Executive Summary

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A Profession is a disciplined group of individuals who adhere to ethical standards and who hold themselves out as, and are accepted by the public as possessing special knowledge and skills in a widely recognised body of learning derived from research, education and training at a high level, and who are prepared to apply this knowledge and exercise these skills in the interest of others.

Australian Council of Professions, 2003.

Market Economy

1.1 Traditionally, India followed a market model for wealth creation. She, however, deviated from this model for several decades after independence only to return to the roots post economic liberalisation in 1991 (Economic Survey, 2019-20). The thrust of reforms since then has been provision of economic freedom for firms (freedom to start, continue and discontinue business) and building institutions to promote and protect such freedom, and regulate such freedom only to address market failure(s).

1.2 There has been a paradigm shift from State provision of goods and services to State regulation for provision of goods and services by market. India has been enacting a new genre of economic laws, which expand 'who, what and how to do' list and repealing 'control' enactments that restricted freedom such as the Capital Issues (Control) Act, 1947 and the Import and Export (Control) Act, 1947. She also repealed the Monopolies and Restrictive Trade Practices Act, 1969 to promote competition and scaling up of businesses. This expanded the contours of economic freedom and consequently the frontiers of development of our nation. The outcome has been astounding. The average growth rate in the post reforms period since 1992 has been more than double of that in the pre-reforms period. Today, India is the fastest-growing, trillion-dollar economy. It is the fifth largest in the world and, in terms of purchasing power parity, the third largest (IMF, 2019).

Institutions of Market Economy

1.3 A market economy heavily relies on robust institutions for efficient and sustainable provision of goods and services. Recent economic research gives centre stage to the role of public institutions in promoting and sustaining long-run development (Subramanian, 2007). The institutions help create, regulate and stabilise markets, while providing legitimacy to them. If the institutions are not conducive, policies and schemes may not promote growth. The key differentiator between countries is 'institutions' (Acemoglu & Robinson, 2012). A country develops if she has political and economic institutions that unleash, empower and protect the full potential of each citizen to innovate, invest and develop, that is, when she has 'inclusive' institutions. Such institutions are not restrictions on individual behaviour but instruments for liberation of individuals from uncertainty. The focus in recent years has shifted to institutional reforms to sustain economic freedom, and consequently promote economic growth.

Professions as Institutions

1.4 The market economy nudged increasing organisation of economic activity - the number of firms as well as their scale of operations is increasing at a rapid pace. A firm is an amalgam of stakeholders. The larger the scale of a firm, the larger is the number of stakeholders and the larger is the distance of stakeholders from the firm. Operations of a firm affect the interests of different stakeholders differently. A stakeholder keeps a tab on the performance of the firm and changes its stance towards the firm based on audited financial statements. A professional prepares financial statements and another professional audits such statements. Each stakeholder has a unique objective function and a distinct level of engagement with the firm. Consequently, the interests of one stakeholder may conflict with those of another and / or of the firm and they may work at cross purposes and even against the interest of the firm. Law has prescribed a set of governance norms to synchronise and balance the interests of the stakeholders, the firm and the society. A professional ensures compliance with these norms. Larger the scale of a firm and larger the number of firms in the marketplace, higher is the need for professionals to run businesses and structure sophisticated value-adding transactions. Indian economy, like any other, has been witnessing a proliferation of professions. The need for professional services has been increasing over the years, so also the influence of professionals in the making of the society and the economy. Professions have emerged as important institutions of a market economy.

Valuation Profession as an Institution

1.5 Market usually discovers price, which reflects the worth of an asset. It discovers different prices for the same asset in different contexts. Thus, price is not absolute; it is context specific. Often, it is neither feasible nor desirable to pass an asset through the market to discover its worth. In such cases, worth of an asset is estimated in a simulated context. The person who estimates the worth is a Valuer, the process of estimation is valuation and the worth so estimated is the value. If value of an asset is what the price ought to be in the given context, the valuation is accurate. While the market may discover a dirty price occasionally failing to reflect the accurate worth of an asset, a value cannot be dirty. If price converges with value in the simulated context, the price discovery is perfect.

1.6 A market economy needs valuations of assets to facilitate a variety of transactions. For example, the corporate insolvency resolution process under the Insolvency and Bankruptcy Code, 2016 (Code) envisages estimation of fair value and liquidation value of the assets of the corporate debtor. These values serve as reference for evaluation of choices, including liquidation, and selection of the choice that decides the fate of the corporate debtor, and consequently of the stakeholders. A wrong valuation may liquidate an otherwise viable company, which may be disastrous for an economy. A banker determines the amount of loan that can be sanctioned against security of an asset. He may not have adequate protection, where it gives loan against the security of an asset whose value is overestimated. Some of the NPAs in the banking system are attributed to decisions based on such valuations. Several financial crises around the world are attributed to consequences of poor valuation. The examples are the property crash in UK in 1970s, "saving and loan" in USA and "Schneider affair" in Germany (Gilbertson & Preston, 2005 and Mooya, 2016). The valuation profession, which provides authentic valuations to serve as reference for evaluation of choices and decision making, is an important profession in a market economy.

