *valuation review* and *must* be sufficient to describe the conclusion reached by the *valuer*. Documentation *must* be adequate to allow a peer applying *professional judgement* to understand the scope of the *valuation*, the work performed, and the conclusions reached.

- In some cases, all documentation is included in the *valuation* report or *valuation review* report. In other cases, depending on the agreed scope of work, additional documentation *must* be maintained. Documentation *should* include but is not limited to communications with the *client*, alternate methods explored, additional data and inputs considered, risks and biases addressed, degree of judgement used and quality control and governance procedures followed.
- In all cases, documentation *must* be sufficient to describe each stage of the *valuation* or *valuation review* process and how the *valuer* managed *valuation risk*.

IBBI says about back papers : A valuer while respecting the confidentiality of information acquired during the course of performing professional services, shall maintain proper working papers for a period of three years or such longer period as required in its contract for a specific valuation, for production before a regulatory authority or for a peer review. In the event of a pending case before the Tribunal or Appellate Tribunal, the record shall be maintained till the disposal of the case.

AG2. Identification of Intended use and Intended Users and understand their needs.

Intended user/use A Valuer must identify and consider the client, any other intended users, and the intended use of reported opinions and conclusions in order to identify the problem to be solved and to understand the valuer's development and reporting responsibilities in an valuation assignment. List of the intended users to be collected from the client.

The term "Client" is as the party or parties (i.e., individual, group, or entity) who engage a valuer by employment or contract in a specific assignment.

The term "Intended Use" is defined as the use(s) of a reported valuation or a valuation review assignment results, as identified by the valuer based on communication with the client at the time of the assignment.

The valuer has to understand the real needs of the client. According to the need, a valuer must try to provide a suitable, adequate opinion on value to the client.

AG3 Competency

For each Valuation Report/Opinion or Conclusion to which standards apply must be prepared by or under supervision of an appropriately qualified Registered Valuer Member, who accepts the responsibility for it.

The following points to be satisfied.

1. A valuer Member must possess the appropriate academic /professional qualification.
2. Can demonstrate technical competence while opine a valuation conclusion.
3. Valid membership of RVO ESMA, committed to the ethical rule/code.
4. Compliance with the state regulations.
5. No proceedings are pending or any action has been initiated against the Member.

Prior to accepting an assignment or entering in to an agreement to perform any assignment a Valuer Member must

- a) Identify the problem to be addressed
- b) Have adequate knowledge
- c) Have experience necessary and sufficient

The valuer member has to achieve and maintain the defined standard adopted by the RVO ESMA. The Valuer Member must have the prescribed qualification, training and competence and also subject to compliance with the Code of Ethics and Conduct adopted by the Institution.

Membership of a professional body does not imply that the member has the necessary skills and competence to undertake a Valuation job, it needs proper knowledge, qualification, rationality and intelligence.

However, it is expected that the Valuer Members are active across a wide range of specialist field and corresponding market.

If at the mid of an assignment, any lack of knowledge or experience emerges which were not identified, unknowingly and eventually not notified, the Valuer Member is obligated to inform its client at the point of discovery. Describe the lack of knowledge and the steps taken to fill the gap. To complete the assignment competently the Valuer Member must take all steps which are necessary. These may be accomplished by various ways, including but not limited to personal study by the Valuer Member, association with a valuer who, reasonably believed to have sufficient knowledge in the matter.

To Deal With Unacceptable Requests

- Better understand the potential client's real needs
- Educate the client about valuation practice and explain other aspects of valuation.

Help from a specialist

If a *valuer* does not possess all of the necessary technical skills, experience, and knowledge to perform all aspects of a *valuation*, it is acceptable for the *valuer* to seek assistance from *specialists*, providing this is disclosed in the scope of work and the applicable reporting.

Compliance with standards (IVS and definitions from IBC ie Fair Value, Liquidation Value)

A special check for the environmental issue or hazardous substance

- Contaminants detection and monitoring
- Legal status
- Hazardous substance
- Remediation

A specialist is required for valuing Agriculture land, mines etc. where the valuer does not possess required qualification or experience.

AG4 Scope of Work

- The scope of work of an assignment will state all the work involved and the jobs to be completed.
- The scope of work should be an important part in the valuation report which should have the professional competence.
- Ensure that all the jobs done as per scope of work document are accurate and that the writing is specific and thorough.
- Scope of work to be well determined while accepting an assignment.
- The scope of work is acceptable when it has rationale with the expectations of market participants for the same or similar valuation services.
- And defining a scope of work is what the valuers peers' actions would be in performing the same or a similar assignment in compliance with defined standard.
- An assignment should contain a scope of work to provide a valuer a outline of job. A valuer can define the jobs, which falls within the scope and which are beyond the scope.
- A Valuer should accept the assignment with clear indication on the scope of work and should ensure that the report conform to those scope of work ie all the jobs done as per scope of work written in assignment and the documents are accurate and that the writing is specific and thorough.
- Always to be kept in mind that a Valuer's value opinion is based on assessment of what a knowledgeable buyer would pay a knowledgeable seller, the valuer needs to be aware of the steps that knowledgeable buyers and sellers now take in the marketplace.

1. A valuer Member must disclose the scope of work in the report.
2. A Valuer Member must rationally gather the elements which are utmost necessary to opine a value and conclusion.

The scope of work must include the research and analysis those are necessary to opine a credible value report

3. Determining the scope of work is an ongoing process, it may also happen in the course of doing an assignment, the valuer might needs to change the scope of work.
4. Exclusion by a Valuer, of any result, investigation, information, method or technique is permitted, which were within the scope of work of an assignment.
5. A valuer member must not limit the scope of work in such a degree that the assignment result is not sufficiently credible to the client or intended user.
6. Special assumptions in a scope of work of a valuation job (assignment & report) should be determined judiciously.
7. It requires that, in any assignment, the Valuer establish the appropriate scope of work necessary to complete that assignment.
8. A valuer member must provide sufficient information in the report to make the client understand about the scope of work is performed.
9. A valuer member, while declaring the scope of work, must not allow the intended use or client's objectives to cause the assignment results to be biased.
10. Changes to Scope of Work Some of the items may not be determinable until the valuation assignment is in progress, or changes to the scope may become necessary during the course of the assignment due to additional information becoming available or matters emerging that require further investigation. As such, whilst the scope of work may be established at the outset, it may also be established over time throughout the course of the assignment.
11. Sometimes, it is seen that the valuation report does not conform to the scope of work of the assignment or the valuer couldn't identify the issue. The scope of work is acceptable when it has rationale with the expectations of market participants for the same or similar valuation services. The scope of work should be an important part in the valuation report which should have the professional competence. Scope of work to be well determined while accepting an assignment.

AG5. Conflict of Interest, Integrity, Objectivity, Confidentiality, Professional behaviour.

Valuers shall not accept or carry out any instruction where there may be, or may reasonably be construed to be a conflict of interest. Valuers shall withdraw from any instruction if a conflict of interest arises or becomes known after an instruction has been accepted. An exception to this clause is where the conflict of interest is disclosed to and accepted by the party or parties.

Where a conflict of interest arises or could arise a Valuer shall promptly disclose the relevant facts to the client and where appropriate:

- (a) Advise the client to obtain independent professional advice;
- (b) inform the client that neither the Valuer nor the firm can act or continue to act for the client unless the appointment or instruction is confirmed in writing acknowledging the actual or potential conflict of interest; and
- (c) disclose the matter in any relevant document or report.

Where a conflict arises or could arise between the interests of different clients of a Valuer or a firm or company of which a Valuer is a partner director or employee, a Valuer shall promptly disclose the relevant facts to the instructing client and where appropriate.

(d) If a conflict of interest emerges within a job. Valuer should promptly inform its client about this and will not proceed further without the consent and will inform the client about the procedure taken by the Valuer to overcome the problem.

a) Integrity: to be straightforward and honest in professional and business relationships.

b) Objectivity: not to allow conflict of interest, or undue influence or bias to override professional or business judgement.

c) Confidentiality: to respect the confidentiality of information acquired as a result of professional and business relationships and not to disclose such information to third parties without proper and specific authority (unless there is a legal or professional right or duty to disclose).

- **CONFIDENTIALITY:** A valuer must protect the confidential nature of the valuer-client relationship.

- ▶ A valuer must act in good faith with regard to the legitimate interests of the client in the use of confidential information and in the communication of opinion.
- ▶ A valuer must be aware of, and comply with, all confidentiality and privacy laws and regulations applicable in an assignment.
- ▶ A member of a duly authorized peer review committee must not disclose confidential information presented to the committee or utilize those information for own interest.

d) Professional behaviour: to act diligently and to produce work in a timely manner in accordance with applicable legal requirements, technical and professional standards. To always act in the public interest and to avoid any action that discredits the profession.

e) Independence :A valuer shall maintain complete independence in his/its professional relationships and shall conduct the valuation independent of external influences

AG6: Avoid Threats

- a) Self-review threat – the threat that a professional valuer will not appropriately evaluate the results of a previous judgement made or service performed, or by another individual within the same firm or employing organisation, on which the valuer may rely when forming a judgement as part of providing a current service.
- b) Acting Threats- Acting for Owner or Borrower in case of secured lending.
- c) Client conflict threat – the threat that two or more clients or intended user may have opposing or conflicting interests in the outcome of a valuation.
- d) Self-interest threat – the threat that a financial or other interest will inappropriately influence the professional valuer’s judgement or behaviour.
- e) Advocacy threat – the threat that a professional valuer will promote a client’s or employer’s position to the point that their objectivity is compromised.

f) Familiarity threat – the threat that due to a long or close relationship with a client or employer, a professional valuer may be too sympathetic to their interests or too accepting of their work; and

AG7. The Basis/Bases, Appropriate Methodology, HABU and Assumption of the Valuation.

IP requires generally Basis/bases of value as ‘Fair Value, Liquidation Value’ as defined by IBC, the valuer has responsibility for ensuring that the basis of value adopted is conforming to the prescribed standard and is consistent to the purpose.

IBC defines ‘Fair Value’ and ‘Liquidation Value’.

- a) As per **IBC** Clause 2(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.
- b) Clause 2(k): as per **IBC** says **“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.

The Basis of Valuation must be stated and the definition must be provided in full in the report.

A valuation report is a professional opinion on a stated basis of value, coupled with any appropriate assumptions or special assumptions on the valuation date. Date is very important in the case of valuation as the value it may also

be prudent to note that the values change over time, and that a valuation given on a particular date may not be valid on an earlier or later date.

Here, in both the cases, the dates said here are historical dates and to that extent, it is expected from the valuer to collect input and information with reference to that date.

