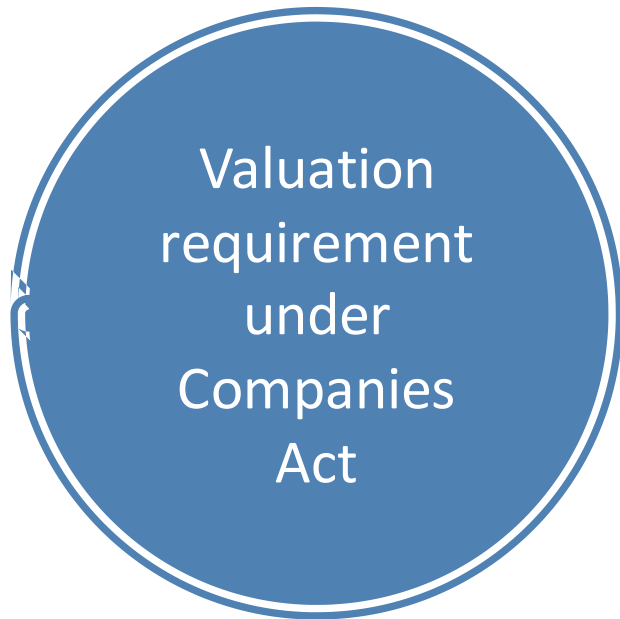


Presentation on “Valuation under Companies Act, Report Writing and Valuation Standards”

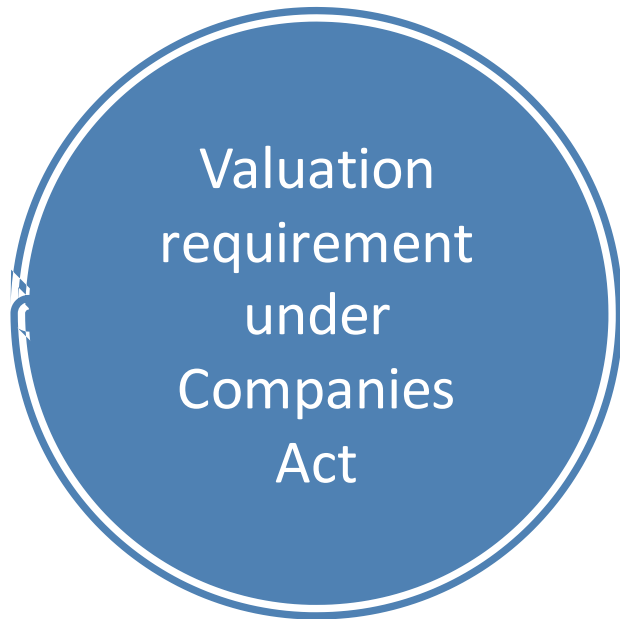
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Section	Particulars	Users of Report
62(1)(c)	For Further Issue of Shares	Company

### **Section 62 (1) (c)**

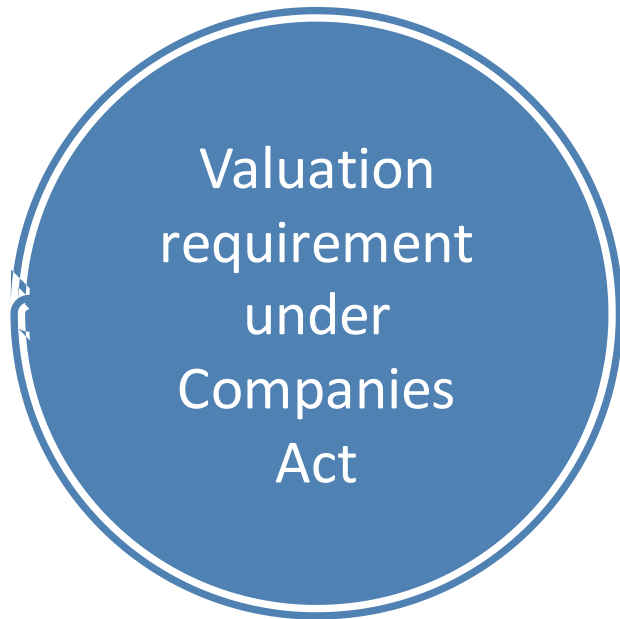
- When a company having share capital proposes to increase its subscribed share capital by a fresh issue of shares, such shares shall be offered to:
  1. Existing shareholders i.e. Rights Issue
  2. Employees under a scheme of Employees' Stock Option
  3. Any other persons except those mentioned above, if authorized by a special resolution: Issue of shares on a Preferential Basis
- In all of the above cases, the price of the shares issued must be determined by the valuation report of a registered valuer subject to prescribed conditions.