Institutional Framework for Professions

1.7 The right to practise a profession carries a duty to protect the society and is not a privilege for the benefit of the professional. The right to practise medicine is a right to protect society, to aid the sick and afflicted, and to assist in the advancement of the health and well-being of those persons who make up the body politic which grants the privilege (Browne, 1935). A professional often serves the society, while he is usually paid by his client. It is extremely important that the society's interests are kept above his own. If, however, he abuses his right, he should be liable for penal consequences (Hammurabi, Before Christ, 2287-2232). A professional should not only be competent to practise, he must also enjoy the trust and respect of his stakeholders. The institutional framework should aggressively build and protect reputation of the profession from its very inception, while holding the members of the profession accountable for their services.

Thrust

1.8 India has experimented with different models of institutional framework for professions in terms of thrust, approaches to regulation and approaches to development and the jury is still out. The thrust of the institutional framework has moved from protection of interests of professionals in initial days to development of profession to regulation of profession to protection of the interests of users. Many professions developed at the initiative of the professionals themselves, who floated self-regulatory organisations to protect the interests of their members. Under the Advocates Act, 1961, the State Bar Councils have an objective to safeguard the rights, privileges and interests of Advocates on its roll. The Chartered Accountants Act, 1949 makes, as stated in its long title, provision for the regulation of the profession of chartered accountants (CAs). Since development is at least as important as regulation, a subsequent statute, the Company Secretaries Act, 1980, as stated in its long title, makes provision for the regulation and development of the profession of company secretaries (CSs). With increasing focus on protection of users of professional services, the new age regulators (who came up along with or after liberalisation) generally have sharper focus on consumer protection. The SEBI Act, 1992 provides for establishment of a Board to protect interests of investors in securities. The Competition Act, 2002 provides for establishment of a Commission to protect interests of consumers. The National Financial Reporting Authority (NFRA) came up with exclusive mandate to protect the public interest and the interests of investors. The National Medical Commission Act, 2019, the latest legislation to regulate a profession, provides for protection of consumers and access to equitable and universal healthcare. Now, the institutional frameworks for most professions explicitly provide for redressal of grievances of users and penalties against erring professionals.

Regulation

1.9 An institutional framework for oversight of a profession has invariably two elements, namely, regulation of profession and development of profession. The thrust on regulation relative to development has been increasing with shift from protection of interests of professionals to protection of consumers. The regulatory approach shifted from self-regulation in initial days to statutory self-regulation to co-regulation / two-tier regulation to state regulation, and the architecture moved from one-tier to two-tiers for oversight of a profession. A profession starts with self-regulation. Valuation profession is largely in the self-regulation mode today, except for 3000+ Valuers regulated under the Valuation Rules. This model usually focuses on the benefit of the regulated, rather than the interest of the general public and has limits in terms of its authority beyond the professionals. To address these concerns, professions moved to statutory / regulated self-regulation. The Advocates Act, 1961 provides for the Bar Council of India (BCI) and State Bar Councils (SBCs). Advocates elect fellow professionals to the Bar Council, which regulates the profession of Advocates. The CSs elect fellow professionals to a Council which regulates the profession of CSs. Since regulated self-regulation did not fully address the concerns of self-regulation, the approach shifted to co-regulation, where the regulations are specified, administered, and enforced by the two tiers of agencies - the first tier is usually a state agency and the second tier is a self-regulatory or a market agency. An example is regulation of securities market, where the state agency, SEBI and the self-regulatory agencies, stock exchanges jointly regulate the brokers and trading on stock exchanges[1]. An example in the context of professions is regulation of insolvency profession, where the first tier is a state agency, IBBI as principal regulator with many competing market agencies as front-line regulators in the second tier. Lately, a few professions have adopted state regulation. The medical profession moved away from statutory self-regulation to two-tier state regulation. The NFRA provides one-tier state regulation of auditors of select companies.

Development

1.10 There are two broad approaches to development of a profession. The principal regulator in case of medical profession and legal profession accredits institutions and universities for delivery of educational courses, which qualifies an individual to enrol as a Doctor or an Advocate. It specifies standards of education, including course content and manner of delivery. The admission to the course is usually based on an entry examination. The second is adopted by the three Professional Institutes (PIs) - Institute of Chartered Accountants of India (ICAI)/ Institute of Company Secretaries of India (ICSI)/Institute of Costs Accountants of India (ICoAI) - who themselves conduct the educational courses, which qualify an individual to enrol as a CA/CS/Cost and Management Accountants (CMA). The statute allows any university and even anyone affiliated to the Institute to impart education on the subjects covered by the educational courses. The Institute as well as several coaching centres provide oral coaching to students of these courses. The admission to CS course is based on an entry examination. Usually there is an exit examination to join a profession. Both the approaches recognise the role of external agencies and use them for delivery of education, while examinations for admission to the courses and for admission to profession are conducted by the regulator to maintain quality.

Regulator

1.11 The standard approach has been establishment of an authority with twin responsibility of developing and regulating a profession (Sahoo & Krishnan, 2014). For example, the ICSI has twin responsibilities. This is probably because regulation and development feed on each other in a virtuous circle. The emergence of regulators like ICSI to share governance with Government is a hard reality. Regulators resemble the State in terms of powers and responsibilities. They share a principal-agent relationship with the Government. When regulators fail to perform, Government, as the principal, is often called upon to explain and carry out rescue operations. It is essential to minimise this risk through the design of regulators with quality governance mechanisms, supported by a strong accountability framework. The thinking about and design of regulators have evolved considerably in the last three decades. The regulator for the valuation profession should have a state-of-the-art design with appropriate arrangements for governance, independence and accountability matching its mandate.