Suggestions for determining 'Fair Value'. As said above, the IBC does not say about special assumption. But, for the definition sake, ie **Fair Valuation under IBC, special assumption (IVS 104) or extra ordinary assumption** may be considered. **IVS104 of edition 2022** provides that : Where assumed facts differ from those existing at the date of valuation, it is referred to as a "**special assumption**". if the time gap between the valuation date and inspection date is big and there is any material change like

- When planning approval has been, or will be, granted for development including a change of use at the property.
- When the property is vacant when, in reality, at the date & time of valuation it is occupied.
- If it is let on defined terms when, in reality, at the date of valuation it is vacant or
- If the exchange takes place between parties where one or more has a special interest or synergistic value, is created as a result of the merger of the interests.

There are so many examples for normal assumption and special assumptions are to be considered.

Special assumption also includes

- When a situation where a bid from a special purchaser has been made.
- When a situation where circumstances mean that the interest being valued cannot be offered freely and openly in the market.
- When there was a change the physical circumstances in the past of the property where the valuer has to assume those changes have not taken place.

- When a change in the physical circumstances of the property, for example, a new building to be constructed or an existing building to be demolished, an anticipated change in the mode of occupation in the property.

Now, the **real problem** lies particularly in determining the **Liquidation Value (as defined in IBC)** on a historic date unless the valuer gets a particular comparison. It is practically not possible for a valuer to go back to that date and determine the “liquidation value” of the asset on historical date for lack of comparable data. So, it is seen that, to determine liquidation value, a valuer generally gives corresponding **standard percent deduction** on the fair value as comparisons for liquidation value are not generally available.

A valuer should understand the importance of Codes and Standards

Now, IBC defines ‘Fair Value’ and ‘Liquidation Value’ and also says about Standards of valuation.

IBC also says

IBC 8. Conduct of Valuation.— (1) The registered valuer shall, while conducting a valuation, comply with the valuation standards as notified or modified under rule 18:

Provided that until the valuation standards are notified or modified by the Central Government, a valuer shall make valuations as per-

- (a) internationally accepted valuation standards;*
- (b) valuation standards adopted by any registered valuers organisation*

18. Valuation Standards.— 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.

1. A valuer has to follow **‘Fair Value’ and ‘Liquidation Value’** as defined by the **IBCCode**

2. A valuer doesn't follow '**Market value**', '**Orderly Liquidation Value**' as per IVS - as these are though close, but are different from the definition given by **IBC**. (discussed later)
3. A valuer has to follow **Assumptions** (normal, special etc.), **Market Rent** , **Forced Sale** (premise of Value), other bases of value even **methods** and **approaches** all are from **IVS**. IBC is silent on these.

Difficulties faced by valuers

- Errors and confusion may arise for following **IBC and IVS both** in a single valuation report.
- "Historical dates" as mentioned above which are questionable. For particularly liquidation value , that could significantly affect its opinions and conclusions. In practical these sometimes create the noisy areas.

IVS

Discussion on Market Value, Orderly Liquidation and forced sale as per IVS

As IBC 8 says, if the IVS is checked, we find as per **IVS**, there are also 3 relevant definitions.

1. Market Value as per IVS 104 defined as

"Market Value is the estimated amount for which an *asset or liability should* exchange on the valuation date between a willing buyer and a willing seller in an arm's length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion."

The premise of value is an assumption regarding the most likely set of transactional circumstances that may be applicable to the subject valuation.

The **Market Value** as per IVS is stitched with **Highest and Best Use** concept, which is a premise of value. Highest and best use is the use, from a *participant perspective, that would produce the highest value for an asset.*

The highest and best use (in the premise of value) must be

- ***physically possible (where applicable),***
- ***financially feasible,***
- ***legally allowed***

*and result in the highest value. If different from the current use, the costs to convert an asset to its highest and best use would impact the value. These IVS definitions are adequate in our eyes. That means, as per IVS, to determine **market value**, the valuer must consider the suitable alternative use of the asset that includes notional value, not as is where is basis. E.g. valuation of a hotel in Covid-19 situation may fetch much less value than usual, while an alternative use, if considered, converting the same in to a Nursing home, which were in much demand, which could make the actual market value even considering the conversion cost. HABU : In IVS, a basis of value described as “highest and best use” can be adopted, as defined by the statute. The highest and best use of property is essentially the reasonably probable use that results in the highest value. Generally this may be used in case of non-financial asset. The highest and best use must be physically possible (where applicable), financially feasible, legally allowed and result in the highest value. If different from the current use, the costs to convert an asset to its highest and best use would impact the value. The highest and best use for an asset may be its current or existing use when it is being used optimally. It may happen that highest and best use may differ from current use. The highest and best use of an asset valued on a stand-alone basis may be different from its highest and best use as part of a group of assets, when its contribution to the overall value of the group must be considered. This basis of value must be used judiciously.*

- The concept HABU is embedded with the MARKET VALUE concept as per IVS 104.
- The HABU is the use that maximise the highest productivity of an asset and that may consider any alternative use of that asset.
- Use of HABU concept must be adhered with mainly Economic, Technical feasibility and cost to change use.

- HABU opinion must be advised only after acquiring full knowledge on the alternative uses.
- HABU should be considered in a valuation report where it is applicable

2. Orderly liquidation (premise of value) as per IVS104. *An orderly liquidation describes the value of a group of assets that could be realised in a liquidation sale, given a reasonable period of time to find a purchaser (or purchasers), with the seller being compelled to sell on an as-is, where-is basis. These above two definitions are different from the ‘Fair Value’ and ‘Liquidation Value’ as defined in IBC.*

3. *The term “forced sale” (premise of value) is often used in circumstances where a seller is under compulsion to sell and that, as a consequence, a proper marketing period is not possible and buyers may not be able to undertake adequate due diligence. The price that could be obtained in these circumstances will depend upon the nature of the pressure on the seller and the reasons why proper marketing cannot be undertaken.*

These definitions from **IVS** may be taken into consideration if allowed.

Valuers can take these measures for improvement

- *A valuer must use sufficient care and due diligence to identify and analyse the factors, conditions, data, and other information that would have a significant effect on the credibility of the assignment results .*
- *A valuer’s mind should be the measuring instrument, a valuation opinion can be said as measurement where instrument is the human mind.*
- *A valuer should see how closely their opinion on value matches with the verifiable outcome. That means, a true professional should take care to see how the value opinion made by the valuer is close to the sell even the job is over or, resolution process has succeeded.*

Definition **Market rent:** It is taken from the IVS, it varies significantly according to the terms of the lease contract. Valuers must take care to set out the principal lease terms those are assumed when opining a market rent. Valuers must avoid if any biased or concessional rent, that may be available as incentive between lessor and lease. Avoid to accept the rental value from the rental agreement between the parties from same/sister concerns. Data for Rent must be collected from market.

- Adequate due diligence process to be adopted while doing and opining on valuation. Due diligence process has to be adopted even on the data/assistance received by the valuer. The same process may be undertaken for the data available in the public domain.
- **Appropriate approach and Methodology :** Valuers are responsible for adopting Appropriate Methodology or Valuation approach. It should have the necessary justification for using appropriate valuation method. Generally It must linked with the purpose, nature of asset. The valuer must also consider for any statutory/mandatory requirements applicable in jurisdiction concerned. Multiple methods can be adopted but justification to be given why single or multiple methods are preferred.

Valuation approaches

- Market Approach : Can be arrived at by comparing recent value of the similar asset.
- Income Approach: Essentially this approach is based on the income.
- Cost Approach : This indicates the value of an asset by the cost to create the asset.

Assumptions

For the same asset, Valuations are changed if the Purpose changes Assumptions are linked the purposes. Assumptions are changed if the purposes change.

- Assumptions, which are normal : A supposition taken to be true. It involves facts, conditions or situations affecting the subject of, or approach to, a valuation that, by agreement, do not need to be verified by the valuer as part of the valuation process. Typically, an assumption is made where specific

investigation by the valuer is not required in order to prove that something is true.’

Implementation

- Try to identify, from sources that a reasonable valuer believes to be reliable, the characteristics of the property that are relevant to the type and definition of value and intended use of the valuation report including its location and physical, legal, and economic characteristics the real property interest to be valued.
- It may be any known easements, restrictions, encumbrances, reservations, covenants, contracts, declarations, special assessments, ordinances, or other items of a similar nature; and whether the subject property is a fractional interest, physical segment, or partial holding. These above are not sold or traded in the market though it has impact on the valuation.

The easement in simple words is a nonpossessory right held by one to make use of the land of another for a limited purpose, as right of passage. Relief, something that gives ease; a convenience.

This following points are similar for restrictions, encumbrances, reservations, covenants, contracts, declarations, special assessments, ordinances, or other items of a similar nature

- Easement value depends on the difference between asset value before the easement and after the easement.
- A fee can be determined for allowing access (easement grant) to the asset and that can be attached to the real asset.
- Easement can be transferred with the real asset.

An assumption is often linked to a limitation on the extent of the investigations or enquiries that could be undertaken by the valuer – Any limitations or restrictions on the inspection, inquiry and analysis for the purpose of the valuation assignment must be identified and recorded in the terms of engagement

It is necessary to consider all assumptions that are likely to be included in the report must be agreed with the client and included in the terms of

engagement. Where it is not possible to include assumptions in the terms of engagement, they should be agreed in writing with the client before the valuation report is issued.

Some unforeseen event: after inspection or investigation, if the valuer considers that an assumption agreed in advance with the client is likely to be inappropriate, or should become a special assumption, the revised assumptions and approach must be discussed with the client prior to the conclusion of the valuation assignment and delivery of the report.

for practical application in relation to real property interests.

Special assumptions (repeated here)

A special assumption is made by the valuer where an assumption either assumes facts that differ from those existing at the valuation date or that would not be made by a typical market participant in a transaction on that valuation date.

Where special assumptions are necessary in order to provide the client with the valuation required, these must be expressly agreed and confirmed in writing to the client before the report is issued.

Special assumptions may only be made if they can reasonably be regarded as realistic, relevant and valid for the particular circumstances of the valuation.

Implementation

The valuer may include in the report some comment or assessment of the likelihood of the special assumption being fulfilled. For example, a special assumption that permission had been granted to develop land may have to reflect the impact on value of any conditions that might be imposed.

In addition to stating the basis of value, it is often necessary to make an assumption or multiple assumptions to clarify either the state of the asset in the hypothetical exchange or the circumstances under which the asset is assumed to be exchanged. Such assumptions can have a significant impact on value.

A normal assumption is made where it is reasonable for a valuer to accept that something is true without the need for specific investigation. A normal assumption is It is supposed to be taken as true, it involves fact, conditions or situation. Assumptions must be coupled with the appropriate basis of valuation also this must have link to the limitation on the extent of investigation.

