

中國資產評估法與國際評價業 管理趨勢

報告人：彭 火 樹

中華無形資產暨企業評價協會
副秘書長

報告大綱

- 一、評價業的一個故事-ing
- 二、**International Valuation Standards Council's (IVSC's) International Professional Standards**
- 三、中國資產評估法



- **2005**: SEC sought improvement in valuation profession infrastructure.
- SEC chief accountant went further in **2011**.
- May 11, **2016**: Senior representatives from the American Institute of Certified Public Accountants (**AICPA**), the American Society of Appraisers (**ASA**), and the Royal Institute of Chartered Surveyors (**RICS**) have released a new report , “***Assessment of the Current Professional Infrastructure Governing Fair Value Quality.***”



- In the “**Executive Summary**” of the above report:
“The **SEC** has expressed a desire that the various stakeholders in the valuation profession coordinate their efforts to establish **rigorous and uniform qualifications, training, accreditation, and oversight of individuals** conducting **fair value measurements for financial reporting purposes** for SEC registered U.S. public companies.”

一、評價業的一個故事-ing (3/18)



- Lead to: **The fair value quality initiative**
- The **task force formed four work streams** designed to address valuation professional organizations' (VPOs') governance and operational issues relevant to developing, implementing, and maintaining an infrastructure to support **the Certified in Entity and Intangible Valuations™ (CEIV™) credential**.
- The work streams are as follows:
 - **Governance and Coordination**
 - **Performance Requirements**
 - **Qualifications**
 - **Quality Control**



THE CERTIFIED IN ENTITY AND INTANGIBLE VALUATIONS™ (CEIV™) CREDENTIAL IS FOR PROFESSIONALS **PERFORMING FAIR VALUE MEASUREMENTS** FOR CORPORATE ENTITIES AND INTANGIBLE ASSETS.

Credential holders commit to **an ongoing quality review process** and comply with **the newly established performance framework**, increasing confidence in the consistency and transparency in their work.

To find out more or to apply, contact one of the following:





[American Institute of Certified Public Accountants \(AICPA\)](#) | [American Society of Appraisers \(ASA\)](#)
| [Royal Institution of Chartered Surveyors \(RICS\)](#)

Formed **the Corporate and Intangibles Valuation Organization, LLC** by **RICS, ASA and AICPA.**

一、評價業的一個故事-ing (5/18)



Certified in Entity and Intangible Valuations™ (CEIV™) Qualifications Snapshot

Pathway			
 Experience ^{1,2}	<u>3,000 hours performing fair value measurements (in the 5 years preceding application)</u>		
 Education / Training ²	CEIV Pathway Courses Covering: <ul style="list-style-type: none"> • Fair Value Accounting and Regulatory Environment; • Technical Guidance Related to Valuations for Financial Reporting; • Use of the Valuation Report in the Audit Process; and • <u>Mandatory Performance Framework.</u> 		
 Exams ²	CEIV Exam Module 1: Fair Value Measurement Environment, Guidance and Related Auditing Requirements CEIV Exam Module 2: <u>Mandatory Performance Framework</u>		
 CEIV Credential Maintenance	<u>Education/Training</u> <ul style="list-style-type: none"> • <u>8 hour annual Fair Value update</u> offered by approved VPOs • 48 hours of Fair Value-specific education every 3 years 	<u>Ongoing Business Experience</u> <ul style="list-style-type: none"> • <u>1,500 hours performing Fair Value Measurements</u> every 3 years 	<u>Compliance Requirements</u> <ul style="list-style-type: none"> • Mandatory Performance Framework • <u>Annual Engagement Level Quality Review</u>

¹Experience related to fair value measurements may include auditor specialist valuation reviews of fair value measurements prepared by a third party or by management; firm review of fair value measurements prepared by the firm's valuation team; signing valuation reports; performing, mentoring, supervising or managing fair value measurement engagements; and consulting on, instructing, authoring, and developing thought leadership and staff development on fair value measurement matters.