Review

1.12 These institutional frameworks are constantly being reviewed and refined. Three seminal works, the report of the Financial Sector Legislative Reforms Commission in 2013, the Draft Regulatory Reforms Bill prepared by the Planning Commission in 2013 and the Report of the Competition Law Review Committee in 2019 provide state-of-the-art regulatory design. A Committee set up by the ICSI reviewed the Company Secretaries Act, 1980 in 2014. A High-Level

1 This model has undergone substantial change along with demutualisation of stock exchanges.

Committee, constituted by Ministry of Corporate Affairs (MCA), reviewed the disciplinary mechanism in the three PIs in 2017. Two latest legislations, namely, the Insolvency and Bankruptcy Code, 2016, and the National Medical Commission Act, 2019 capture contemporary thought to a large extent and provide for detailed arrangements for governance, independence and accountability matching the mandate of regulators.

Valuation Profession in India

1.13 The valuation profession has a long history in India, probably of about a century. It has been primarily driven by users of valuations services. Different statutes - banking, securities, tax, company, insolvency - require valuation for a variety of purposes. The users generally focussed on demand side - what needs to be valued, who can render valuation services and the manner of such valuation. They did not focus on supply side of valuation services. The self-regulating valuation professional organisations (VPOs) have generally tried to build expertise to meet the needs of users. The 'Institution of Surveyors' came up in 1950 with the primary objective of advancing and regulating the various disciplines of surveying. 'Institution of Valuers', which came up in 1968, is probably the first VPO in the country and probably the largest one. With the co-operation and guidance of a few practising valuers, Sardar Patel University commenced master's course in real estate valuation and in plant and machinery valuation in 1994. A few other academic institutions offer short- and long-term courses on valuation. The Courts consider Valuers as experts in their field and recognise the evidentiary value of their opinion. Though the profession has developed as an independent multi-disciplinary profession, for many practitioners of valuation, it is a part-time vocation, often as an extension of their primary vocation / profession.

1.14 While several committees have recommended regulation of the profession, regulation and development of the profession were never dealt holistically. Till recently, there was no comprehensive institutional framework that imparted legitimacy to the valuation profession while holding the valuation professionals accountable for their services. Several attempts made to provide an institutional framework in the past fizzled out as not all stakeholders could be on the same page. The attempt, which came closest to fruition, was the draft Valuation Professionals Bill, 2008 (Valuation Bill), which did not reach Parliament. The Companies (Registered Valuers and Valuation) Rules, 2017 (Valuation Rules) made under the Companies Act, 2013 provides a centralised institutional framework for development and regulation of valuation profession, though its remit is limited to valuations required under the Insolvency and Bankruptcy Code 2016 (Code) and the Companies Act, 2013. It provides two-tier regulatory architecture, where IBBI has been designated as principal regulator while multiple competing registered valuers organisations (RVOs) act as front-line regulators.

1.15 The Valuation Rules broadly follows the model of insolvency profession. An individual having specified qualification and experience needs to enrol with an RVO, complete the educational course conducted by the RVO, pass the examination conducted by IBBI and subsequently, seek registration with IBBI as a Valuer. An entity (partnership firm and company) is also eligible for registration as a Valuer. The Valuation Rules also provide for valuation standards and Code of Conduct for Valuers. While a few universities offer specialised courses in valuation, the IBBI has made available a very detailed, world class study material for two asset classes, namely, (a) Land and Building (L&B), and (b) Plant and Machinery (P&M), prepared by the Centre for Valuation Studies, Research and Training Association (CVSRTA). It has also made available study material for the asset class 'Securities or Financial Assets' prepared by Institution of Valuers (IOV).

Valuation Professions Globally

1.16 There are different models across jurisdictions. Traditionally, most of them had self-regulation, where a few competing VPOs regulated their members. However, most have shifted to some kind of statutory regulations. In the US, for example, while Appraisal Sub-committee (ASC) created under the Financial Institutions Reform, Recovery, and Enforcement Act, 1989 (FIRREA) acts as the principal regulator and the State Agencies act as the frontline regulators having disciplinary rights, The Appraisal Foundation (TAF) establishes uniform appraisal standards through Appraisal Standards Board (ASB) and minimum appraiser qualification through Appraiser Qualifications Board (AQB). TAF is a member association of VPOs, who mostly cater to developmental needs of the profession, though it is not necessary for an appraiser to be a member of a VPO.

1.17 Incorporated by the Royal Charter in 1881, Royal Institution of Chartered Surveyors (RICS) is probably the oldest, largest and most respected professional body for valuation. Two sets of standards, namely, International Valuation Standards (IVS) issued by the International Valuation Standards Council (IVSC), and the Royal Institution of Chartered Surveyors (RICS) Red Book, command great respect among the stakeholders. In addition, there are standards issued by national VPOs for their members. Several countries have also prescribed their own standards. However, there is a trend to towards IVS.

Recommended Institutional Framework

1.18 The CoE took note of attempts made in the past to provide an institutional framework for the valuation profession, particularly the draft Valuation Professionals Bill, 2008. It studied the progress in implementation and experience with the implementation of the Valuation Rules. It perused the institutional framework for other professions in the country and of the valuation profession in other jurisdictions. It also considered the contemporary thought on regulatory architecture and design and had extensive consultation with stakeholders. Further, based on the extensive interaction with the stakeholders, it felt that the stakeholders are keen to have a statutory framework, having embraced the Valuation Rules and anticipating an upgrade. The time is opportune to come up with an institutional framework for regulation and development of the valuation profession.