Some examples of *special assumptions* in relation to real property interests are that: (...RICS)

- planning (zoning) consent has been, or will be, granted for development (including a change of use) at the property a building or other proposed development has been completed in accordance with a defined plan and specification
- That a defined physical change had occurred, eg, a proposed building is valued as if complete at the valuation date.
- that there had been a change in the status of the property, eg, A land acquisition notice has been served but not implemented.
- that the interest is being valued without taking into account other existing interests, and
- that the property is free from contamination or other environmental risks.
- the property has been changed in a defined way (for example, removal of process equipment)
- the property is vacant when, in reality, at the *valuation date* it is occupied
- The property is let on defined terms when, in reality, at the *valuation date* it is vacant or the exchange takes place between parties where one or more has a special interest and that additional value, or *marriage value*, is created as a result of the merger of the interests. Where a property has been damaged the *special assumptions* may include:
 - treating the property as having been reinstated (reflecting any insurance claims)
 - valuing as a cleared site with development permission assumed for the existing use.

- refurbishment or redevelopment for a different use reflecting the prospects of obtaining the necessary development permissions.

All Assumptions made must be stated, together with any reservations that may be required. Generally normal assumptions are adopted.

Assumptions vary in different states the Report must make this clear.

Special Assumptions must be clearly stated.

The two standards use different terminology for assumptions but share very similar requirements but there are some differences.

USPAP has Extraordinary Assumptions and Hypothetical Conditions. IVS has Assumptions and Special Assumptions. Further, if an Assumption could reasonably be expected to influence the decisions of users of the valuation, it would be labelled a “significant” Assumption. In addition to stating the basis of value, it is often necessary to make an assumption or multiple assumptions to clarify either the state of the asset in the hypothetical exchange or the circumstances under which the asset is assumed to be exchanged. Such assumptions can have a significant impact on value.

An Extraordinary Assumption in USPAP would be considered a significant Assumption in IVS.

If creating a report to satisfy both USPAP and IVS, you must use the IVS terminology because while USPAP does not require use of the terms, IVS does. A statement must be made as to whether or not any allowance has been made for liability for taxation which may arise on disposal, whether actual or notional, and whether or not the valuation reflects costs of acquisition or realization.

Where statements rely upon the prospect of future growth in rental and / or capital values, a statement must be made to the effect that such growth may not occur, and that values can fall as well as rise.

AG8. The extent of the valuer's investigations

The Report must record that date and extent of the inspection, including reference to any part of the property to which access was not possible. Inspection of the asset is a must for L&B and P&M.

IVS says on investigation

- ⦿ Investigations made during the course of a valuation assignment must be appropriate for the purpose of the valuation assignment and the basis(es) of value.
- ⦿ Sufficient evidence must be assembled by means such as inspection, inquiry, computation and analysis to ensure that the valuation is properly supported.
- ⦿ Limits may be agreed on the extent of the valuer's investigations. Any such limits must be noted in the scope of work. the valuation engagement must not state that it has been performed in compliance with IVS.
- ⦿ When a valuation assignment involves reliance on information supplied by a party other than the valuer, consideration should be given as to whether the information is credible or that the information may otherwise be relied upon without adversely affecting the credibility of the valuation opinion. Significant inputs provided to the valuer (eg, by management/owners) should be considered, investigated and/or corroborated. In cases where credibility or reliability of information supplied cannot be supported, consideration should be given as to whether or how such information is used.
- ⦿ In considering the credibility and reliability of information provided, valuers should consider matters such as:
 - (a) the purpose of the valuation,
 - (b) the significance of the information to the valuation conclusion,
 - (c) the expertise of the source in relation to the subject matter,
 - (d) whether the source is independent of either the subject asset and/or the recipient of the valuation.

The valuer must make it clear if the valuation has been made without an opportunity to carry out an adequate inspection, disclosure must be given in support of that.

In the case of a revaluation, the Report should also refer to any agreement that further inspections are unnecessary.

The nature and source of information to be relied on by the valuer. The valuer must make it clear if the valuation has been carried out without the information normally available when carrying out a valuation.

The valuer must indicate in the Report if (where practicable) verification is needed on any information or Assumptions on which the valuation is based, or if information considered material has not been provided.

If, during the course of an assignment, it becomes clear that the investigations included in the scope of work will not result in a credible valuation, or information to be provided by third parties is either unavailable or inadequate, or limitations on investigations are so substantial that the valuer cannot sufficiently evaluate the inputs and assumptions, the valuation assignment will not comply with IVS.

a) Why inspection the subject property is necessary?

PERSONAL INSPECTION: a physical observation performed to assist in identifying relevant property characteristics in a valuation service. An inspection is typically limited to those things readily observable without the use of special testing or equipment. Valuations of some types of property, such may require the use of specialized equipment or specialists. An inspection by a valuer is not the equivalent of an inspection by an inspection professional (e.g., a structural engineer, home inspector, or art conservator). The primary reason for inspecting the subject property is to gather information about the characteristics of the property that are relevant to its value.

b) What is the purpose of personal inspection

This will get a valuer a RELEVANT CHARACTERISTICS: features that may affect a property's value or marketability such as legal, economic, or physical characteristics.

- c) Why a personal inspection? While there are other ways to gather information on the subject property's relevant characteristics, in many cases the personal observations of the valuer are the primary source of information regarding the subject property.

This may include the

Health and safety for Valuer

Areas to consider include caution when:

1. Entering premises that have been vacant for a long time;
2. working close to plant or machinery
3. working high up or in confined places
4. There are traffic movements
5. There is excessive noise, excessive heat or cold, or vibration
6. In the presence of microwaves, radiation and electromagnetic fields
7. chemical emission
8. increased hygiene needs (e.g. food preparation areas)
9. biohazards
10. time restrictions
11. unoccupied areas, one-way opening doors
12. entering security areas.

AG9. Use of Caveat, Limitations and Disclosure in the Valuation Report

These Guidelines provide guidance to the RVs in the use of Caveats, Limitations, and Disclaimers in the interest of credibility of the valuation reports.

Rule 8 of the Rules mandates that the Registered Valuers (RVs) shall state „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.

(a) A RV shall prepare valuations reports under rule 8 of the Rules in adherence to these Guidelines.

(b) A RVO shall monitor adherence to these Guidelines through scrutiny of the valuation reports.

Caveats, Limitations, and Disclaimers in a Valuation Report **not to be used**

- Business Plan/forecasts received from client: RV giving a disclaimer for the business plan/forecasts received from client without applying test of reasonability and due diligence.
- Physical Verification: RV giving a disclaimer that he has not physically verified the tangible assets in case where engagement is for providing liquidation value on the contrary **Physical Verification/inspection is a must for the RVMs particularly for the asset classes L&B and P&M.**
- Market related data: RV giving disclaimer for the market related data employed in his reports e.g. beta, discounting factor, comparable companies, comparable transactions, valuation metrics without testing appropriateness of the same.
- Historical analysis: RV giving disclaimer that he has not done any historical analysis while conducting valuation exercise of listed/unlisted entities although the historical data could have been arranged with reasonable effort.
- One approach: RV giving valuation conclusion based on only one approach without giving any reasoning as to why the other two approaches were not considered in his valuation.
- Another expert: RV giving disclaimer for work done by any other expert and the findings of the same does not form part of report of RV.

AG10. A REPORT SHOULD COVER in broader sense.

These below points are additional to our study material on the report writing.

A valuer

- Completeness of the report

The report should be complete in all respects, A reviewer to see that all the points has been taken in to account.

- Adequacy of the report.

the quality of being able to meet a need satisfactorily, the quality of the report being sufficient for the end in an opinion.

- Relevance of the report.

The property of the report of being relevant or pertinent in holding the high quality. Different points of valuation have different implications for what is considered relevant and these fundamental views have implications on the report.

- Reasonability

Check and describe the suitable basis and methodology in part with International Valuation Standard. Definitions with the suitability of the premise of Values.

- Appropriateness.

The correct employment of methodology and technique.

- Nuances of different concepts of Values must be understood by the Valuer.
- Caveat, Limitations and Disclaimer.

A disclosures, if any, to be given with the report.

- Difference between Disclaimer and Disclosure, though similar sound.

A disclaimer looks to avoid particular liability, like a user taking website information as legal or medical advice. A disclosure is the revealing of the information.

A draft report may be sent to the client before the final report.

Minimum content of Valuation Reports

The Report must deal with all the matters agreed between the client and the valuer in the Terms of Engagement and include the following minimum Information, except where the Report is to be provided on a form supplied by the client:

The IVS have requirements that apply from the outset and throughout the valuation process.

- (a)** identification of the client;
- (b)** the purpose of the valuation;
- (c)** the subject of the valuation;
- (d)** the interest to be valued;
- (e)** the type of property and how it is used, or classified, by the client;
- (f)** the basis or bases of valuation;
- (g)** the date of valuation; as per IBC the date of insolvency commencement.
- (h)** Effective date: the date of inspection or valuation (if there is any material change in asset)
- (i)** the status of the valuer and disclosure of any previous involvement;
- (j)** where appropriate, the currency that has been adopted;
- (k)** any Assumptions, Special Assumptions, reservations, any special instructions or Departures

Departure: IVS 102 clause 40 says : As noted in the IVS Framework, when statutory, legal, regulatory or other authoritative requirements must be followed that differ from some of the requirements within IVS, a valuer must follow the statutory, legal, regulatory or other authoritative requirements (called a “departure”). Such a valuation has still been performed in overall compliance with IVS. Generally other standards do not contradict IVS, a valuer may continue with IVS considering the requirement as additional. Eg Capital Gain Tax, rating

But, Departure deviations from IVS that are not the result of legislative, regulatory or other authoritative requirements are not permitted in valuations performed in accordance with IVS.

- (l) the extent of the valuer's investigations;
- (m) the nature and source of information to be relied on by the valuer;
- (n) any consent to, or restrictions on, publication;
- (o) any limits or exclusion of liabilities to parties other than the client;
- (p) confirmation that the valuation accords with these standards;
- (q) the opinions of value in figures and words;
- (r) signature and date of the Report;

What IBBI Rule says on Report writing

8. Conduct of Valuation.— (1) The registered valuer shall, while conducting a valuation, comply with the valuation standards as notified or modified under rule 18:

Provided that until the valuation standards are notified or modified by the Central Government, a valuer shall make valuations as per-

- 1. (a) internationally accepted valuation standards;*
- 2. (b) valuation standards adopted by any registered valuers organisation.*

(2) 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.