²The CEIV credential may be obtained through the AICPA, ASA or RICS. All CEIV candidates must join one of these VPOs and meet their respective membership requirements. In order to demonstrate that the CEIV candidate has an essential understanding of valuation principles and concepts, they must also meet the minimum combination of experience and education as outlined by each VPO prior to applying for the CEIV credential. Please visit each approved VPO's website for more information on these requirements.



- **Mandatory Performance Framework (MPF) for the Certified in Entity and Intangible Valuations™ (CEIV™) Credential (Issued January 2017).**
- **Application of the Mandatory Performance Framework for the Certified in Entity and Intangible Valuations™ (CEIV™) Credential (Issued January 2017).**

THE MANDATORY PERFORMANCE FRAMEWORK FOR THE CERTIFIED IN ENTITY AND INTANGIBLE VALUATIONS CREDENTIAL

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• Mandatory Performance Framework (MPF)

1.5 CEIV credential holders who perform valuation services for their clients or employers, or as part of another engagement, are required to adhere to the framework for financial reporting purposes.

Important: CEIV credential holders who are employees of an entity that is required to prepare financial statements issued for financial reporting purposes (subsequently referenced as a reporting entity), and who are responsible for preparing conclusions of fair value that provide support for information included in the financial statements and accompanying footnotes, are required to comply with this framework. However, for such situations, certain administrative matters such as formal letters of engagement (LoE) are excluded, and the communication of value conclusions may not include a formal valuation report.

If a CEIV credential holder who is an employee of a reporting entity concludes that a section (or sections) of the framework is (or are) not applicable because of his or her employment at the reporting entity, the valuation professional may elect not to comply with the identified sections of the framework. The valuation professional must, however, document in the work file which sections of the framework were not complied with and the rationale for the noncompliance.

一、評價業的一個故事-ing (9/18)

● **Mandatory Performance Framework (MPF) – Applicable Business Valuation Standards**

The founding VPOs of the CEIV credential and their respective business valuations standards are the following:

1.10.1 American Institute of Certified Public Accountants (AICPA): VS Section 100, Valuation of a Business, Business Ownership Interest, Security, or Intangible Asset (VS sec. 100).

1.10.2 American Society of Appraisers (ASA): ASA Business Valuation Standards. The Business Valuation Standards of the ASA are used in conjunction with the Uniform Standards of Professional Appraisal Practice (USPAP) of The Appraisal Foundation.

1.10.3 Royal Institution of Chartered Surveyors (RICS): RICS Valuation—Professional Standards that incorporate the International Valuation Standards (IVS).

The following are nonmembership valuation organizations and their respective valuation standards:

1.10.4 The Appraisal Foundation: Uniform Standards of Professional Appraisal Practice (USPAP). The Appraisal Standards Board of The Appraisal Foundation develops, interprets, and amends USPAP on behalf of appraisers and users of appraisal services. The “Preamble,” “Definitions,” “Rules,” and more specifically, standards 9 and 10 of USPAP relate to fair value measurements of business interests and intangible assets.

1.10.5 International Valuation Standards Council: International Valuation Standards (IVS)—The IVS Framework, IVS General Standards 101–105. IVS section 200, *Businesses and Business Interests*, and IVS section 210, *Intangible Assets*, relate to the fair value measurement of businesses and intangible assets, in addition to the supporting IVS Framework and IVS General Standards.

一、評價業的一個故事-ing (10/18)

- **Mandatory Performance Framework (MPF)** – When retaining a subcontractor (2.14.3)
 1. **Valuation professionals** who retain subcontractors to assist with work the valuation professional responsible for the valuation engagement (or his or her firm) **is professionally competent to do but is unable to do** must **evaluate all such subcontractors' contributions**.
 2. **Valuation professionals** who retain subcontractors to perform valuation services the valuation professional responsible for the valuation engagement (or his or her firm) **is not professionally competent to do** (for example, the valuation of real estate, machinery and equipment, fine art, and so forth) **must not take responsibility for the subcontractor's work** and must **provide adequate disclosure of subcontractor participation** in the final valuation report.