1.19 Considering the challenges and opportunities in a market economy and role of professions therein, evolution and experience of institutional framework for professions in India, and contemporary thought on regulatory design, the CoE proposes an institutional framework that is the least disruptive, builds on existing institutional framework and is grounded on market realities, with zero gestation period. The proposed framework is, however, state-of-the-art, malleable to evolving environment, yet robust, which would serve the economy and the valuation profession in the days far ahead and engender a cadre of, not just valuation professionals, but most valuable professionals.

1.20 The CoE recommends enactment of an exclusive statute to provide for the establishment of the National Institute of Valuers (Institute / NIV) to protect the interests of users of valuation services in India and to promote the development of, and to regulate the profession of Valuers and market for valuation services. The Institute shall register and regulate Valuer Institutes, VPOs and Valuers. Valuer Institutes, who would compete among themselves for excellence, shall offer courses and conduct internal examinations, while the Institute shall conduct a screening examination for admission to the courses and a qualifying examination for registration as

Valuers. VPOs, who would compete among themselves for excellence, shall focus on development of their members and monitor their activities to ensure compliance with the law. The Institute shall regulate only those persons, who register with it as Valuers, on meeting the eligibility requirements and having enrolled with a VPO. The details of proposed institutional framework are summarised hereunder.

1.21 General

(a) Vision: Valuation should be developed as a discipline of knowledge such that Valuers are not only valuation professionals, but also the most valuable professionals. Further, valuation professionals, in the long run, should be full-time valuation practitioners just like doctors, CAs, etc. The framework should ensure that interest of a Valuer is subordinate to that of his clients, which is subordinate to that of the society. It should also ensure that Valuers enjoy an enviable reputation of the stakeholders, while being accountable for their services, and which could be a model for other professions. The stakeholders should use valuation services because they find value, and not because of a legal mandate.

(b) Objective: The institutional framework should have three primary objectives, namely, (i) development and regulation of the valuation profession; (ii) development and regulation of market for valuation services; and (iii) protection of interest of the users of valuation services.

(c) Scope: The framework should not be limited to valuations under the Companies Act, 2013 and the Code, as are presently covered under the Valuation Rules. While valuations under the Companies Act, 2013 and the Code may be mandatory to begin with, the framework should cover valuations under other laws in a phased manner in due course, depending on experience and the needs of the time.

(d) Ecosystem: The ecosystem should have four elements:

(i) National Institute of Valuers, which would be a statutory body primarily responsible for the development and the regulation of the valuation profession in India and registration and regulation of Valuers, Valuer Institutes and VPOs;

(ii) Valuers, who would render valuation services, after registration with the Institute;

(iii) Valuer Institutes, who would provide educational courses, after registration with the Institute; and

(iv) VPOs, who would be front-line regulators primarily responsible for development of the valuation profession, after registration with the Institute.

The action and conduct of these four would determine the future of the profession. They are uniquely positioned to nurture the profession, with respect for values, to make the valuation profession the most valuable profession. They have a collective responsibility to build and preserve the reputation of the fledgling profession.

(e) Role of Institute: The Institute would register and regulate Valuer Institutes, who would offer courses and conduct internal examinations, while it conducts a screening examination for admission to a course and a qualifying examination for registration as a Valuer. It ensures high-quality education, by laying down syllabus of courses and standards for education and examination and incentivising research and publication. It registers and regulates VPOs to complement it in its developmental efforts, including development of best practices. It also registers and regulates Valuers, some of whom would practise the profession after having a certificate of practice. It facilitates development of valuation standards. It promotes competition in the market for education and for valuation services in the interest of stakeholders.

(f) Transparency and Accountability: There will be huge scrutiny of the valuation profession, and the proposed institutional framework should be ready for the same. For this to happen, the framework should provide for adequate transparency, accountability and governance norms for the Institute and VPOs and also conduct of Valuers.

(g) Reauthorisation of Statute: A statute should lay down the basic structure of the institutional framework. The Parliament may review the statute, every ten years, for its continuation or modification based on the evaluation of the need for the same. However, if no review is made, the statute shall continue to be in force.

1.22 Development of Profession

(a) Responsibility: Regulation and development are the two main planks of a profession. There can be no regulation unless a profession develops, and a profession does not develop without the comfort/reassurance of regulation. Hence only one agency, namely, NIV should have the prime responsibility of development and regulation of valuation profession.

(b) Valuation Services: Protection of interests of the stakeholders rests on provision of quality valuation services. The framework should provide for a process that grooms a cadre of competent and ethical Valuers who can render quality valuation services for stakeholders and be accountable for the same.

(c) Asset Classes: The market needs valuation of every asset. Expertise required for valuation of each asset varies. For the purpose of learning and professional practice, assets displaying similar characteristics need to be grouped into classes. While the framework may enable valuation of all kinds of assets, to start with, the courses as well as registration of Valuers should be available for three asset classes, namely, L&B, P&M, and Financial Assets. The framework should enable the Institute to add / subtract an asset class to valuation profession as well as increase / decrease the scope of an asset class, with changing needs.