(3) The valuer shall, in his report, state 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 experts involved in the valuation;*

- (d) disclosure of valuer interest or conflict, if any;*
- (e) date of appointment, valuation date and date of report;*
- (f) inspections and/or investigations undertaken;*
- (g) nature and sources of the information used or relied upon;*
- (h) procedures 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) conclusion; and*
- (l) 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.*

Different definition of values/ Value concept as per IBC, IVS and ASB

Insolvency & Bankruptcy Code has coined the term “**Fair Value**” means the estimated realizable value of the assets of the corporate debtors, 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 wherein the parties had each acted knowledgeably, prudently and without compulsion.

IBC defined Liquidation value

“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.

Definition of **Fair Value as per Ind AS- 113**

The price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date.

Other Basis of Value – Fair Value

(International Financial Reporting Standards)

IFRS 13 defines Fair Value as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date.

MARKET VALUE as per IVS: a type of value, stated as an opinion, that presumes the transfer of a property (i.e., a right of ownership or a bundle of such rights), as of a certain date, under specific conditions set forth in the definition of the term identified by the valuer as applicable in an appraisal.

Market Value -* Market Value is the estimated amount for which an asset or liability should exchange on the valuation date between a willing buyer and a willing seller in an arm's length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion. -IVSC. RICS also has the same definition.

Market value is a basis of value that is internationally recognised and has a long-established definition. It describes an exchange between parties that are unconnected and are operating freely in the marketplace and represents the figure that would appear in a hypothetical contract of sale, or equivalent legal document, at the valuation date, reflecting all those factors that would be taken into account in framing their bids by market participants at large and reflecting the highest and best use of the asset. The highest and best use of an asset is the use of an asset that maximises its productivity and that is possible, legally permissible and financially feasible.

Liquidation Value as per IVS

Liquidation Value is the amount that would be realized when an asset or group of assets are sold on a piecemeal basis. Liquidation Value should take into account the costs of getting the assets into saleable condition as well as those of the disposal activity. Liquidation Value can be determined under different premises of value:

1. **An orderly transaction** with a typical marketing period, or
2. **A forced transaction** with a shortened marketing period

The following definitions has relevance with above.

Premise of Value : **Orderly Liquidation** An orderly liquidation describes the value of a group of assets that could be realised in a liquidation sale, given a reasonable period of time to find a purchaser (or purchasers), with the seller being compelled to sell on an as-is, where-is basis. The reasonable period of time to find a purchaser (or purchasers) may vary by asset type and market conditions.

Premise of Value – **Forced Sale**

The term “forced sale” is often used in circumstances where a seller is under compulsion to sell and that, as a consequence, a proper marketing period is not possible and buyers may not be able to undertake adequate due diligence. The price that could be obtained in these circumstances will depend upon the nature of the pressure on the seller and the reasons why proper marketing cannot be undertaken. It may also reflect the consequences for the seller of failing to sell within the period available. Unless the nature of, and the reason for, the constraints on the seller are known, the price obtainable in a forced sale cannot be realistically estimated. The price that a seller will accept in a forced sale will reflect its particular circumstances, rather than those of the hypothetical willing seller in the Market Value definition. A “forced sale” is a description of the situation under which the exchange takes place, not a distinct basis of value.

IVS-Defined – Market Rent

Market Rent is the estimated amount for which an interest in real property should be leased on the valuation date between a willing lessor and a willing lessee on appropriate lease terms in an arm's length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion.

Other Concept of Value as per IVS

IVS-Defined Basis of Value – Equitable Value

“Equitable Value is the estimated price for the transfer of an asset or liability between identified knowledgeable and willing parties that reflects the respective interests of those parties.” - IVS

Equitable Value requires the assessment of the price that is fair between two specific, identified parties considering the respective advantages or disadvantages that each will gain from the transaction. In contrast, Market Value requires any advantages or disadvantages that would not be available to, or incurred by, market participants generally to be disregarded.

IVS-Defined Basis of Value – Investment Value/Worth

Investment Value is the value of an asset to a particular owner or prospective owner for individual investment or operational objectives.

Investment Value is an entity-specific basis of value. Although the value of an asset to the owner may be the same as the amount that could be realised from its sale to another party, this basis of value reflects the benefits received by an entity from holding the asset and, therefore, does not involve a presumed exchange. Investment Value reflects the circumstances and financial objectives of the entity for which the valuation is being produced. It is often used for measuring investment performance.

IVS-Defined Basis of Value – Synergistic Value

Synergistic Value is the result of a combination of two or more assets or interests where the combined value is more than the sum of the separate values. If the synergies are only available to one specific buyer then Synergistic Value will differ from Market Value, as the Synergistic Value will reflect particular attributes of an asset that are only of value to a specific purchaser. The added value above the aggregate of the respective interests is often referred to as “marriage value.”

Premise of Value – Current Use/Existing Use

Current use/existing use is the current way an asset, liability, or group of assets and/or liabilities is used. The current use may be, but is not necessarily, also the highest and best use.

European Valuation Standard EVS2 says Existing use valuation :

“The estimated amount for which a property should exchange on the date of valuation between a willing buyer and a willing seller in an arm’s-length transaction, after proper marketing wherein the parties had acted knowledgeably, prudently and without compulsion, assuming that the buyer is granted vacant possession of all parts of the property required by the business and disregarding potential alternative uses and any other characteristics of the property that would cause its Market Value to differ from that needed to replace the remaining service potential at least cost.” --RICS Valuation Standards – Global and UK, UKVS 1.3, 2011

Notes on the Purpose of Valuation

- The purpose of finance for further development. Financial institutions while considering the proposal of funding may require the valuation of plant & machinery. Generally, that should be current market value.

- For the purpose of selling / purchasing , division of asset or take over: Assets are being sold or purchased for many reasons. A property may have to be divided among many claimants. The market value of the asset to be the platform on which determined to start the negotiation. The valuation of such is being done.
- A unit is willing to go public or an existing public company may require to re value their assets to collect investment from public. Some Companies are having revalued their asset regularly after 2-3 years – so that public are in know about the worth of the Company.
- For the purpose of debt recovery. When a borrower becomes incapable refunding the money to the financial institution, a valuation is being done to determine the value of the asset for the recovery of the debts.
- Machinery taken on lease or Mortgaged / pledged.
- Valuations are required for the Machinery to be taken on lease or Mortgaged / pledged. Valuation also required when a Machine is already taken on lease lease or Mortgaged / pledged.
- Collaboration : For the purpose of collaboration, to know the strength or capacity of collaborating firms, valuation report is required. Generally, current market value is considered for this purpose.
- For restructuring and refinancing sick unit the efforts are made by financial institutions to rehabilitate the unit with financial aid. The valuation of the total unit is being done for the purpose.

Assumptions: which are stitched with the purpose

An assumption is made where it is reasonable for the valuer to accept that something is true without the need for specific investigation or verification

Any such assumption must be reasonable and relevant having regard to the purpose for which the valuation is required.

Normal assumption

‘A supposition taken to be true. It involves facts, conditions or situations affecting the subject of, or approach to, a valuation that, by agreement, do not need to be verified by the valuer as part of the valuation process. Typically, an assumption is made where specific investigation by the valuer is not required in order to prove that something is true.’ ... RICS

It will almost always be necessary to couple a basis of value with appropriate assumptions that describe the assumed status or condition of the property or asset at the valuation date.

It also may be **any known easements, restrictions, encumbrances, leases, reservations, covenants, contracts, declarations, special assessments, ordinances, or other items of a similar nature; and whether the subject property is a fractional interest, physical segment, or partial holding.**

An assumption is often linked to a limitation on the extent of the investigations or enquiries that could be undertaken by the valuer – Any limitations or restrictions on the inspection, inquiry and analysis for the purpose of the valuation assignment must be identified and recorded in the terms of engagement

It is necessary to consider all assumptions that are likely to be included in the report must be agreed with the client and included in the terms of engagement. Where it is not possible to include assumptions in the terms of engagement, they should be agreed in writing with the client before the valuation report is issued.

Some unforeseen event: after inspection or investigation, if the valuer considers that an assumption agreed in advance with the client is likely to be inappropriate, or should become a special assumption, the revised assumptions and approach must be discussed with the client prior to the conclusion of the valuation assignment and delivery of the report for practical application in relation to real property interests.

Assumptions for Land & Building : An assumption is made where it is reasonable for a valuer to accept that something is true without the need for specific investigation. A normal assumption is It is supposed to be taken as true, it involves fact, conditions or situation. Assumptions must be coupled with the appropriate basis of valuation also this must have link to the limitation on the extent of investigation.

- Title
- Condition of buildings
- Services
- Planning (zoning)
- Contamination and hazardous substances
- Environmental matters

Assumptions for Plant & Machinery

A valuation of plant and equipment will normally require consideration of a range of factors relating to the asset itself, its environment and physical, functional and economic potential.

Normal Assumptions for Plant & Machinery

a) Asset-related:

1. the asset's technical specification,
2. the remaining useful, economic or effective life, considering both preventive and predictive maintenance,
3. the asset's condition, including maintenance history,
4. any functional, physical and technological obsolescence,
5. if the asset is not valued in its current location, the costs of decommissioning and removal, and any costs associated with the asset's existing in-place location, such as installation and re-commissioning of assets to its optimum status,
6. for machinery and equipment that are used for rental purposes, the lease renewal options and other end-of-lease possibilities,

7. any potential loss of a complementary asset, eg, the operational life of a machine may be curtailed by the length of lease on the building in which it is located,
8. additional costs associated with additional equipment, transport, installation and commissioning, etc, and
9. in cases where the historical costs are not available for the machinery and equipment that may reside within a plant during a construction, the valuer may take references from the Engineering, Procurement, Construction (“EPC”) contract.

(b) Environment-related:

1. the location in relation to the source of raw material and market for the product. The suitability of a location may also have a limited life, eg, where raw materials are finite or where demand is transitory,
2. the impact of any environmental or other legislation that either restricts utilisation or imposes additional operating or decommissioning costs, radioactive substances that may be in certain machinery and equipment have a severe impact if not used or disposed of appropriately. This will have a major impact on expense consideration and the environment,

c) Economic-related:

1. the actual or potential profitability of the asset based on comparison of operating costs with earnings or potential earnings (see IVS 200 Business and Business Interests),
2. the demand for the product manufactured by the plant with regard to both macro- and micro-economic factors could impact on demand, and
3. the potential for the asset to be put to a more valuable use than the current use (ie, highest and best use).

Valuations of plant and equipment should reflect the impact of all forms of obsolescence on value. Consider Economical, Technical and Functional Obsolescence.

It is very important to mention here in case DRC method is used, a suitable statement bearing the proper reason for using such method and why other methods such as comparison cannot be used.