一、評價業的一個故事-ing (11/18)

- **Mandatory Performance Framework (MPF) – Third-party specialist retained by client (2.27.18)**
 - When a client retains a third-party specialist to separately value certain assets (for example, real property or fine art) the valuation professional may include the third-party specialist's conclusion by reference or include the report of the third-party specialist in the written report of the valuation professional (with the third-party specialist's consent).
 - **Important:** valuation professionals should use professional judgment to determine if the work provided by the third-party specialist requires review and evaluation by a subcontractor with subject matter expertise if the valuation professional is not professionally competent to review and evaluate the third-party specialist's work.



• Application of the Mandatory Performance Framework

CONTENTS

A1. General Valuation Guidance

- ❖ Fair Value Measurement.....A1.2
- ❖ Selection of Valuation Approaches and Methods.....A1.3
- ❖ Prospective Financial Information.....A1.4

A2. Business Valuation Guidance

- ❖ Discount Rate Derivation.....A2.2
- ❖ Growth Rates.....A2.3
- ❖ Terminal Value Multiple Methods/Models.....A2.4
- ❖ Selection of, and Adjustments to, Valuation Multiples.....A2.5
- ❖ Selection of Guideline Public Companies or Guideline Company Transactions.....A2.6
- ❖ Discounts and Premiums.....A2.7

A3. Valuation of Intangible Assets, Certain Liabilities and Inventory Guidance

- ❖ Identified Assets and Liabilities.....A3.2
- ❖ Operating Rights.....A3.3
- ❖ Life for Projection Period.....A3.4
- ❖ Customer-Related Intangible Assets.....A3.5
- ❖ Royalty Rates.....A3.6
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- ❖ Reconciliation of Intangible Asset ValuesA3.10
- ❖ Contract Liabilities.....A3.11
- ❖ InventoryA3.12



- **Application of the Mandatory Performance Framework**

This guidance is intended to establish *minimum scope of work* and *documentation thresholds* and should not be interpreted as a limitation or restriction that precludes a valuation professional from providing more comprehensive scope of work and documentation where deemed appropriate.



- **Application of the Mandatory Performance Framework**

A1.4 Prospective Financial Information (PFI)

A1.4.1 The valuation professional is **responsible for evaluating** whether the prospective financial information (PFI) provided by management **is representative** of expected value and properly supported. In circumstances in which the **PFI is not representative** of expected value, properly supported, or both, the valuation professional must determine the most appropriate way to align PFI and expected value. The valuation **professional may elect to** (Note: not an all-inclusive list):

- **Application of the Mandatory Performance Framework**

A1.4 Prospective Financial Information (PFI)

A1.4.1

- a. **request management to revise** its PFI,
- b. **adjust assumptions** in PFI,
- c. use either **another present value method** (for example, discount rate adjustment technique (DRAT), expected present value technique method 1 or 2 (**EPVT1** or **EPVT2**, respectively)), or
- d. use an **entirely different approach** from the **income approach**

一、評價業的一個故事-ing (16/18)

- **Quality Control**
- Quality Control will encompass a combination of **reviews of CPE requirements, complaints received (including anonymous)**, as well as **review of work performed**.
- An **annual risk-based approach** will be implemented. the fair value credential holder completes **an annual return** for their VPO which **receives a risk score**. If the risk score (which is confidential) is **high**, it means there is potentially a greater risk of fair value measurements not being performed correctly which will result in the **VPO undertaking a Quality Control Review** for the individual.

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- **Quality Control**
- To confirm the effectiveness of the risk-based approach, there will **also be a randomly selected control sample** from the rest of the credential population in order to verify that the risk-based approach is a balanced one. The sample levels will be further reviewed once established..
- Minimum key steps of the compliance and review process involve a three-tiered approach:
 1. **First level of review** will be completed by a reviewer either through a site visit or, if requested, through a remote review. **The reviewer will be an independent third party.** If major findings are identified, the report will be sent to a **Review and Disciplinary Panel** for a **second level of review** and potential sanctions.