Section	Particulars	Users of Report
192(2)	Restriction on non-cash transactions involving directors	Company

### **Section 192(2)**

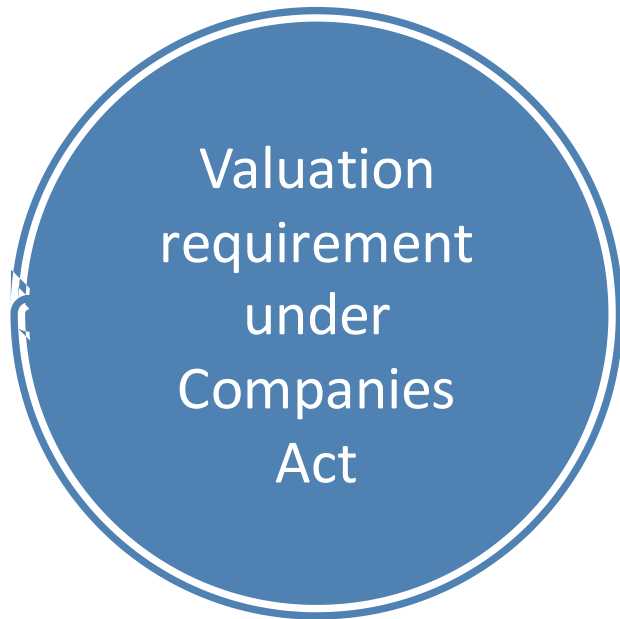
- When a company enters into an arrangement with a director of the company or its holding, subsidiary or associate company or a person connected with him to acquire assets for consideration other than cash or vice versa, such an arrangement shall be accorded by passing a resolution in the general meeting of the company and if the director is a director in the holding company, then a resolution in a general meeting of the holding company shall also be required. The notice for such resolution shall include a valuation report of a registered valuer for such assets.



Section	Particulars	Users of Report
230(2)(c)(v) & (3)	Power to compromise or make arrangements	Company

### **Section 230(2)(c)(v) & (3)**

- In case of a compromise or arrangement between members (such as in mergers or amalgamations) or with creditors (such as in corporate debt restructuring), a valuation report in respect of shares, property or assets, tangible and intangible, movable and immovable of the company by a Registered Valuer is required.
- In case of mergers, the directors are also required to circulate a report to members specifying, inter alia, any.

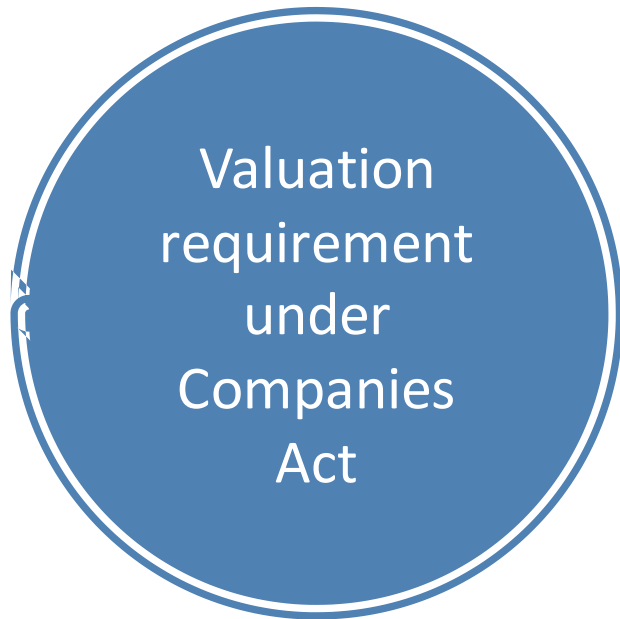


Section	Particulars	Users of Report
232(2)(d)	Merger and Amalgamation of Companies	Company