A special assumption is made by the valuer where an assumption either assumes facts that differ from those existing at the valuation date or that would not be made by a typical market participant in a transaction on that valuation date

Where special assumptions are necessary in order to provide the client with the valuation required, these must be expressly agreed and confirmed in writing to the client before the report is issued

Special assumptions may only be made if they can reasonably be regarded as realistic, relevant and valid for the particular circumstances of the valuation

Significant Assumption or Special assumptions as per IVS are considered

- When a situation where a bid from a special purchaser has been made.
- When a situation where circumstances mean that the interest being valued cannot be offered freely and openly in the market
- When there was a change the physical circumstances in the past of the property where the valuer has to assume those changes have not taken place.
- When a change in the physical circumstances of the property, for example, a new building to be constructed or an existing building to be demolished, an anticipated change in the mode of occupation in the property.

It is very pertinent to mention here that the special assumptions to be considered while doing valuation under the IBC as the date of insolvency commencement date is the date of valuation, if there are significant changes in situation are observed.

Definition : Due diligence : reasonable steps taken by a person to avoid committing a tort or offence. a comprehensive appraisal of a business undertaken by a prospective buyer, especially to establish its assets and liabilities and evaluate its commercial potential.

Gaining an understanding of the technical condition and design of the property through a thorough examination of all available construction

documents, including identifying defects, poor performance and opportunities for improvement.

- Why due diligence required for a valuer?
- Quantifying future costs and other liabilities.
- Establishing the suitability of the property for its intended use or users
- Try to provide a good foundation to the client for price negotiations and
- Try to provide a level of protection for institutional investors. As, it is seen that the majority of large property owners are institutional investors who manage a portfolio of property assets on behalf of their beneficial owners.

The Need for Technical Due diligence.

Technical Due Diligence is required, which detail the physical condition of a property, are increasingly in demand throughout the world as financial institutions, investors and owner-occupiers look ever more closely at the risks of buying and selling property. It is therefore critical. Both valuers and their clients have to understand the issues, which may be considered in such reports and client/ intended users should have confidence in the due diligence process adopted by a Valuer.

These processes are:

1. Purchase, including financing and purchase of development projects
 - a. Whether the site or surrounding area have any adverse effect on the technical aspects of the asset.
 - b. There shouldn't be any deficiency like estimating the remaining life of the asset.
 - c. Whether significant defects exist in the structure and building services installed in the property
 - d. Whether any legal implications of the defects which is considered as non-compliance with statutory standards
 - e. Whether the property is suitable for the client's intended use;
 - f. Whether tenants' fittings impact on the current or future use of the property;

- g. The valuer has to consider the technical characteristics of the asset whether suits with the use classification of the building and likely tenant requirements.
- h. The valuer has to consider also the projected capital expenditure (CAPEX) are in line with the client's budget.

2. Occupation

if occupation by the client is for long time or contemplated, the Technical Due Diligence process would advise on any restrictions or problems likely to be encountered in adapting the property for the intended use.

3. Disposal.

Identification of significant physical defects or any statutory non-compliance which might affect the value of the property in the market. If it is not done or a new avenue for a purchaser to extend negotiations may open regarding certain technical issues.

Third party consultants and their appointment if any

A Technical Due Diligence investigation to be undertaken when the Valuer takes help/opinion from other consultants and experts. Thorough Technical Due Diligence investigation is required, particularly a large commercial, industrial or residential property are involved and there may be need for a number of different consultants and experts covering their specific area of expertise and requirement.

Notes on Approach/Methods

Sales History

Valuer must analyse the details of pending and recent sales of comparable properties, the Valuer must also take into account the various factors associated with all historic and recent sales of the subject property itself. The case of similar property in nearby location, the same analysis has to be made.

Reasonable marketing time period

A reasonable exposure of time as part of the valuation process and is not intended to be a prediction of a date of sale. It is an integral part of the analyses conducted during the appraisal assignment. A valuation Report should include a summary of the analysis upon which that opinion is based.

The opinion can be based on one or more of the following:

1. statistical information about days on market,
2. information from data collection services,
3. information gathered through sales verification,
4. interviews of market participants, and
5. anticipated changes in market conditions.

Special assumption

Circumstances that often arise in *valuations* for secured lending where *special assumptions* may be appropriate include, for example:

- Planning consent has been granted for development at the property there has been a physical change to the property, such as new construction or refurbishment
- A new letting on given terms, or the settlement of a rent review at a specific rent, has been completed
- There is a *special purchaser*, which may include the borrower
- a constraint that could prevent the property being either brought or adequately exposed to the market is to be ignored
- a new economic or environmental designation has taken effect
- the property suffers from natural, non-natural or existing use environmental constraints
- any unusual volatility in the market as at the *valuation date* is to be discounted and
- any lease or leases between connected parties has been disregarded.

The above list is not exhaustive, and the appropriate *special assumptions* will depend on the circumstances under which the *valuation* is requested and the nature of the property to be valued.

3. Any *valuation* for secured lending purposes arrived at by making a *special assumption* must be accompanied by a comment on any material difference between the reported value with and without that *special assumption*.

Disclosures to be made

- disclosure of any involvements identified in the original or subsequent amendment to the *terms of engagement*, or any arrangements agreed for avoiding a conflict of interest. If the valuer has had no involvement, a statement to that effect is to be made
- the valuation method adopted, supported (where appropriate or requested) with the calculation used (note that in some jurisdictions, the method or methodology itself will be prescribed in some degree)
- where a recent transaction on the property has occurred or a provisionally agreed price has been disclosed, the extent to which that information has been accepted as evidence of value. Where the enquiry does not reveal any information, the valuer will make a statement to that effect in the report, accompanied by a request that if such information comes to light before the loan is finalised, the matter must be referred back to the valuer for further consideration
- comment on the suitability of the property as security for mortgage purposes, bearing in mind the length and terms of the loan being contemplated. Where the terms are not known, the comment should be restricted to the general marketability of the property
- any circumstances of which the valuer is aware that could affect the price (these must also be drawn to the attention of the lender, and an indication of their effect must be provided)
- any other factor that potentially conflicts with the definition of the *basis of value* or its underlying *assumptions* must be noted and its effect explained

- potential and demand for alternative uses, or any foreseeable changes in the current mode or category of occupation
- the potential occupational demand for the property
- disrepair, or whether any deleterious or harmful materials have been noted
- comment on any environmental or economic designation
- comment on environmental issues, such as flood risk potential, historic contamination or non-conforming uses
- past, current and future trends, and any volatility in the local market and/or demand for the category of property
- the current marketability of the interest and whether it is likely to be sustainable over the life of the loan
- details of any significant comparable transactions relied upon and their relevance to the *valuation*
- any other matter revealed during normal enquiries that might have a material effect on the value currently reported and
- if the property is, or is intended to be, the subject of development or refurbishment for residential purposes, the impact of giving incentives to purchasers.

Plant & Machinery

Special (A valuer may follow the general advisory guidance written above according to the suitability in addition to what given below) This has applicability in specific situation.

Valuation for Plant & Machinery

Machines can be of thousand types, some time different experts are required to determine the useful life of a machine.

This can be categorised in to two parts

- Plant : A combination of Machines, combined with other machines. This may include infrastructure, utilities, service etc.
- Machinery: Individual or collections of Machines – may be operated individually (includes vehicles etc.)

Plant & Machinery usually includes Valuations of property interest

Items associated with provision of services (gas, Electricity, water drainage, fire protection and security or structures and fixtures which are not an integral part like chimney, plant housings etc.

This includes also (what is included in the chart MCA publishes in the depreciation rates and provision under Plant & Machineries)

Many border lines are not considered as fixed assets but being valued in this category.

Plant & Machinery subject to finance, lease and collateral agreement

Leased Machines are backed by arrangement, which may vary from simple financial arrangement to very complex arrangement.

- Special assumption / significant assumptions to be considered
- National and international lending regulator's rules are subject to regular change. Valuers are required to set out the basis and extent of proposed work.

- Consideration by the valuer
- How Plant & Machinery are to be offered for sale
- The assumed method of sale
- Environmental issues
- Any restriction on sale method
- Who would bear the cost of decommissioning or removal.
- Whether any cost to be considered for reinstating the property following the removal.

NOTES ON IDENTIFICATION AND PHYSICAL VERIFICATION OF PLANT AND MACHINERY

Identification of plant and machinery may be classified into the following two categories:

- 1) Identification with details and Macro- identification for the machines.
- 2) The standard procedure for Micro-identification for single machine for the purpose of valuation:-

Asset No./Identification No., given by client, if available; Model Type

Serial number, if found

Description: Size or capacity, if measured or given Name of manufacturer

Date of purchase of the particular machine

Year of manufacturing if available

Details of attachments, accessories and components

Comment : For electronics items any additional components like cards, hard disk etc. In case of mechanical , Electrical, chemical etc. machines :Type of drive and details of drive, any special foundations, servicing, electrical connections like motor controls, wiring controls, pipeline installations etc. It is to be kept in mind the description / details are hugely varying from machine to machine. The details to be noted as far as practicable.

Any Modifications from the standard is to be noted.

The first duty of a valuer, should be the collection the data required for proper description of the asset in question before he starts the practical, it will save the time in field to identify the item.

Presently Companies are using software of different categories to help the line of production/logistics. The unique identification number generated by the software or by the owner helps in obtaining description, original cost etc. from documents and records maintained by the Company as asset register. Now in micro level, manufactures' name can be obtained from the machine. The valuer must be in a position to distinguish amongst company logos, trade names and company names.

Macro-identification

The entire manufacturing process to be studied by the valuer, flow chart of the manufacturing process to be obtained from the owner/ management.

This is mainly used to value a process of a continuous plant. The following points to be considered.

- The line of production what is the process employed
- The parity between two consecutive machines in a process. ω The installed capacity
 - Actual production
 - - Date of valuation
 - - Name and address of the Company
 - - Products manufactured by the Company – in details
 - - Production process employed
 - - Flow-chart of process
 - - Details of by-products, if any
 - - Installed capacity of the plant and actual production in quantity as well as in monetary terms during last five years.

A valuer must consider these point for assessing the replacement cost.

- delivery and transportation
- installation and commissioning
- any unrecoverable duties or taxes
- setting up costs, where appropriate, such as planning fees and site preparation works
- professional fees related to the project
- a contingency allowance, if appropriate and
- finance costs, taking into account the likely pattern of payment.

1. It is necessary to collect the above information as an “in use” value – for the contribution of plant towards the income of the Company. The following points to be noted in case of macro identification

1. Usage - number of shifts employed – a. Duration of each shift
- b. Shift-wise usage for number of days in a year.

Note : as per the depreciation rates declared by Ministry of Corporate affairs different depreciation methods are adopted for the

2. Maintenance–standard maintenance can be categorized into a)regular b) preventive c) on demand

3. Repairing: Frequency of repairing, if any and why.

Details of amount spent on repairs during the last five years.