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- **Quality Control**

2. **The second level of review** will be carried out by an independent Review and Disciplinary Panel (set up by each VPO), and the participating firm will be able to make representations. This second level of review will consider findings, hear from the party concerned, confirm whether the findings are valid, and if so, **determine what sanctions are necessary.**
3. **The third level of review** will involve some form of independent appeal. Independent appeal is necessary to provide sufficient due process to the practitioner under inspection. All individuals will have the right to appeal determinations made by the Review and Disciplinary Panel **to a different Appeals Panel, made up of different participants.**

二、 International Professional Standards (1/2)

- **International Valuation Standards Council's (IVSC's) International Professional Standards (IPSs)**

- **IPS Structure and Contents:**

IPSs definitions

- Framework for IPSs
- Code of Ethical Principles
- Competence framework for professional valuers

International Professional Standards (2/2)

- **IPS Structure and Contents:**

- **100 series: Initial Professional Development -**

- developing the competence of the candidate to the point of accreditation as a professional valuer

- **IPS101 - Entry Requirements to Professional Valuer Accreditation Programmes**
 - **IPS102 - Professional Skills and Ethics**
 - **IPS103 - Technical Knowledge**
 - **IPS104 - Practical Experience**
 - **IPS105 - Assessment of Professional Competence**

- **200 series: Continuing Professional Development**

- **IPS 201 - Continuing Professional Development**

三、中國資產評估法 (1/13)

- 中國於2016年7月2日通過「**資產評估法**」，於2016年12月1日施行。該法共八章五十五條，包括總則、評估專業人員、評估機構、評估程序、行業協會、監督管理、法律責任及附則等內容。
- 中國資產評估行業現有評估師超過13萬，從業人員60多萬，評估機構1.4萬多家，涉及到六個專業，包括**資產評估**、**房地產估價**、**土地估價**、**礦業權評估**、**舊機動車鑒定估價**及**保險公估**，分別由**財政部**、**住房和城鄉建設部**、**國土資源部**、**商務部**及**保監會**等五個部門管理，即採取所謂「**五龍治水**」體制。

三、中國資產評估法 (2/13)

(一) 關於評估業務分類

- 資產評估之管理體制該統還是要分，爭論很久。資產評估草案曾規定，國務院建立由財政部牽頭的資產評估行業管理協調配合機制，負責協調和指導評估行業發展。換言之，建立一套類似註冊會計師的法律制度。然立法機關經研究認為，鑒於目前有關部門意見分歧，同時考慮到各評估專業類別雖然同屬評估行業，但也有其自身的專業特點，為最大程度取得共識，暫不改變目前分別管理的體制，最終刪去了建立協調配合機制的規定。
- § 7：「國務院有關評估行政管理部門按照各自職責分工，對評估行業進行監督管理。設區的市級以上地方人民政府有關評估行政管理部門按照各自職責分工，對本行政區域內的評估行業進行監督管理。」
- 立法機關認為還是按照現行體制，實行一種分行業、分部門的管理較為合適。國務院的一些行政職能部門按照職責分工，主要是對評估行業進行行業監管，另一方面，發揮行業協會的自律管理功能。

(二) 關於法定評估

- 一般而言，某資產是否需要評估，取決於資產所有者和資產交易雙方的意願。對於特定資產評估，例如**國有資產**、**涉及公共利益的資產**等相關法令規定必須委託評估的，稱為**法定評估**。考慮到相關法律法規如公司法、證券法、國有資產評估管理辦法已有這方面的規定，本法沒有採用逐項列舉的方式，而是作了原則性的規定。
- § 3：「**涉及國有資產或者公共利益**等事項，法律、行政法規規定需要評估的(以下稱**法定評估**)，**應當依法委託評估機構評估**。」也就是說，不是所有的評估都是任何人可以隨意做的，有些評估必須要依照法定程序，委託專門的評估機構進行。

(三) 關於評估基本準則

- 評估基本準則是資產評估行業從業人員的執業指南，也是判斷有關各方責任的重要依據。大多數評估行業比較成熟的市場經濟國家，都有一個比較權威的評估準則。中國資產評估行業處在起步階段，發展也比較分散，雖然在各自專業領域實施了一些準則、標準或規範，但**存在著基本制度、標準不一致的問題**，需要制定全國統一的評估基本準則。因此，在**草案階段規定由國務院財政主管部門會同其他相關行政主管部門**“**制定統一的評估基本準則，包括執業基本準則和職業道德準則**”，各專業類別的**評估執業準則和有關標準**，由各資產評估行政管理部門**制定實施**。惟立法機關**最終決定**，還是**按照現行體制**，實行一種**分行業、分部門**的管理較為合適。
- § 39：「**國務院有關評估行政管理部門組織制定評估基本準則和評估行業監督管理辦法**。」