#### **Section 232(2)(d)**

- Where an order has been made by the Tribunal, merging companies or the companies in respect of which a division is proposed, the report of the expert with regard to valuation, if any would be circulated for meeting of creditors/members.

“expert” includes an engineer, a valuer, a chartered accountant, a company secretary, a cost accountant and any other person who has the power or authority to issue a certificate in pursuance of any law for the time being in force;

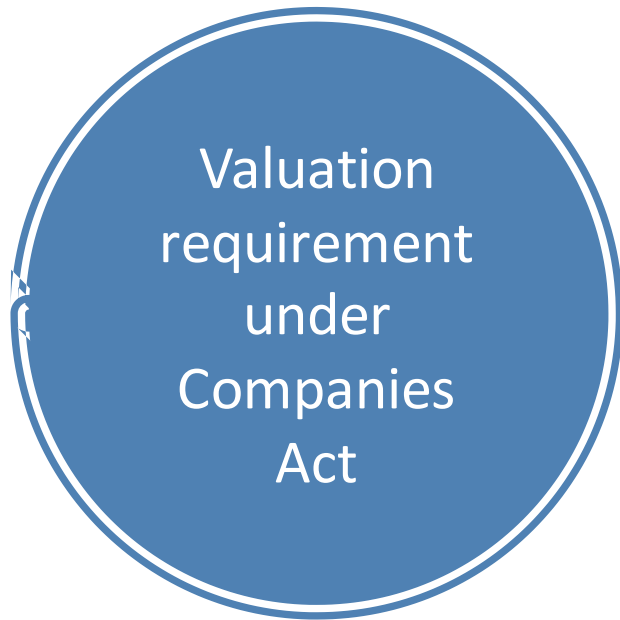


Section	Particulars	Users of Report
232(3)(h)	Merger and Amalgamation of Companies	Company

### **Section 232(3)(h)**

Where the transferor company is a listed company and the transferee company is an unlisted company:

- a) the transferee company shall remain an unlisted company until it becomes a listed company;
  - b) if shareholders of the transferor company decide to opt out of the transferee company, provision shall be made for payment of the value of shares held by them and other benefits in accordance with a pre-determined price formula or after a valuation is made, and the arrangements under this provision may be made by the Tribunal:
- **Provided that the amount of payment or valuation under this clause for any share shall not be less than what has been specified by the Securities and Exchange Board under any regulations framed by it;**



Section	Particulars	Users of Report
236 (1),(2) & (3)	Purchase of Minority Shareholding	Company & minority shareholders

### **Section 236 (1),(2) & (3)**

- In case an acquirer or person acting in concert with the acquirer, acquires 90% or more of the equity capital in a company, they can offer to the minority shareholder (or the minority shareholder can offer to the acquirer) to acquire the minority shareholding at a valuation determined by Registered Valuer as per Rule 27 :Determination of price for purchase of minority shareholding.

## **Rule 27 Determination of price for purchase of minority shareholding:-**

The registered valuer shall determine the price (hereinafter called as offer price ) to be paid for purchase of equity shares of the minority shareholders of the company, in accordance with the following rules:

### **(1) In case of a listed company ;**

- (i) The offer price - **Securities And Exchange Board Of India**
- (ii) The **registered valuer** -valuation report; giving justification for such valuation

### **(2) In the case of an unlisted company and a private company,**

(i) the offer price shall be determined after taking into account the following factors :-