Estimated cost of repairs for the next five years.

- Special case : It is necessary to identify the core units in such circumstances.

In case the Economic Balance Life of the entire plant is governed by economic balance life of one or two core units in a continuous process plant.

In case of the plant is not the latest one or not of the state of the art the three types of obsolescence to be considered in comparing with the latest one.

- Electrical loads, Electrical layout with HT & LT cables, Distribution system To be considered. In case of substation installed, transformer, switch, cables, insulator etc. to be taken in to account.

Physical verification of asset

The inventory of assets installed in different sections of a factory. A valuer should physically verify the plant and machinery with the fixed asset register of the Company as regards the nomenclature/description, Date of purchase, Historic cost or purchase value etc. While verifying with asset register, any discrepancy to be noted and bring in the notice.

It is pertinent to mention here a valuer should also notice

The expenditures in asset register, which have the nature of revenue expense.

Plant and machinery physically existing on site, but account reference not available – may be due to the machinery having been manufactured in the Company's own premises utilising its own material and labour.

⊙ Plant and machinery taken on lease or belongs to sister concern.

Plant and machinery is existing in asset register but physically not Present at the time of inspection due to factors, such as : a) the machine which are made scrapped or not in use due to any reason or lying outside etc. . b) Plant and machinery already sold and money realized have effect other than fixed asset register.

Machine given on lease or kept in sub-contractor's custody. 8

Technical specifications shall be verified in the following manner :-

- Reference to the purchase orders – a scrutiny in purchase order can reveal reasonable details of a machine along with serial number etc.
- With the help of technical literature from the manufacturer – though it is not easy to procure technical literatures of the manufacturers, particularly for the old machines.
- With the help of technical personnel, who are using and /or maintaining the same. It needs thorough discussion with the concerned technical persons to get an optimum grip not only on the technical specification, also on the accessories which are integral parts and the machines, which have potential to contribute.

Valuation depends on mainly on remaining useful life of the asset

The useful life of a depreciable asset should be estimated after considering the following factors:

- (i) expected physical wear and tear
 - (ii) obsolescence
 - (iii) legal or other limits on the use of the asset
- Obsolescence

The common mistake

The use of common depreciation schedule declared by Government for assets. It is not prudent to use a common depreciation schedule for all the assets which are falling under same class.

That is why the physical inspection is a must for the tangible assets, which cannot be determined unless a valuer takes the proper due diligence process for inspection.

Depreciation/Obsolescence

Depreciation adjustments are normally considered for the following types of obsolescence, which may be further divided into subcategories when making adjustments:

- (a) **Physical obsolescence:** Any loss of utility due to the physical deterioration of the asset or its components resulting from its age and usage.
- (b) **Functional obsolescence:** Any loss of utility resulting from inefficiencies in the subject asset compared to its replacement such as its design, specification or technology being outdated.
- (c) **External or economic obsolescence:** Any loss of utility caused by economic

Depreciation adjustment may be normal depreciation + Obsolescence

Except for some types of economic or external obsolescence, most types of obsolescence are measured by making comparisons between the subject asset and the hypothetical asset on which the estimated replacement or reproduction cost is based. However, when market evidence of the effect of obsolescence on value is available, that evidence should be considered.

Physical obsolescence can be measured in two different ways:

- (a) curable physical obsolescence, ie, the cost to fix/cure the obsolescence, or
- (b) incurable physical obsolescence which considers the asset's age, expected total and remaining life where the adjustment for physical obsolescence is equivalent to the proportion of the expected total life consumed. Total expected life may be expressed in any reasonable way, including expected life in years, mileage, units produced, etc.

There are two forms of functional obsolescence as per IVS

- (a) excess capital cost, which can be caused by changes in design, materials of construction, technology or manufacturing techniques resulting in the availability of modern equivalent assets with lower capital costs than the subject asset, and

- (b) excess operating cost, which can be caused by improvements in design or excess capacity resulting in the availability of modern equivalent assets with lower operating costs than the subject asset.

Economic obsolescence may arise when external factors affect an individual asset or all the assets employed in a business and should be deducted after physical deterioration and functional obsolescence. For real estate, examples of economic obsolescence include:

- (a) adverse changes to demand for the products or services produced by the asset,
- (b) oversupply in the market for the asset,
- (c) a disruption or loss of a supply of labour or raw material, or
- (d) the asset being used by a business that cannot afford to pay a market rent for the assets and still generate a market rate of return.

Comparison

DEPRECIATION	OBSOLESENCE
For Physical deterioration-value of the property reduces	Loss in the value due to change in design, demand, supply of raw material etc etc
Value of the property diminishing at standard rate ie percentage of depreciation is fixed	Value of the property decreases or even increases at any rate depending on demand.
Depreciation depends on the historic/original condition	Obsolescence depends on present situation or present demand
Depreciation increases on the age of asset	Age is not a factor here
There are specific procedures to compute depreciation	No particular procedure

Standard Depreciation schedule published by MCA and IT department	No Standard obsolescence schedule published by any one
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There are differences between Depreciation and amortization also.

Depreciation applicable on tangible asset while amortization is applied on intangible asset

Concept of scrap value in deprecation but in amortization no concept of scrap value.

Formula is (SLM) Depreciation is $(\text{Cost} - \text{scrap}) / \text{Economic Life}$ while amortization is $\text{Cost} / \text{Economic Life}$

Methodology of Valuation

- Cost approach
- Comparative Sales Approach
- Income Approach

Notes on Obsolescence

Being in the process of passing out of use or usefulness, becoming obsolete. Driven by rapid technological changes, new components are developed and launched on the market with increasing speed. The result is a dramatic change in production methods of all components and their market availability. A growing industry sector is facing issues where life cycles of products no longer fit together with life cycles of required components. This issue is known as obsolescence, the status given to a part when it is no longer available from its original manufacturer.

In the context of the cost approach, “depreciation” refers to adjustments made to the estimated cost of creating an asset of equal utility to reflect the impact on value of any obsolescence affecting the subject asset.

Valuation Procedure

- A letter of assignment to be obtained from the client.
- Discuss and finalize the purpose, detailed work schedule, fee structure, assumptions with the client before the commencing of the job.
- Procure a copy of fixed asset register from the account department of the client – it should contain the at least Date of Purchase, Description, Historic Cost, Depreciation Accumulated, Net Value, location and if available asset class. Generally, asset numbers are also allotted with each asset. It is preferred to take a soft copy in excel format, since one can sort according to the asset class. A complete list of machinery with details and additions can be procured from purchase dept. A list of disposed machines per year should also be procured. Make a thorough study of the machinery list, try to procure flow chart of working process. If necessary, import documents, quotations, invoices, bill of entries etc. to be obtained.
- Inspect and try to physically verify each asset with the list as far as practicable. A valuer has to judge the condition and the maintenance of the machines. A minute observation will reveal the extent of wear and tear, which part of a particular machine is more prone to breakage.
- Spare or standby machines to be marked in the
- A valuer should take a note on the machines, which are physically present but not in use. Machines made scrap deliberately, or ready for disposal, under repairer.
- Make a list of not found machines. These are not to be included in the list of machinery.

Preparation of report

- Declare the purpose of the valuation
- List of the machines as per purchase date
- Work out remaining life of each machine
- Find out replacement or Gross replacement value of each machine.
- Price escalation, (in case price of similar asset is not available in the market ,use Office of the Economic Advisor, which shows a range from the year 2005

(www. eaindustry.nic.in is responsible for analysis of the economy, and for advice on, and formulation of economic policy. Site includes economic statistics.)

- Finding quotation
 - Apply depreciation for the age
 - Apply Obsolescence if any
 - Find the valuation

- Notes
 - In an income approach, the projection period for economic income leads to the yield capitalization. In cost approach again the estimated measure of cost must be performed after taking into consideration the remaining useful life. In market approach too, the consideration of remaining useful life enters into the bargain for transactions as because a property which has been used is not generally worth as much as an identical property if new.

SOME VERY IMPORTANT POINTS TO CONSIDER.

- Valuers must inspect the asset physically, especially applicable for the valuers for asset class land & Buliding and Plant & Machinery.

- Registered Valuer Members are instructed to consider the latest depreciation schedule declared by Ministry of Corporate Affair while they do any Valuation Job under Companies Act, 2013/ Insolvency Bankruptcy Code for depreciation as well as the determination of the life of an Asset. However, a Registered Valuer definitely can assess the obsolescence of different types additionally to determine the life of an asset.

- There is no standard format for writing the reports. Reports should cover the minimum points as given.

- The IVS have requirements that apply from the outset and throughout the valuation process. Suitable IVS compliance to be given in the report generated.
- There is no upper or lower limits of the fees charged by a Registered Valuer Members. The fee should be reasonable.
- It is unethical to agree to or accept compensation for a Valuation, Valuation review, or Valuation consulting assignment when such compensation is contingent on the analysis, opinion, or conclusion reached, the attainment of a stipulated result, or the occurrence of a subsequent event. Contingent fee, if any, arrangements are customary for the assignment and are permitted by appropriate national Standards and the Valuer honestly, clearly and conspicuously discloses the existence and basis of any contingent fee in the reporting the results of the assignment. Ethically it should not be charged .
- Multiple approaches of valuation can be obtained while opining on a valuation. Generally weighted data can not be used. When different approaches and/or methods result in widely divergent indications of value, a valuer should perform procedures to understand why the value indications differ, as it is generally not appropriate to simply weight two or more divergent indications of value. In such cases, valuers should reconsider the respective strengths and weaknesses of the possible valuation approaches and methods.
- It is usual that a value of an asset can be arrived from rent or income generated from the asset. But “Market Rent” should not arrived from the value of an asset.
- A valuer, empanelled with IBBI in particular asset class, must conduct the valuations only in respect of those assets or asset class(es) for which she/he is registered with the IBBI.

- Depreciation considered on market approach is a wrong concept.

Uncertainty

IVS 103 of 2022, clause 10.2. says about to declaration of the *significant* uncertainty or limiting conditions that directly affect the *valuation*. The valuer may include the **degree of certainty, or uncertainty**, of the **valuation**. This may include with the Caveat, Disclaimer and Limitation.

Degree of certainty

This paper identifies mainly three main sources of valuation uncertainty:

Market uncertainty,

Model uncertainty and

Input uncertainty.

Model uncertainty

In income Approach :the income-producing ability of the subject asset is only one of several factors affecting value from a participant perspective,

If There is significant uncertainty regarding the amount and timing of future income-related to the subject asset. In case of HABU, the future income also falls under same category.