三、中國資產評估法 (5/13)

(四) 關於評估師考試組織和參加條件

- § 9：「有關**全國性評估行業協會**按照國家規定組織實施**評估師資格全國統一考試**。

具有**高等院校專科以上學歷的公民**，可以參加**評估師資格全國統一考試**。」

- 評估師考試組織部門為全國性各評估行業協會，參加考試人員應具備專科以上（包括專科）學歷的公民，**外國人不能參加評估師考試**。
- **外籍人士不能通過考試成爲中國評估師**，但可以以從業人員的身份在中國從事**資產評估業務**。同時，《資產評估法》**沒有規定外國機構不能在中國開展資產評估業務**，從中國實際情況看，評估機構的業務涉及各個領域，有一些業務對國家經濟社會的**信息安全將構成影響**。無論是借鑒市場經濟國家的通行做法，還是根據中國現行國家安全法的規定，資產評估行政主管部門都應當依照各自的職權，結合評估行業的發展實際，**對外籍人士、外國機構在中國設立評估機構以及外資評估機構從事涉及國家經濟安全領域的評估業務，進行必要的安全審查**。

(五) 關於評估機構

- § 15：「評估機構應當依法採用**合夥**或者**公司**形式，聘用評估專業人員開展評估業務。

合夥形式的評估機構，應當有**兩名以上評估師**；其合夥人三分之二以上應當是具有三年以上從業經歷且最近三年內未受停止從業處罰的評估師。

公司形式的評估機構，應當有**八名以上評估師和兩名以上股東**，其中三分之二以上股東應當是具有三年以上從業經歷且最近三年內未受停止從業處罰的評估師。

評估機構的合夥人或者股東為兩名的，**兩名合夥人或者股東**都應當是具有三年以上從業經歷且最近三年內未受停止從業處罰的**評估師**。」

- **公司**形式的評估機構應當有**八名以上評估師和兩名以上股東的要求**，將增加對部分專業的評估師的需求，尤其是對於只具備單項評估資格的房地產評估機構、土地評估機構、礦業權評估機構，從目前實際情況看，除具有房地產評估資質的一級和具有全國範圍執業的土地評估資質機構，其他不動產類評估機構**多數均不符合“公司形式的評估機構，應當有八名以上評估師”**的要求。

(五) 關於評估機構

- § 16：「設立**評估機構**，應當向**工商行政管理部門**申請辦理登記。評估機構應當自領取營業執照之日起三十日內向有關**評估行政管理部門**備案。評估行政管理部門應當及時將評估機構備案情況向**社會公告**。」
- 設立評估機構**不再需要事先核准**，直接到**工商行政管理部門**申請登記，同時爲了加強事後監管，明確了評估機構在領取營業執照30日內向有關**評估行政管理部門**備案，本條款充分體現簡政放權的精神。
- § 17：「設立評估機構應當依法**獨立、客觀、公正**開展業務，建立**健全質量控制制度**，保證評估報告的客觀、真實、合理。
評估機構應當**建立健全內部管理制度**，對本機構的**評估專業人員**遵守法律、行政法規和評估準則的情況**進行監督**，並**對其從業行為負責**。
評估機構應當依法**接受監督檢查**，如實提供評估檔案以及相關情況。」