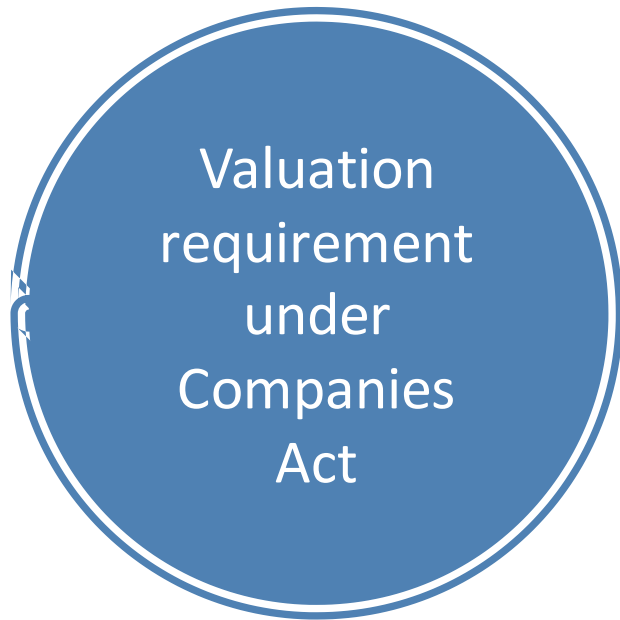
(a) the highest price paid during last twelve months;

(b) the fair price of shares of the company to be determined by the registered valuer -after taking into account valuation parameters including return on net worth, book value of shares, earning per share, price earning multiple vis-à-vis the industry average, and such other parameters as are customary for valuation of shares of such companies

and

(ii) the registered valuer - valuation report; giving justification for such valuation





Valuation  
requirement  
under  
Companies  
Act

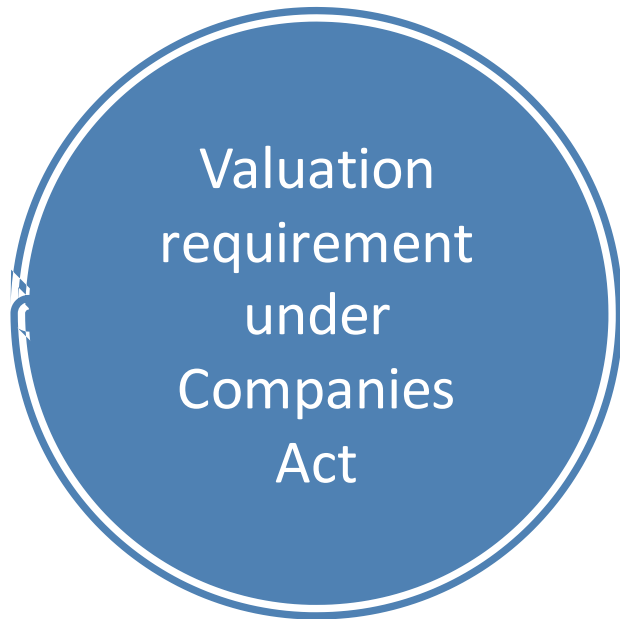
Section	Particulars	Users of Report
281(1)	Valuing assets for submission of report by liquidator	Company

**Section 281(1)**

- In the event of a winding up order passed for a company and a Company liquidator is appointed by the Tribunal.
- The liquidator shall submit within 60 days of passing the order, a report which, inter alia, provides the value of the assets and securities held if any, of the company. The value shall be determined as per a valuation report by a registered valuer.