(d) Talent: An enduring and enviable profession requires induction of young and bright talent. It is extremely important in view of ageing membership of valuation profession, which is a concern in many jurisdictions. The framework should enable and attract such talent to join the profession. Students should consider valuation profession as an option, while making a career choice after 10+2 level. It should also attract talented, professionally qualified individuals as well as bright individuals with relevant experience, to join the profession, after undergoing a condensed valuation course.

(e) Educational courses: The framework should define broad entry norms for the profession in terms of educational qualifications and enable the Institute to prescribe the details and to modify the same with changing needs. An individual may join the profession on completing any of the courses:

(i) national valuation programme, a four-year integrated full-time professional course, which includes an internship of one year, if he has passed class higher secondary examination;

(ii) graduate valuation programme, a two-year full-time professional course on valuation, which includes an internship of one year, if he has a degree or equivalent qualification in any of the identified disciplines relevant for an asset class; or

(iii) limited valuation programme, a four-hundred-hour professional course, if he does not have relevant qualification, but has been rendering valuation services as a Valuer for at least five years. The eligibility through this programme shall be available only for two years.

(f) Internship: An internship integrates the knowledge and theory acquired by a student in classroom studies, with practical application and skill development in professional setting. The long-term courses should have internship of one year. In the initial years, it may be difficult to arrange internship for all students, as there may not be enough Valuers with capacity to train interns. Therefore, the internship of one year may include a six-month component of project work in initial years.

(g) Recognition: These courses should not be normal academic courses requiring approval of UGC or AICTE. These should be professional courses enabled under the Statute of the profession.

(h) Admission: The quality of profession depends on quality of students joining the educational courses. There should be a test for admission to ensure that only the best students, with right aptitude, ethics, and competence and having potential to complete the course, join the courses.

(i) Credits: A individual enrolled in the national valuation programme and graduate valuation programme may be required to earn three types of credits being: (i) generic subject credits which is common to every asset class, (ii) specific subject credits for a particular asset class, and (iii) practice credits for a particular asset class. An individual shall be considered to have completed national valuation programme in the asset class L&B, if he has acquired X subject credits common to every asset class, Y subject credits specific to L&B, and Z practice credits specific to L&B. An individual, who has completed national valuation programme in the asset class L&B, shall be considered to have completed national valuation programme in the asset class P&M, if he has acquired Y subject credits specific to P&M, and Z practice credits specific to P&M. The same is true for the graduate valuation programme. The programmes, therefore, should be designed and delivered in modules.

(j) Examinations: On completing the courses, a student should pass credit examinations - generic subject credits, specific subject credits, and practices credits - centrally conducted by the Institute, to demonstrate her competence for registration as a Valuer. This will enable the Institute to maintain the quality standard for the profession, while monitoring performance of Valuer Institutes.

(k) Valuer Institutes: Both the national valuation programme and graduate valuation programme may be delivered by Valuer Institutes, registered with the Institute, in accordance with the syllabus specified by the Institute. The Institute should develop capacity of Valuer Institutes and do initial handholding to prepare them for delivery of courses. Valuer Institutes should compete among themselves to provide superior quality Valuers. The fee charged by them should be market driven.

(l) Continuing Professional Education: A Valuer should be required to top up his knowledge continuously by undertaking continuing professional education to remain relevant. VPOs may drive continuing professional education of their members.

(m) Research: Valuer Institutes, as a condition of registration, should be required to produce certain minimum research publications. The Institute should promote research. This is essential for producing world-class Valuers who can service anywhere in the world with credibility and developing valuation as a discipline of knowledge.

1.23 Regulation of Profession

(a) Registration: The framework should specify entry norms to the profession. A person may be registered as a Valuer, if he (i) is a member of a VPO, (ii) possess necessary educational qualification and professional experience; and (iii) is a 'fit and proper person'.

(b) Fit and Proper: The reputation and credibility of the profession rests on the members of the profession. A person should be fit and proper to be a Valuer. While determining whether a person is a 'fit and proper' person, the Institute should consider the integrity, reputation and character of the person, absence of convictions and restraint orders against the person, etc.

(c) Age Limit: There should not be any lower or upper age limit for entry into the profession. Nor should there be an upper age when a Valuer should cease practice.

(d) Qualification: Only a person having the required competence should be allowed entry to the profession. An individual who has completed any of the educational courses of the relevant asset class and acquired the required credits through the Examination conducted by the Institute should be registered as a Valuer. The eligibility through limited valuation course should be available for the initial few years.

(e) Experience: Since the national and graduate valuation courses include practical training in the form of internships, no experience may be required for registration as a Valuer. However, an individual who wishes to register as a Valuer through limited valuation course should have professional experience for at least five years.

(f) Asset Class: An individual may be registered as a Valuer and he may have a certificate of practice, asset class wise. He may have registrations as well as certificates of practice for two or more asset classes simultaneously if he meets the requirements of the respective asset classes.

(g) Full-time Profession: Given that for most of the persons rendering valuation services, it is a part-time vocation, as an extension of their primary vocation / profession, it should not be mandatory to require an individual to practise valuation profession exclusively in the initial years. As the profession as well as the market for valuation services matures, it should be practised only as a full-time profession. However, an individual shall not be considered practising part-time, if he practises as a Valuer in more than one asset class.