If there is a lack of access to information related to the subject asset

The subject asset has not yet begun generating income, but is projected to do so.

- ⊙ Input uncertainty.
- ⊙ When a valuation assignment involves reliance on information supplied by a party other than the valuer, consideration should be given as to whether the information is credible or that the information may otherwise be relied upon without adversely affecting the credibility of the valuation opinion. Significant inputs provided to the valuer (eg, by management/owners) should be considered, investigated and/or corroborated. In cases where credibility or

reliability of information supplied cannot be supported, consideration should be given as to whether or how such information is used.

- ⊙ If, during the course of an assignment, it becomes clear that the investigations included in the scope of work will not result in a credible valuation, or information to be provided by third parties is either unavailable or inadequate, or limitations on investigations are so substantial that the valuer cannot sufficiently evaluate the inputs and assumptions, the valuation assignment will not comply with IVS.

If appropriate, the valuer should draw attention to, and comment on, any issues affecting the degree of certainty, or uncertainty, of the valuation . Commentary on any material uncertainty in relation to the valuation where it is essential to ensure clarity on the part of the valuation user. For this purpose, 'material' means where the degree of uncertainty in a valuation falls outside any parameters that might normally be expected and accepted.. RICS.

A valuation report is a professional opinion on a stated basis of value, coupled with any appropriate assumptions or special assumptions.

A valuation opinion is not a fact. Like all opinions, the certainty, involvement will definitely vary from case to case, as in the degree of 'certainty' – for example, for all the probability that the valuer's opinion on the Market Value as per IVS or Fair Value as per IBC would exactly coincide with the price achieved on an actual sale at the valuation date or inspection date , even if all the circumstances envisaged or covered by the definition of market value as per IVS or Fair Value as per IBC and the valuation assumptions were identical to the circumstances. On an actual sale, most valuations are subject to a degree of variations (that is, a difference in professional opinions). This is principle probably well-recognized by the various jurisdictions.

An additional explanation

Normally, valuation reports are not necessarily covers the additional explanation or clarification beyond the general requirement. But an additional explanation statement with the report to cover those uncertainty to be given.

It is required to see that how much explanation and detail is necessary concerning the supporting evidence, the valuation approach and the particular market context is a matter of judgment in individual cases.

In some cases there may be a higher degree of uncertainty concerning the valuation figure reported than usual, and where that uncertainty is material – which should be elaborately explained. In this case further proportionate commentary must be added in order to ensure that the report does not create a false impression.

User/intended user/Valuer must not treat such a statement as a sign of less confidence in a valuation than usual as an admission of weakness. This disclosure is a matter where the client's interest is involved. Indeed, a failure to draw attention to material uncertainty may give a client the wrong impression.

Real cash flow does not consider inflation whereas cash flows should include expectations regarding inflation. If expected cash flow incorporates an expected inflation rate, the *discount rate* has to include an adjustment for inflation as well. But, still uncertainty plays there, as it is almost impossible to predict inflations for the far future.

In this way stating about HABU and reversion is also risky as they are uncertain to some extent.

As per Regulation 35 of CIRP Regulations, the Fair Value and Liquidation Value shall be determined in the following manner: -

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.

Challenges

1. Fair Value and Liquidation Value are to be determined on the insolvency commencement date which is a historical date and to that extent, it is expected from the valuer to collect input and information with reference to that date. It is very difficult practically for the valuer to identify willing buyer on historical date and ascertain the Fair Value. While Valuation uncertainty is the possibility that the estimated value may differ from the price that could be obtained in a transfer of the same asset or liability taking place at the same time under the same terms and within the same market environment. Particularly for tangibles, the same environment and terms are possible only in hypothetical scenario. If the gap between Date of Valuation (insolvency declaration date as per IBC) and Date of inspection is large, same market environment and terms becomes almost impossible. Minimization of the gap between date of inspection and date of Valuation will mitigate the valuation uncertainty for tangible assets.
 2. In case of the valuer receives an Unacceptable request
Specifically, an assignment condition is unacceptable when it:
 - Destroys an valuer's impartiality, because such a condition breaks the objectivity and independence required for the development and resulting in to a wrong value;
 - Limits the scope of work. It may lead to a wrong if the scope of work is limited to such a degree that the assignment results are not credible.;
 - Limits the content of a final report in such a manner that results in the report be misleading.”A valuer must decline if a request comes in some ways any of the above three.
- a) How to Deal With Unacceptable Requests
 - Better understand the potential client's real needs
 - Educate the client about valuation practice and explain other aspects of valuation.

3. If information not available properly

The valuer must make it clear if the valuation has been carried out without the information normally available when carrying out a valuation.

The valuer must indicate in the Report if (where practicable) verification is needed on any information or Assumptions on which the valuation is based, or if information considered material has not been provided.

If any such information or Assumption is material to the amount of the valuation, the valuer must make clear that this valuation should not be relied on, pending verification.

4. The Report must record that date and extent of the inspection, including reference to any part of the property to which access was not possible. Inspection of the asset is a must for L&B and P&M. The valuer must make it clear if the valuation has been made without an opportunity to carry out an adequate inspection, explanation must be given in support of that. The valuer feels he/she may also make clear that this valuation should not be relied on, pending verification.

5. Covid 19 Pandemic.

In case the valuer can not get entry in to the premises due to (not a question of adequacy of inspection) Covid 19 Pandemic. This situation can not be compared with normal situation where valuer is unable to see a part of the property, as this is a Pandemic Situation and longevity of the situation is vary high, it is already more than a year mankind is facing such unprecedented problem. Government has invoked Epidemic Diseases Act. The challenges lying there apart from the worries of catching this dreadful disease, the most of the states has declared curfew and lockdown and practically inaccessible.

6. Some special advisory guidance are given here, but It is unethical to fail to identify the issue to be addressed before accepting the assignment and information about the assumption/ special assumption, if any and the

procedure of inspection to be informed and permission to be obtained from the client and intended users.

a) In case of income generation asset if a hotel/petrol pump etc. is to be valued and it is an income generating asset, a valuer may assess the value by using appropriate methods by seeing the asset from outside. In that case a valuer must disclose this in the report.

b) Using drone can be a possible solution to see the premises from outside and inside also. In that case a valuer must disclose this in the report. And comparing one hotel with another using a value per bedroom approach may be acceptable. However, when using such method, it is essential that the basis used for comparison is truly relevant, as regards the style, location, trading circumstances etc.

c) In case there is a recent valuation report which covers the asset/assets, valuer on which the valuer may rely when forming a judgement as part of providing a current service. In that case a valuer must disclose this in the report.

d) Generally a desktop valuation is allowed in case of review report.

e) As for the asset class Security or Financial, it is possible to value most of the assets without visiting.

f) In case of Asset Plant & Machinery, if the comparable is not obtainable for maybe the manufacturer/dealers are not available or the production/availability of similar machines are in scarce, resulting which price/rates are not available in the market. Indexation can be used by accessing the website of office of the Economic Advisor/ WPI etc. with proper explanation.

g) Relying on third party's unbiased information. The third party must be skilled, capable of supplying such information, on which a valuation opinion/conclusion would be made. In that case a valuer must disclose this in the report. The details of information on which the valuer relied and how it was trusted as authentic to be given in the report.

h) Since general life of the asset and general depreciation is given by MCA in their website. It is easy to collect the data from the website and put in to the depreciation schedule, which is usually done by the Auditors. Remaining useful life of an asset is the most vital part of valuation, only an expert valuer can determine the remaining useful life of an asset, obsolescence, strength, weakness analysis by her/his expertise only gathering knowledge on the asset, which may be possible after physical verification of the asset.

i) It is very important to understand that, the present, unprecedented situation is very much depressed. Since the economic condition, scenario is in very bad shape, the present valuation of an asset may not show the actual value, in comparison with the value which might fetch as “Fair Value” or “Liquidation Value” in a reasonably normal period or time.

Let us take an example of income generating asset, presently, a hotel, in a good location may fetch 1/5th of the tariff rent (compared to normal situation) per room per day for the Pandemic situation. Even on heavily discounted rates the number of client visits in the hotel are also very less. This should not be a normal scenario. In this case, only income approach may not be sufficient to arrive in to an opinion of value. Since the market is very volatile, this approach may show much less value than what it is normal situation. Multiple approaches of valuation may be considered. It is seen that, this Pandemic situation has little effect on the raw materials in international market though domestic market does not show the same. The cost of raw material becomes high in present market even to the tune of 20% to 30%. Whole construction cost of building may become high in the tune of 10% to 15% compared to normal assumption. Using this COST APPROACH on value opinion, may shows less suffering than the other approach/method which are generally acceptable to value an income generating asset when “Assumption is Normal“. This high cost of raw material can be adjusted to obtain a value of the asset which is closed to normal value opinion. This way this value becomes less volatile. The reason, why the cost method is applied while IVS is suggesting “Income Method”... must be justified in the report.

Now, to consider income approach (which is mostly accepted approach for income generating asset) generally, value can be arrived by computation from last 3 years' average return, which includes the current pandemic year, resulting which the average return becomes very poor leads to a less value of the asset than the normal. This value becomes more volatile for uncertainty. A Significant Assumption an assignment-specific assumption as of the effective date of the assignment results regarding uncertain information used in an analysis which, if found to be false, could alter the Valuer's opinions or conclusions.

A hypothetical situation, "SIGNIFICANT ASSUMPTION" as per IVS can be assumed. Or departing from IVS, 40% of the Volatile Value (The value arrived from Income Approach) + 60% of the less Volatile value(Value arrived from Cost approach) may arrive to the Value opinion, which may be more practical. This 40% or 60% can be changed as the case may be. This is another opinion. This may not help a valuer to arrive a desired result.

A client may have a legitimate need to know about current fair value and prospective opinion of value. A valuer may guess the value of an asset in short future, but that should be legally acceptable, economically viable and technically sound. The special assumption declared by the valuer must have such disclosure. In this case the opinion may have adherence to the "Fair Value" definition.

- The above are suggestions given for very abnormal situation like pandemic.
- If any part of this contrary to the Rule/public policy or law of any jurisdiction, such part shall be considered as void.

File Management

The best files show an audit trail of information. A suitable file checklist approach ensures that this happens on every file.

Quality assurance processes by Individual / Firms

Individual / Firm should use a suitable framework or file checklist approach to ensure all their valuers or a hired valuer are working to the same standard. Every task/job complies with both the firm's and RVOs protocols / code and byelaws.

Computation and / or methodology

This should always be the final part in providing an audit trail for the valuation figure. The best files set out a clear valuation calculation, including reasoning and process. This will assist in defence against any future claims.