## **Section 281(1)**

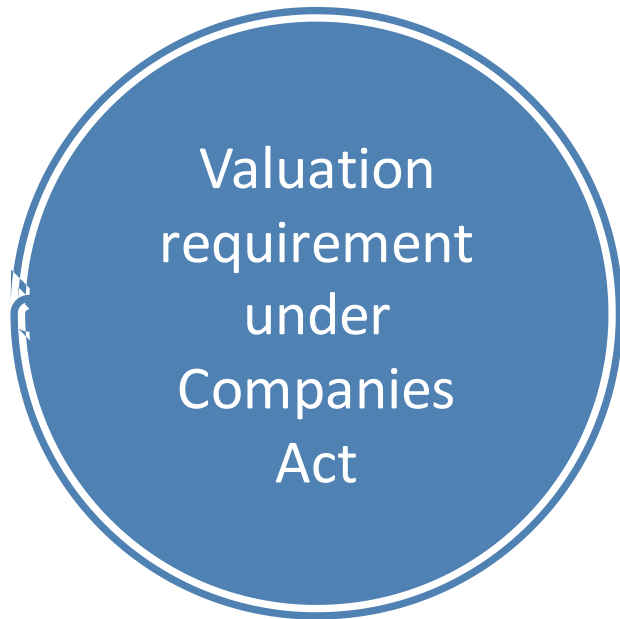
- Provided that the valuation of the assets shall be obtained from registered valuers for this purpose;
- amount of capital issued, subscribed and paid-up;
- the existing and contingent liabilities of the company including names, addresses and occupations of its creditors, stating separately the amount of secured and unsecured debts, and in the case of secured debts, particulars of the securities given, whether by the company or an officer thereof, their value and the dates on which they were given;
- the debts due to the company and the names, addresses and occupations of the persons from whom they are due and the amount likely to be realized on account thereof;
- guarantees, if any, extended by the company;
- list of contributories and dues, if any, payable by them and details of any unpaid call;
- details of trade marks and intellectual properties, if any, owned by the company;
- details of subsisting contracts, joint ventures and collaborations, if any;
- details of holding and subsidiary companies, if any;
- details of legal cases filed by or against the company; and
- any other information which the Tribunal may direct or the Company Liquidator may consider necessary to include.



Rule	Particulars	Users of Report
2(c)(ix) of Companies (Acceptance of deposit) Rules, 2014	Exclusions from Deposits	Company

#### **Rule 2(c)(ix) of Companies (Acceptance of deposit) Rules, 2014**

- As per the rule, deposit includes any receipt by way of deposit or loan or in any other form by a company but does not include, among other things, money raised by issue of debentures secured by a charge on company's assets.
- The amount of such debentures shall not exceed the market value of the assets as determined by a registered valuer