(h) Certificate of Practice: A Valuer shall not render valuation services without having a certificate of practice (CoP). This shall not be applicable to an entity registered as Valuer provided that its partners / directors, who are Valuers, have such CoPs. Further, in order to avoid a situation of conflict of interests and to ensure that a Valuer devotes entire attention to the profession, he shall not be eligible to practise, while he is in employment. Therefore, a Valuer will be required to surrender CoP before he takes up employment, and shall quit employment before he applies for CoP. This shall not apply to a whole-time director of a company, which itself is registered as a Valuer.

(i) Associate and Fellow: An individual should be admitted as an Associate Valuer to start with. He may progress to become a Fellow Valuer after a certain number of years of experience and/or on demonstrating certain professional achievements. An individual may be registered as an Honorary Valuer based on the recognition of his extra-ordinary contribution to the valuation profession. However, he should not be permitted to render valuation services.

(j) Entities: An entity (partnership firm, LLP and company) may be registered as a Valuer, if its primary objective is rendition of valuation services, majority of its partners or directors are Valuers and at least one of its partners or directors is a Valuer of the asset class for which the entity is seeking registration. The entity and all its partners or directors shall be jointly and severally liable for all acts of omission and commission of the entity in respect of valuation services. Valuation reports on behalf of the entity shall be signed by one of the partners / directors who is a Valuer for the asset class for which the entity is registered. In course of time, multi-disciplinary practices (MDPs) may be permitted with appropriate safeguards. An entity formed by Valuers of different asset classes should not be considered as MDP for this purpose.

(k) Subsidiaries: There were two views regarding subsidiary company as a Valuer. After a lot of debate, it was agreed it may not be desirable to prohibit a subsidiary from serving as a Valuer. The statute may enable the NIV to consider providing a framework for registering a subsidiary as a Valuer, when the market warrants it, with appropriate safeguards, that preserve the professional character of the valuation service. An organisational form should not restrict a domestic valuation firm to establish its footprints globally.

(l) Code of Conduct: In the interest of independence and objectivity, a Valuer should abide by a Code of Conduct specified by the Institute. The VPOs should also provide for Code of Conduct and Ethics for their members.

(m) Presumption of bona fide: By definition, divergent views are possible in the field of valuation. If expressions of opinion on the value are lightly interdicted, it would be counterproductive to the objective of developing a vibrant market for the valuation services. Therefore, there should be a presumption of bona fide for the valuation conducted by a Valuer.

(n) Protection of Valuers: Only the Institute should have authority to take action against a Valuer, after following due process. No court should take cognisance of any offence against a Valuer, save on a complaint made by the Institute or the Central Government.

(o) Punishments: Any contravention should attract swift and adequate punishment. The statute should provide a list of possible contraventions and the associated penalties.

1.24 Regulation of Market for Valuation Services

(a) Registered Valuers: In order to ensure at least a minimum quality of valuation services across the market, only Valuers registered under the proposed institutional framework should be permitted to render valuation services. Such mandatory provision, however, may start with valuation services under the Companies Act, 2013 and Code, followed by phased inclusion of valuation services under other laws.

(b) Valuation Standards: The Institute should lay down valuation standards based on the recommendations of the Valuation Standards Committee. It shall be mandatory for Valuers to conduct valuation as per the valuation standards.

(c) Conflict of Interests: A Valuer shall not conduct a valuation where he has any conflict of interest. The Institute should provide guidance on conflict of interest.

(d) Outsourcing: A Valuer shall not outsource any of its duties and responsibilities under the Act, except those specifically permitted by the Institute. A Valuer may, however, seek an opinion from a professional or a Valuer for an asset class for which he is not registered, subject to disclosures.

(e) Disclaimers: While the CoE recognises the need for valuers to provide reasonable disclaimers, a valuation report shall not carry a disclaimer, which has potential to dilute the responsibility of the Valuer or makes the valuation unsuitable for the purpose for which the valuation was conducted. The valuation reports should be capable of being tested through the crucible of legal evidence in judicial proceedings.

(f) Fee: The fee of a Valuer should be decided by the market, subject to the condition that it is not ad valorem to the value of the asset being valued or in the nature of success fee.

(g) Competition: The VPOs should compete among themselves to provide superior quality Valuers. Similarly, Valuer Institutes should compete among themselves to provide superior pass outs.

1.25 Regulatory Architecture

(a) Two-Tier: The framework envisages a two-tier regulatory architecture comprising of VPOs, as front-line regulators, and the Institute, as the principal regulator of Valuers. However, care should be taken to ensure that their jurisdictions do not overlap, and the authority of the first tier is not undermined. The second tier should have predominantly a developmental role, while the first tier has predominantly a regulatory role. This approach retains the benefits of self-regulation while avoiding potential concerns such as regulatory capture.

(b) Statutory Institute: The statute may create and provide for the details of the first-tier (Institute) and enable the Institute to provide for details, such as governance, of the second-tier (VPOs) through regulations. The VPOs will be self-regulating organisations having separate constitutional documents and byelaws.

(c) Institute and Council: The law must view the Institute, as a body corporate, and the Council, as a governing body of members, separately with clear roles and responsibilities attached to each of them. The Institute must operate under the oversight, control and direction of the Council.