GENERAL: The principle of professional Valuer

- The principle of professional behaviour imposes an obligation on all professional valuers to act diligently in the service of their clients and to ensure that the service provided is in accordance with all legal, technical and professional standards that are applicable to either the subject of the valuation, the purpose of the valuation or both.
- Professional behaviour includes acceptance of a responsibility to act in the public interest.
- A professional valuer's duty is not limited to satisfying the needs of a particular client or employer.

VALUERS MUST AVOID WRONG DOING WHICH CREATING GREY AREAS

A valuer must understand and avoid creating the
GREY AREAS IN VALUATION PROCESS

- What is Grey Area
- Generally, the unpublished documents, which are not typically available in the market
- But here, grey area means a mixture of black and white ie
- which have lack of clarity, rationale
- border lines are smudged and Hazy
- in some sense it is mixed with true and false.

- It is a situation or an area of activity where definition is not readily conforming to a category or set of rules.
- An area of a subject or situation that is not clear or does not fit into a particular group and is therefore difficult to define or deal with. Ambiguous Area or the area in a valuation report, which cannot be interpreted properly may also called Grey area.

- IT IS MOST PERTINENT TO MENTION HERE
- Not to confuse between grey area and established wrong doing. An established wrong doing cannot be under grey area.

- Example: Without visiting the asset /site, opining on value/ generating a valuation report by a valuer of LAND & BUILDING OR PLANT & MACHINERY is an offence.
- Grey area may happen by
 - Incompetent valuer
 - Intentional biased report generated
 - Negligence
 - Inadvertent wrong done
 - A client also to understand the following, which also creates grey area
 - Uncertainty risk in valuation process

- Result of one or combined of these above, can lead the clients to an uncertainty, ambiguous decision, this is for the confusion created in grey area.

If any part of this presentation is contrary to the public policy or law of any jurisdiction, such part shall be considered as void.

- GREY happens by Omission or Commission
- Incompetency

- A report which is incompetent, may lead to produce grey area and finally produce a wrong opinion (where valuer is not knowledgeable). This is an offence.
- Biased report
- In a report, grey areas are produced to generate a biased opinion. Biased report generated to cater some particular client against a particular motivation. (Where a valuer is knowledgeable but knowingly produce a biased report to cater a particular need). This is an offence.
- Negligence
- Omission of some important points due to negligence cause grey areas and may result in a wrong opinion.
- Slight negligence, gross negligence and reckless negligence
- The degree of Negligence has to be determined if that has an impact on the valuation opinion/report. A slightest breach may also result in liability.
- Inadvertent wrong also creates ambiguity which leads to grey area where intended user or the client gets wrong or confused information on the value opinion. This, generally falls under the negligence
- **IDENTIFYING GREY AREAS in** the stages in whole process of valuation.

Pre-Assignment stages

- a) Before Accepting the assignments.
- b) Scope of work determination

Assignment stages

- c) Basis or bases of value recognition

- d) Appropriate Approach and methods.
- e) Opine on value and report writing.

Pre assignment: While accepting assignments

- f) Before Accepting the assignments.

For a client, it is not possible always to check all the criteria while assigning a job or reading the generated report.

Pre assignment: At the time of negotiation for the assignment

Simple examples for wrong leads

General

- The letter head used by a valuer which does not contain a proper postal address with pin code.
- Or if a Company, CIN which is a must in the letter head, is missing.

Unethical practice

- Agreeing to sign in a valuation report as a registered valuer of different departments, for which the person is not registered, e.g. Income tax Registered valuer is signing a report under IBC.
- Agreeing to sign in a valuation report in another asset category, for which the RVM is not registered.

Pre assignment: While accepting assignments

- Competence
- A valuer Member must possess
- the appropriate academic /professional qualification and experience. The Valuation report and terms of engagement must confirm that the valuer possesses the necessary skills to undertake the task properly.
- Valid membership of RVO, committed to the ethical rule/code.
- Compliance with the state regulations.
- No proceedings are pending or any action has been initiated against the

Member.

- A Valuer shall not accept order in a matter where, based on a reasonable objective standard, the Valuer does not have the competence, skill and/or experience to complete the assignment, unless the assignment is completed by taking necessary steps after informing the client. Generally, Valuers must not accept instructions beyond their competence.
- This is also a must to disclose the help of other expert consultants where the valuer is incompetent.
- Any compromise to above points would lead to create grey areas.

BIASED or PREDETERMINED OPINION

- Identifying grey areas
- Agreeing to sign a report which has a pre-determined result.
- It is unethical to agree to provide or provide a service (valuation etc.) that is contingent upon reporting a predetermined analysis, opinion, or conclusion.
- Agreeing to sign a report which has a biased opinion.
- A Valuer Must Develop and Report Unbiased Analyses, Opinions, and Conclusions.
- Agreeing to sign in a report prepared by another valuer or general person, without going deep in to it.
- Agreeing to co-sign in a report as an expert, prepared by another valuer, without going deep in to it.
- Agreeing to avoid conflict of interest or probable conflict of interest before accepting the assignment. Example : A valuer accepts assignment/s knowingly that a relation is already established or there is a chance of making any relations between the client/s and the valuer or in any other form.
- Agreeing to accept order in a matter where, it is not based on a reasonable objective standard.
- It observed that some valuation processes/reports are compromised on above

points, which are completely unethical and those lead to create grey areas more and create disrepute to the profession.

Grey area may happen when

- Financial or other interest have inappropriate influences on the professional valuer's judgement or behaviour.
- A previous involvement made or service performed, or by another individual within the same firm. Previous report may have a huge influence on the opinion.
- A registered valuer is promoting a client's or employer's position to the point that their motive is compromised.
- The threat that two or more clients may have opposed or conflicting interests on the opinion or conclusion.
- For long or short relation with the client there may be an inclined opinion.
- Because of actual or perceived pressures, the valuer's objectivity becomes compromised.

Grey area occurs for wrong assumption

- Normal Assumption, it is pertinent to mention here generally Normal Assumption is taken into the account. Assumptions are based on statements of fact provided by the company or its auditors or consultants or information available in public domain and not generated by the valuer.
- Appropriate assumptions are to be considered with proper care where the necessary condition fits.
- Assumption compromised Example : Valuation of a freehold property cannot be compared with a rented property. Sometimes it is seen that capitalizing hypothetical rent (which is not in actual) shows more value to a property than the comparable in some areas or just opposite. This wrong assumption can

lead the client in a very wrong perception.

- Or Normal assumption (in vogue) is considered but situation demands special assumption.
- Valuers are considering the special or significant assumption unnecessarily or knowingly to arrive at predetermined or biased opinion, the possibility of emerging grey area enhances.
- A special assumption is made by the valuer only where an assumption either assumes facts that differ from those existing at the valuation date. A special assumption can be considered only when the situation permits and it is utmost necessary.
- All significant assumptions and special assumptions that are to be made in the conduct and reporting of the valuation assignment must be identified and addressed in the report generated.
- A competent valuer must recognise these factors while opine on valuation to avoid the creation of grey area. A hypothetical assumption can be considered only when it is required purely for the purpose and if found false the opinion on value could change.
- Special assumption and hypothetical assumption are only considered when the situation permits and normal assumption is not suitable.

When the assumption is not appropriately considered intentionally or unintentionally grey area emerges.

a) Scope of work

- Identifying grey areas
- The valuation report does not conform to the scope of work of the assignment or the valuer couldn't identify the issue.
- All valuation advice and the work undertaken in its preparation is not appropriate for the intended purpose.

- A valuer is not taking care that whether the intended recipients understand what is to be provided and any limitations on its use before it is finalised and reported.
- A valuer not communicating the scope of work to its client Restrictions on use, distribution and publication of the report
- In case of any change of scope, valuer not communicating to its client.

b) Basis or bases of value recognition

Grey area identification

- That, appropriate Value basis is not considered

Example :

- To determine the insurance premium, a valuer considers market/fair value of an asset or net depreciated value as given in the balance sheet.
- To determine liquidation value, a valuer gives a standard percent deduction on the market value.
- Existing use value considered, where the market value is required.
- that there is no specific definition of value or value premises.
- Definition of the value consideration is missing in the report generated.
- Rationale for using specific Value Basis is not available
- Reasons for consideration of such “value basis” must be given in the report.
- It is seen without the proper reason, a “basis” is ambiguous not understandable always.

c) Approach or method

Grey area identification

- In case of rationale for using appropriate approach and method is missing.

Example :

- Use of Depreciated Replacement Cost method has been used without any explanation. While DRC is used only when the comparison or cost methods are not available.

- Comparison with age old asset
- Cost approach or method considered and standard depreciation declared by IT or MCA, has been charged for number of similar assets.
- Cost approach or method considered and any depreciation/obsolescence at valuer's will has been charged for assets.
- Rent capitalization method is considered but depreciation is charged.

In case of Rent

- Though the property is free from any kind of tenancy but rent capitalization method is considered.
- The rent between two related parties is considered as market rent though that is different from the actual market rent.
- Rent of a asset arrived from the value of the property.

d) Opine on value and report writing.

Grey area identification

- Finally a valuer has to satisfy the client by writing its value opinion. A robust format on quality assurance for report writing should be used.
 - But, a valuer should keep in mind that a client may not have enough knowledge to understand the nuances in the valuation report
 - So, A report should be
 - Complete,
 - Adequate,
 - Reasonable,
 - Relevant and
 - Appropriate.
 - A report should be unambiguous and unnecessary jargon free.
 - Unnecessary jargons in a report and which creates a false impression.
 - A complicated report with grey areas in it, leads to charge success fee or contingent fee.
 - A complicated report, leads to bad decisions by clients and their lenders
- Furthermore, arises unnecessary complications.

- This is not acceptable that the client would understand all the considerations in a valuation report/process
- A valuer's duty also to impart knowledge
- Educate the client regarding valuation profession and practice.
- A blank assignment format to be given to the client, which maybe filled up by the client.
- A client becomes responsible on providing correct data.
- A client will understand what are the requirements to do the valuation and what is the real need.
- A draft report can be delivered covering all scope of works and explaining every aspect
- A well conversant client will be able to distinguish between white and black

FINALLY

- **A valuer has to understand that**
- The final responsibility of a valuation report goes to a valuer who signs and stands beside the signature.
- A client or intended users may not understand the valuation report if that is cumbersome.

There is also a need to consider if professional decisions have a wider impact on unidentified third parties. For example, valuations are frequently undertaken that can directly impact upon third parties such as stockholders in a company or investors in a fund. While the client's needs are normally paramount, a professional valuer should avoid knowingly accepting any instruction that appears to be prejudicial to the interests of the wider public, and which could discredit their own reputation and that of the profession generally.