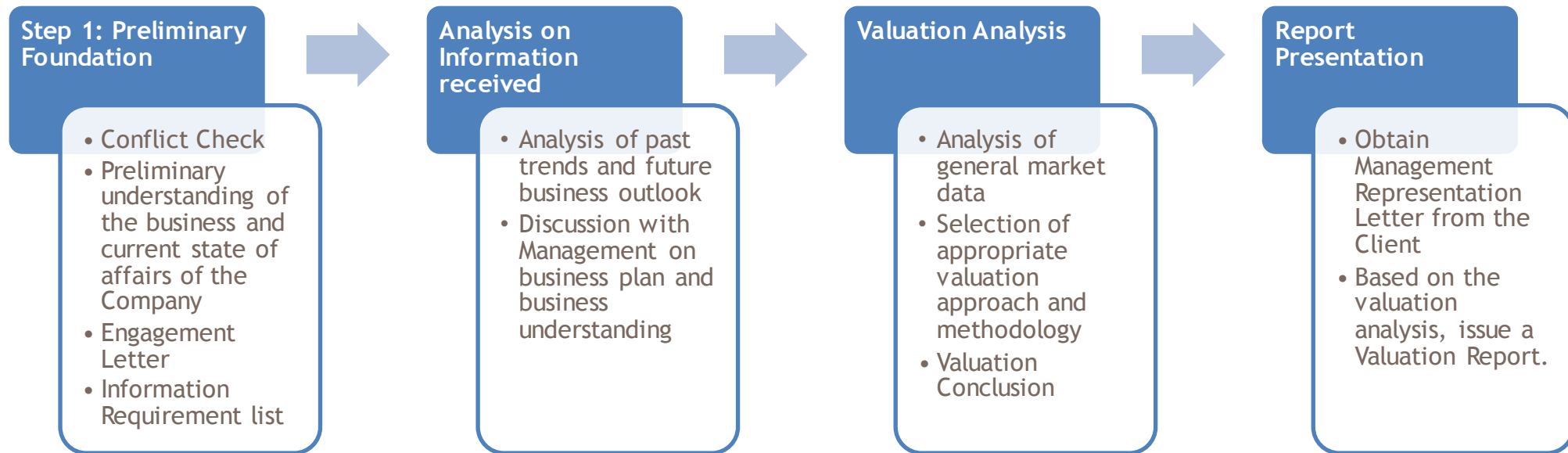


Rule	Particulars	Users of Report
8 of Companies (Share capital and Debentures) Rules, 2014	Issue of Sweat Equity Shares	Company

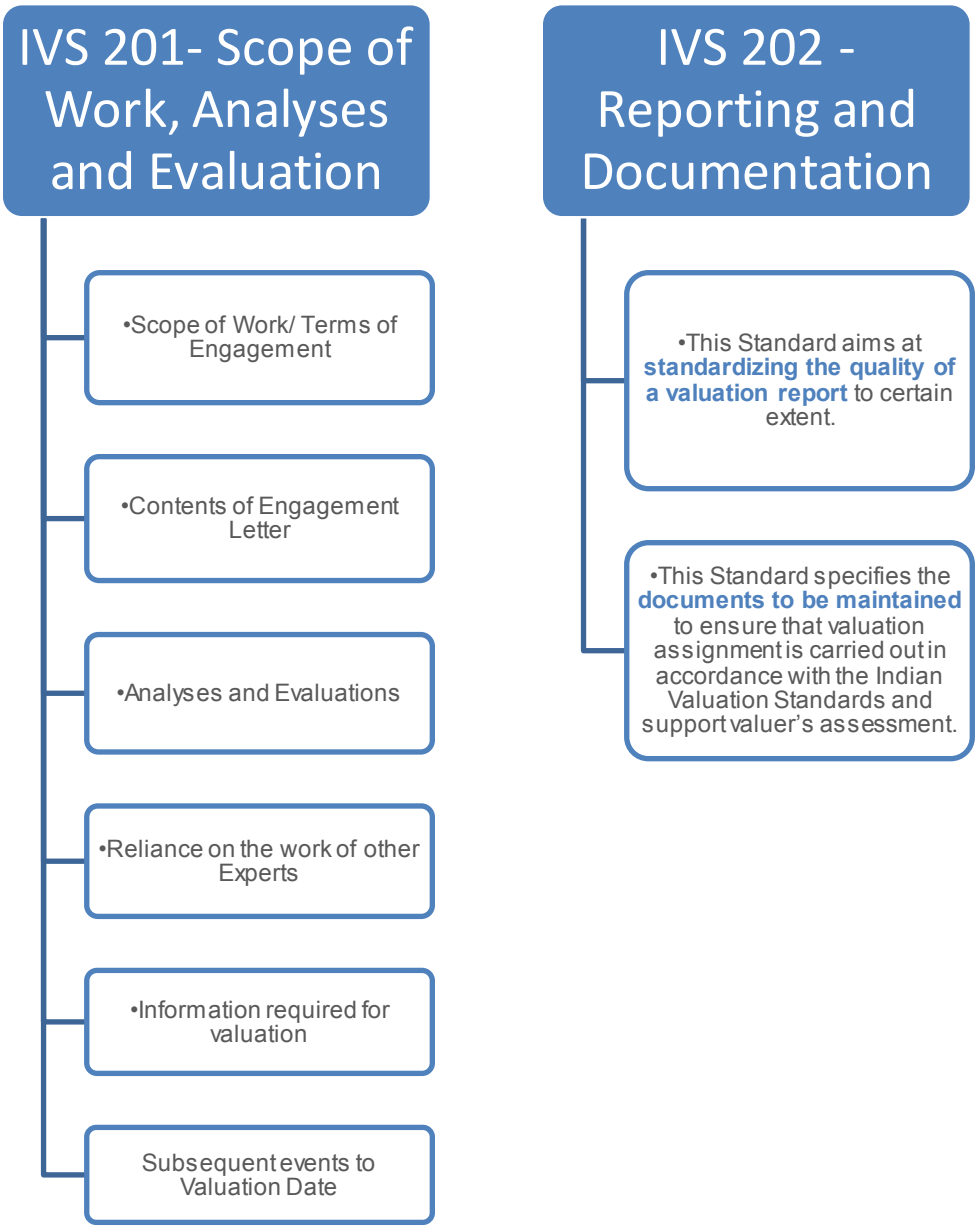
#### **Rule 8 of Companies (Share capital and Debentures) Rules, 2014**