(d) Composition of Council: The law should require a formal interface between the Institute and the society in the Institute's governance. For this purpose, the Institute should have a few eminent persons as part-time members (PTMs). It may also have representatives of user government departments, who administer laws or make subordinate legislation, which require valuations. The Council should comprise a Chairperson, three whole-time members (WTMs), of whom at least one shall be an administrative law member (ALM); and one ex-officio member each representing user departments and few PTMs. A Valuer could be a member, WTM or PTM, subject to addressing conflict of interests. This would provide democratic legitimacy, while avoiding regulatory capture which is generally seen in self-regulatory organisations. As a best practice of good governance, the performance appraisal of the chairperson and WTMs should be undertaken by the Council or the PTMs.

(e) Audit Committee: The Council should constitute an Audit Committee for monitoring compliance with laws applicable to the Institute, oversight over risk management functions of the Institute, appraisal of performance of the Council, and oversight of the financial reporting process.

(f) Committee of Valuers: There shall be a Committee of Valuers, comprising exclusively of Valuers to advise the Institute on any issue relating to the profession of Valuers and market for valuation services. Every advice of the Committee shall be considered by the Governing Council of the Institute. Further, the advice of the Committee and decision of the Governing Council regarding the same should be published in public domain.

(g) Valuation Standards Committee: There shall be a valuation standards committee, which shall comprise all relevant stakeholders, to recommend valuation standards, and valuation guidelines to be used by Valuers for valuation services. Based on the recommendation, the Institute shall notify the valuation standards.

(h) Discharge of Duties: As a regulator, the Institute is a mini-State, having three broad types of functions and powers, namely, quasi-legislative, quasi-judicial and executive (including investigative) functions. Quasi-legislative functions and powers must be exercised by the Council. Quasi-judicial functions and powers must be exercised by the administrative law department under the oversight of the ALM. All other functions and powers shall be exercised by, and in the manner as may be decided by the Council.

(i) Separation of Powers: A separate organisational unit of the Institute shall be responsible for each of the distinct types of functions and powers. These units shall operate at an arm's length from one another to serve as mutual checks and balances to address public law concerns. In particular, the operations of the executive functions, including investigations, and the quasi-judicial functions must remain firmly insulated from each other. While there should be fungibility of talent as a matter of human resources policy, meticulous care must be taken to avoid conflict of interest with no employee performing multiple roles at a point of time or performing multiple roles with regard to the same matter at any time.

(j) Subordinate Legislation: The raison d'être of regulators is to hit the moving targets. The professional environment would keep on evolving. The institutional framework should also evolve to deal with the emerging needs. The statute should provide essential legislative matters leaving the details to be provided by the Institute through subordinate legislation. While avoiding over-legislation through the statute and excessive delegation through subordinate legislation, the statute should enable delegated legislation within the basic structure of the legislation to keep the legislation relevant to the times.

(k) Regulation Making: The Institute should use only one instrument of subordinate legislation, namely, regulation. It may, however, issue guidance notes, clarification, FAQs, etc. but these must not constitute 'law'. The law should require that draft regulations – new regulations as well as amendments to existing regulations – along with an associated regulatory impact assessment are put out with the approval of the Council for public comments, in the interest of democratic legitimacy. The Council should approve regulations only after considering public comments. The Institute should place reasons for rejecting a comment in the public domain. The Institute may make regulations or amend existing regulations in case of urgency, without public consultations. However, such regulations shall cease to have effect after 180 days from the date of notification. The Institute should review the regulations every three years to keep them relevant.

(l) Disciplinary Mechanism: In the interest of fair and objective enforcement of the law, adjudication proceedings must commence with the issue of a Show Cause Notice (SCN), based on a fact-finding process. The SCN must state the details of any alleged contravention by the noticee (Valuers, VPOs, and Valuer Institutes) and the measures or direction the Institute intends to take or issue if the allegations are established to enable the noticee to respond adequately. The Institute must provide for inspection of relevant material, including material that would be used for pressing charges as well as material that would undermine the charges. It must also supply relevant records, provide an opportunity of fair hearing and dispose of the SCN by a reasoned order. A panel of two or more Adjudicating Officers, as constituted by the ALM, shall conduct quasi-judicial proceedings and dispose of show cause notices by a reasoned order, following principles of natural justice. The order passed by the adjudicating officer may be appealed against before the ALM. The Panel and the ALM may seek expert opinion from a professional on issues under the SCN wherever they consider necessary for better appreciation of facts. The statutory appeal against the order of the ALM of the regulator should be made to the High Court. The Institute may, however, have the power to settle alleged contraventions of the law after detection of contraventions.

(m) Resources: The Institute should have powers to build its human resources. It should have independence on financial matters. It should be capable of raising resources from the regulated entities matching its needs in the interest of independence. A one-time corpus fund may be made available with it, and financial independence may be built with bolstered revenues from fee earnings. It must be exempted from all taxes on its wealth, income and services.

(n) Accountability: The Institute must submit a structured annual report, in accordance with Rules mandating effective areas of coverage in the annual report, which would serve as a metric to measure and review its effectiveness and performance. It should make regulations specifying timelines for disposal of matters at various stages, and standard operating procedures for the same. These are in addition to composition of the Council and various checks and balances on exercise of its powers.

(o) Advocacy: The Institute may undertake advocacy for the valuation profession but must not lobby for work for Valuers. The focus should be on developing capacity of the profession and not canvassing work for it.

