

**GAZETTE OF INDIA
EXTRAORDINARY
PART III, SECTION 4
PUBLISHED BY AUTHORITY
NEW DELHI, THURSDAY, 11TH OCTOBER, 2018**

**INSOLVENCY AND BANKRUPTCY BOARD OF INDIA
NOTIFICATION**

New Delhi, the 11th October, 2018

INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (INSOLVENCY PROFESSIONAL AGENCIES) (AMENDMENT) REGULATIONS, 2018

IBBI/2018-19/GN/REG33. In exercise of the powers conferred by sections 196, 199, 200, 201, 203, 204 read with section 240 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Insolvency and Bankruptcy Board of India hereby makes the following regulations to amend the Insolvency and Bankruptcy Board of India (Insolvency Professional Agencies) Regulations, 2016, namely: -

1. (1) These regulations may be called the Insolvency and Bankruptcy Board of India (Insolvency Professional Agencies) (Amendment) Regulations, 2018.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Insolvency and Bankruptcy Board of India (Insolvency Professional Agencies) Regulations, 2016 (hereinafter referred to as the principal regulations), for regulation 3, the following regulation shall be substituted, namely: -

“3. Eligibility for registration. - (1) No person shall be eligible for registration as an insolvency professional agency unless it is a company registered under section 8 of the Companies Act, 2013, and -

(a) its sole object is to carry on the functions of an insolvency professional agency under the Code;

(b) it has bye-laws and governance structure in accordance with the Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016;

(c) it has a minimum net worth of ten crore rupees;

(d) it has a paid-up share capital of five crore rupees;

(e) it is not under the control of any person resident outside India;

(f) not more than forty-nine per cent. of its share capital is held, directly or indirectly, by persons resident outside India;

(g) it is not a subsidiary of a body corporate through more than one layer; and

(h) the applicant, its promoters, its directors and its shareholders are fit and proper persons.

Explanation 1.- For the purposes of clause (g), “layer” in relation to a body corporate means its subsidiary.

Explanation 2.- For determining whether a person is fit and proper under clause (h), the Board may take into account any consideration as it deems fit, including but not limited to the following criteria, namely: -

- (i) integrity, reputation and character,
- (ii) absence of conviction and restraint orders,
- (iii) competence including financial solvency and net worth.

(2) No person shall at any time, directly or indirectly, either individually or together with persons acting in concert, acquire or hold more than five per cent. of the paid-up equity share capital in an insolvency professional agency:

Provided that-

- (i) a stock exchange;
- (ii) a depository;
- (iii) a banking company;
- (iv) an insurance company;
- (v) a public financial institution; and
- (vi) a multilateral financial institution,

may, acquire or hold, directly or indirectly, either individually or together with persons acting in concert, up to fifteen per cent. of the paid-up equity share capital of an insolvency professional agency:

Provided further that-

- (i) the Central Government;
- (ii) a State Government; and
- (iii) a statutory regulator,

may, acquire or hold, directly or indirectly, up to hundred per cent. of the paid-up equity share capital of an insolvency professional agency.”.

3. In the principal regulations, in the Schedule, in Annexure to Form A, in Part III, -

- (a) in clause 8, for “10%”, “5%” shall be substituted;
- (b) in clause 13, for “10%”, “5%” shall be substituted.

Dr. M. S. Sahoo
Chairperson
Insolvency and Bankruptcy Board of India

Note: The Insolvency and Bankruptcy Board of India (Insolvency Professional Agencies) Regulations, 2016 were published vide notification No. IBBI/2016-17/GN/REG002 on 22nd November, 2016 in the Gazette of India, Extraordinary, Part III, Section 4, No. 420 dated 21st November, 2016 and these have not been amended so far.