- Applicable to Unlisted Companies issuing sweat equity shares to its directors or employees.
- Sweat equity shares shall be issued at a price determined by a registered valuer as the fair price giving justification for such valuation.
- The value of the intellectual property or know-how or any other value additions, for which the sweat equity shares have been issued to its directors or employees shall be determined by a valuation report of a registered valuer.
- If the sweat equity shares are issued for a non-cash consideration, the value of such non-cash consideration shall be based on a valuation report by a registered valuer.
- If the sweat equity shares are issued pursuant to acquisition of an asset, the value of such asset shall also be determined based on a valuation report by a registered valuer.

# Valuation Assignment Procedure



# ICAI Valuation Standards 2018 – IVS 201 and IVS 202



## Report Writing – Types of Report

### Detailed Report

To communicate the results of valuation engagement (conclusion of value)

### Summary Report

Same as detailed report

Level of reporting detail depends on Client requirements & Purpose of Engagement and Regulatory Provisions

### Calculation Report

To be used to communicate the results of calculation engagement

## Report Writing – Comparison

Contents	Detailed report	Summary Report
Letter of Transmittal	✓	✓
Table of contents & Abbreviations	✓	✓
Introduction	✓	✓
Exclusions & Limitations	✓	✓
Sources of information	✓	✓
Background of the Company	✓	✓
Economic Data (Optional)	✓	
Industry Information	✓	
Financial analysis	✓	✓
Valuation approaches and methods	✓	✓
Valuation adjustments & Non-operating assets, non-operating liabilities, and excess or deficient operating assets (if any)	✓	✓
Valuation Conclusion	✓	✓
Appendixes and exhibits	✓	✓



# Report Writing – Contents

- **Letter of Transmittal**

1. Cover letter consisting nature of assignment, date of appointment, purpose of valuation, valuation date, valuation report issue date signed by the Valuer.

- **Table of contents & Abbreviations**

1. It covers list of Topics and Page numbers.
2. Abbreviations

- **Introduction**

1. To understand the nature and scope of the valuation engagement, as well as the work performed.
2. Covers the following items and any additional information which is useful.
  - a. Identity of the client
  - b. Purpose and intended use of the valuation
  - c. Intended users of the valuation
  - d. Identity of the subject entity
  - e. Description of the subject interest
  - f. Ownership information
  - g. Valuation date
  - h. Report date
  - i. Regulations Applicable (in Indian Context)
  - j. Applicable premise of value
  - k. Applicable standard of value
  - l. Disclosure of subsequent events in certain circumstances

# Report Writing – Contents

- **Exclusions & Limitations**
  - a.Scope Restrictions or Limitations
  - b.Assumptions & Limiting Conditions
  - c.Representation of the valuation analyst
  - d.Any specialist appointed and its scope of work
  
- **Sources of information**
  1. Covers the following items
    - a.Site visit details
    - b.Intangible assets - legal registration
    - c.Financial information
    - d.Tax information
    - e. Industry data
    - f. Market data, Economic data, Other empirical information
    - g. Other Relevant documents and other sources of information
  
- **Background of the Company**
  1. Subject Company Information
  2. Analysis of the subject entity and related non financial information
  3. Industry Positioning