1.26 Transition and Implementation

(a) Transition: There is an arrangement in place under the Valuation Rules. The new framework should subsume the existing arrangement.

(i) Valuers already registered with IBBI under the Valuation Rules should automatically become Valuers under the new framework.

(ii) Valuers engaged in valuation services should have a window of two years to become Valuers if they meet eligibility norms under the Valuation Rules and in the manner, provided therein.

(iii) Valuers engaged in valuation services, but not having relevant educational qualifications, should have a window of three years to become Valuers subject to meeting other eligibility norms under the Valuation Rules and in the manner, provided therein, provided they undergo the limited valuation course.

(iv) Registered valuer organisations recognised by the IBBI should automatically be transitioned as VPOs under the new framework.

(v) Until the Institute is established, the IBBI may exercise the powers and discharge the functions of the Institute under the Valuers Act, in accordance with the provisions of that Act.

(vi) The regulator needs to focus on capacity development to ensure smooth implementation of the proposed framework.

(b) Repeal and Savings: Since the proposed institutional framework provides a unified regime for the valuation profession, section 247 and other provisions in the Companies Act, 2013 need to be modified to provide that valuations under the provisions of the Companies Act, 2013 would be conducted by Valuers under the new regime. Consequently, the Valuation Rules need to be repealed.

(c) Capacity Building: A concerted, planned effort should be made to build capacity of the Institute, VPOs, Valuer Institutes and Valuers to deliver quality educational courses.

(d) Malleability: The proposed framework should be able to accommodate most of the emerging needs without requiring a change in the statute. For example, it proposes to start with three asset classes and enables the Institute to add more classes or subtract some classes from the existing ones as the needs emerge. Similarly, the Institute can expand or contract the scope of each asset class. It can modify the scope of disclosures to be made by service providers to keep them relevant to the times. It can provide appropriate frameworks when it considers necessary to allow MDPs or a subsidiary to register as a Valuer.

(e) Implementation: Keeping the above in view, the CoE has prepared a Draft Valuers Bill, 2020 and placed it in the Implementation Chapter. A comparative statement of the features of the proposed institutional framework with those in Draft Valuation Professionals Bill, 2008, the Valuation Rules, and in similar frameworks relating to a few select professions is appended here.

1.27 The institutional framework builds on the earlier works, namely, the Draft Professionals

Valuation Bill, 2008 and the Valuation Rules, 2017, which seem to have broad acceptability. It is enriched by several welcome features from institutional frameworks for other professions and contemporary thought about professions, regulations and regulators. The source of motivation of different features of the institutional framework are as under:

Sl.No.	Features in the proposed institutional framework	Found in
1	Statutory framework	1,2,3,4,5,6,7,8
2	Co-regulation	3,6
3	Two-Tier architecture	1,3,4,5,6
4	Dependence on subordinate legislation	1,2,3,4,5,6,7,8
5	Non-elected members in governing body of principal regulator	3,4,6,7,8
6	Part-time members in the governing body	3,4,6,7,8
7	Ex-officio / nominee members in the governing body	1,2,3,4,5,7,8
8	Administrative law department	3,7
9	Principal regulator recognises institutes for educational courses	1,3,4,5,6
10	Principal regulator conducts examination for admission to educational courses	2,4
11	Principal regulator prescribes educational standards	1,2,3,4,5,6
12	Principal regulator conducts examination for entry to profession	1,2,3,4,6
13	Principal regulator registers professionals	2,3,4,6
14	Provision of certificates of practice	1,2,3,5, 6
15	Professional not allowed to practice while in employment	1,2,3,6
16	Entities eligible for registration as professionals	2,6
17	Multi-disciplinary practice	2
18	Fit and Proper person to be a professional	3,6
19	Categories of professionals (Associate, Fellow, Senior, etc.)	1,2
20	Requirement of continuing professional education	2,3,6
21	Principal regulator specifies professional standards	2,4,5,6
22	Principal regulator specifies code of conduct	1,2,3,4,5,6
23	Market determined fee for professional services	1,2,3,4,5,6
24	Principal regulator adjudicates contraventions	2,3,6,7 8

Legends: 1. The Advocates Act, 1961; 2. The Company Secretaries Act, 1980; 3. The Insolvency and Bankruptcy Code, 2016; 4. The National Medical Commission Act, 2019; 5. Draft Valuation Professionals Bill, 2008; 6. The Companies (Registered Valuers and Valuation Rules), 2017; 7. Report of the Financial Sector Legislative Reforms Commission; 8. Report of the Competition Law Review Committee.

1.28 Though there was broad consensus about the elements and features of the proposed institutional framework, some members and invitee experts had some difference of opinion on details pertaining to few aspects. These have been reflected at appropriate places in the main body of the report.

1.29 This report comes in three Volumes. The first Volume comprises six chapters. First chapter presents an executive summary of the recommendation of the CoE. Second chapter takes stock of the evolving valuation profession and the institutional framework supporting the same. Chapters 3 to 5 deal with development of profession, regulation of profession and of market for valuation services, and regulatory architecture respectively. Chapter 6 concludes with transitional provisions and carries a draft bill for implementation of the recommendations of the CoE.

1.30 The CoE has relied on works of several individuals and institutions and the views of a wide spectrum of stakeholders. The documents pertaining to these, wherever available, have been presented as Annexures in Volume II and as Appendices in Volume III of the Report.