(六) 關於評估委託人

- 爲了保證評估過程的獨立公正和評估報告的客觀準確，要明確評估委託人的權利和義務。在權利方面：

§ 22：「委託人有權自主選擇符合本法規定的評估機構，任何組織或者個人不得非法限制或者干預。」

§ 24：「委託人有權要求與相關當事人及評估對象有利害關係的評估專業人員迴避。」

- 在義務方面：

§ 23：「委託人應當與評估機構訂立委託合同，約定雙方的權利和義務。」

委託人應當按照合同約定向評估機構支付費用，不得索要、收受或者變相索要、收受回扣。

委託人應當對其提供的權屬證明、財務會計信息和其他資料的真實性、完整性和合法性負責。」

§ 27：「委託人不得串通、唆使評估機構或者評估專業人員出具虛假評估報告。」

(七) 關於執業風險防範

- 在**評估過程中**，由於評估原因造成相關當事人經濟損失帶來的**賠償責任**，往往是評估師和評估機構難以負擔的，因而國際評估行業普遍採取購買職業責任保險的做法。購買職業責任保險可以增強評估機構和評估師的**風險防範能力**，確保有關民事賠償責任的落實，保護相關當事人的利益。同時，還應該允許評估機構建立執業風險基金。為此：

§ 21：「**評估機構**根據業務需要**建立職業風險基金**，或者**自願辦理職業責任保險**，完善風險防範機制。」

(八) 關於評估程序與評估報告之出具與簽章

- § 8：「**評估專業人員**包括**評估師**和**其他**具有評估專業知識及實踐經驗的**評估從業人員**。

評估師是指**通過評估師資格考試**的評估專業人員。國家根據經濟社會發展需要**確定評估師專業類別**。」

- § 24：「對受理的評估業務，評估機構應當指定**至少兩名評估專業人員**承辦。」
- § 26：「**評估專業人員**應當恰當選擇評估方法，除依據評估執業準則只能選擇一種評估方法的外，**應當選擇兩種以上評估方法**，經**綜合分析**，形成評估結論，**編制評估報告**。評估機構應當對評估報告**進行內部審核**。」
- § 27：「**評估報告**應當由**至少兩名**承辦該項業務的**評估專業人員**簽名並加蓋**評估機構印章**。

評估機構及其**評估專業人員**對其出具的評估報告**依法承擔責任**。」

- § 28：「評估機構開展**法定評估業務**，應當指定**至少兩名**相應專業類別的**評估師**承辦，評估報告應當由**至少兩名**承辦該項業務的**評估師**簽名並加蓋**評估機構印章**。」

(九) 關於行政管理體制

- 資產評估行業的行政管理體制是本法草案起草過程中一直存在分歧和爭議的難點問題，有關方面各持己見，難以達成一致。從國際資產評估行業的發展趨勢看，統一管理是方向。立法既要立足我國資產評估行業行政管理體制的實際情況，也應該體現未來逐步走向統一管理的趨勢。起草組與中編辦、國務院法制辦、財政部、住房和城鄉建設部、國土資源部等有關部門經過多次協調，提出了“統分結合”的行政管理體制改革思路。按照這一思路，草案設計了“國務院建立資產評估行業管理協調配合機制，負責協調和指導資產評估行業發展”，“國務院資產評估行業管理部門在資產評估行業管理協調配合機制框架下，負責監督管理資產評估行業”的管理體制，並進一步明確了資產評估行業管理協調配合機制，由國務院財政主管部門會同相關行政主管部門組織實施。
- 惟立法機關最終決定，還是按照現行體制，實行一種分行業、分部門的管理較為合適。因此：

§ 39：「國務院有關評估行政管理部門組織制定評估基本準則和評估行業監督管理辦法。」

(十) 關於行政監管和行業自律

- 爲了規範行政監管和行業自律，本法對行業管理部門和行業自律組織的職責範圍分別作了規定：**行政監管**重在制定管理制度、制定執業準則、實施市場准入管理、監督法律的實施、對違法行爲實施處罰等；**行業自律**重在組織實施考試和執業註冊、組織後續教育、調解會員糾紛、受理會員申訴、鑒定評估報告等。同時規定資產評估行業自律組織要**接受資產評估行業管理部門的監督**。
- § 41：「**評估行政管理部門**對有關評估行業協會實施**監督檢查**，對檢查發現的問題和針對協會的投訴、舉報，應當及時調查處理。」

(十一) 關於法律責任

- 資產評估當事人承擔的法律責任包括**民事責任**、**行政責任**和**刑事責任**三類，**責任主體**不僅有**註冊評估師**、**評估專業人員**、**評估機構**，還有**委託人**、**行業管理部門**及**自律組織**等，本法對各種主體、各類責任均作了相應規定。

THE END

敬請指教