# Report Writing – Contents

- **Economic Data**

1. Macro-Economic factors – GDP, Employment, Inflation, Currency, Legislation, Taxation.

- **Industry Information**

1. Defining Industry
2. Stage of Industry
3. Competitors
4. Supply chain (Distributors, Customers, Suppliers)

- **Financial analysis**

1. Trend and Growth analysis of Subject entity and Benchmarking with Peers
2. Linking with Non- financial information
3. Future Forecast/ Projections

# Report Writing – Contents

- **Valuation approaches and methods**

1. Various approaches & methods
2. Pros and Cons of each method
3. Non - Applicability of approaches & methods to subject entity
4. Valuation approach & method used for valuation

- **Valuation adjustments & Non-operating assets, non-operating liabilities, and excess or deficient operating assets (if any)**

1. Below line adjustments to Enterprise value
2. Discounts

- **Valuation Conclusion**

1. Valuation Summary using the approach and method used
2. Weightage to methods chosen
3. Range of valuation
4. Corroboration with other methods

- **Appendixes and exhibits**

1. Workings as Annexure
2. References to Report

# Report Writing – IVS 202

- The following Contents are given in ICAI Valuation Standard 202 - Reporting and Documentation

Particulars	Covered Under
Background information of the asset being valued	Introduction
Purpose of valuation and appointing authority	Introduction
Identity of the valuer and any other experts involved in the valuation	Introduction
Disclosure of valuer interest or conflict, if any;	Exclusions & Limitations
Date of appointment, valuation date and date of report	Letter of Transmittal
Inspections and/or investigations undertaken	Financial Analysis
Nature and sources of the information used or relied upon	Sources of Information
Procedures adopted in carrying out the valuation and valuation standards followed	Valuation approaches and methods
valuation methodology used	Valuation approaches and methods
Restrictions on use of the report, if any;	Exclusions & Limitations
Major factors that were taken into account during the valuation	Valuation adjustments & Non-operating assets, non-operating liabilities, and excess or deficient operating assets (if any)
Conclusion; and	Valuation Conclusion
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	Exclusions & Limitations

The same **Contents** are mentioned in the Companies (**Registered Valuers And Valuation** ) Rules, 2017.

# IVS 201 – Scope of Work, Analyses and Evaluation

## Terms of Engagement

### Key Elements of Engagement

- Scope;
- Responsibility;
- Authority;
- Confidentiality;
- Limitations;
- Reporting; and
- Compliance with Indian Valuation Standards

The terms of the valuation assignment shall be documented in writing in an engagement letter

### Contents of Engagement Letter

- Details of the client;
- Details of any other user/s of the valuation report apart from the client, if any;
- Details of the valuer;
- Purpose of the valuation;
- Identification of the subject matter of valuation;
- Valuation date;
- Basis and premise of valuation;
- Responsibilities of the client and the valuer;
- Confidentiality obligations of the client and the valuer;
- Scope/ limitations;
- Fees ;
- Details of third party expert, if any, and their scope of work, scope limitations, and responsibilities.

***The valuation shall not be constituted as an audit or review in accordance with the auditing standards; accounting/ financial /commercial/ legal/ tax/ environmental due diligence or forensic/ investigation services; and shall not include verification or validation work.***

# Documentation

## Step 1: Engagement Letter

Before starting to work on the assignment, an Engagement Letter is signed between the Valuer and the Client stating the Identity of the Company, Purpose of Valuation, Valuation date and terms of Engagement.

1

## Step 3: Valuation data

All the information used for valuation, should be justified using Market information and other related data.

- Multiples
- Beta
- Data of Peers

3

## Step 2: Company Information

All the data related to the Company which has been received such as:

- Financial Information (Past and Forecasted)
- Agreements
- Shareholding Pattern
- Minutes of Discussions with the Management

2

## Step 4: Management Representation Letter

All the data that has been received from the Company should be considered in Management Representation letter.

4

As per The Companies (Registered Valuers And Valuation ) Rules, 2017; valuer needs to maintain records for **at least three years** from the completion of such assignment. As per ICAI Valuation Standards 2018, it is not shorter than **8 years**.

**Any Questions?**