

Insolvency and Bankruptcy Board of India
7th Floor, Mayur Bhawan, Connaught Place, New Delhi-110001

CIRCULAR No. IPE/008/2018

5th April, 2018

To
All recognised Insolvency Professional Entities
(By mail to registered email addresses and on website of the IBBI)

Dear Sir/Madam,

Subject: Compliance with the Insolvency and Bankruptcy Board of India (Insolvency Professionals) (Amendment) Regulations, 2018.

The Insolvency and Bankruptcy Board of India (IBBI) has recently notified the Insolvency and Bankruptcy Board of India (Insolvency Professionals) (Amendment) Regulations, 2018 in the Gazette of India dated 28th March, 2018. They are available at www.ibbi.gov.in and are annexed to this circular. They came into force on 1st April, 2018.

2. They have amended provisions in sub-regulation (1) of regulation 12 of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016 relating to insolvency professional entities (IPEs). In terms of the amended regulations, the IPEs recognised as on 1st April, 2018 need to comply with the provisions of clauses (e), (f) and (g) of sub-regulation (1) on or before 30th June, 2018 and the provisions of clauses (a), (b) (c) and (d) of sub-regulation (1) on or before 30th September, 2018.
3. In terms of the sub-regulation (2) of regulation 13 of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016, the recognition granted to an IPE is subject to the condition that the IPE shall at all times continue to satisfy the requirements under regulation 12.
4. In view of the above, you are requested to ensure compliance with the provisions of sub-regulation (1) of regulation 12 of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016 by 30th June, 2018 or 30th September, 2018, as the case may be, under intimation to the IBBI, failing which the IPE may be derecognised in accordance with regulation 14.

Yours faithfully,

-Sd-

(Debajyoti Ray Chaudhuri)
Chief General Manager

क्या व्यावसायिक सदस्य द्वारा पिछले नियोजक के पास की गई सेवा, यदि वह नियोजन में था, बेदाग थी?	हां/नहीं यदि हां, तो ब्यौरा दें। यदि आवश्यक हो, तो अतिरिक्त कागजपत्र संलग्न करें।
क्या व्यावसायिक सदस्य का नाम कारपोरेट कार्य मंत्रालय के डाटाबेस में निम्नलिखित के संबंध में प्रकट होता है— i. कंपनी अधिनियम, 2013 की धारा 164 के अधीन निरर्हित निदेशक, या ii. दंड प्रक्रिया संहिता, 1973 की धारा 82 के अधीन उद्घोषित अपराधी।	हां/नहीं यदि हां, तो ब्यौरा दें। यदि आवश्यक हो, तो अतिरिक्त कागजपत्र संलग्न करें।
क्या व्यावसायिक सदस्य को किसी बाजार विनियामक (सेबी और भारतीय प्रतिस्पर्धा आयोग) द्वारा पिछले तीन वर्षों में दंडित किया गया है?	हां/नहीं यदि हां, तो ब्यौरा दें। यदि आवश्यक हो, तो अतिरिक्त कागजपत्र संलग्न करें।
क्या व्यावसायिक सदस्य का नाम भारतीय रिजर्व बैंक/उधार की जानकारी देने वाली कंपनी के व्यतिक्रमियों की सूची में है?	हां/नहीं यदि हां, तो ब्यौरा दें। यदि आवश्यक हो, तो अतिरिक्त कागजपत्र संलग्न करें।

हमने द्वारा, जो कि व्यावसायिक सदस्यता सं. वाला हमारा व्यावसायिक सदस्य है, प्रस्तुत किए गए उपरोक्त ब्यौरों को सत्यापित किया है और यह पुष्टि करते हैं कि ये सत्य और सही हैं। हम दिवाला व्यावसायिक के रूप में के रजिस्ट्रीकरण की सिफारिश करते हैं।

(नाम और हस्ताक्षर)

दिवाला व्यावसायिक एजेंसी का प्राधिकृत प्रतिनिधि

दिवाला व्यावसायिक एजेंसी की मोहर

स्थान:

तारीख:

डा. एम. एस. साहू, अध्यक्ष

[विज्ञापन—III/4/असा./496/17]

टिप्पण: भारतीय दिवाला और शोधन अक्षमता बोर्ड (दिवाला व्यावसायिक) विनियम, 2016, भारत के राजपत्र, असाधारण में अधिसूचना सं. आई.बी.बी.आई./2016-17/जी.एन./आर.ई.जी.003, तारीख 29 नवम्बर, 2016 द्वारा प्रकाशित किए गए थे और उनमें अब तक संशोधन नहीं किया गया है।

INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

NOTIFICATION

New Delhi, the 27th March, 2018

Insolvency and Bankruptcy Board of India (Insolvency Professionals) (Amendment) Regulations, 2018

IBBI/2017-18/GN/REG027.—In exercise of the powers conferred by sections 196, 207 and 208 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 Professionals) Regulations, 2016, namely: -

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

(2) They shall come into force on 1st April, 2018.

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

“(3) The syllabus, format, qualifying marks and frequency of the Limited Insolvency Examination shall be published on the website of the Board at least three months before the examination.”.

3. In the principal regulations, for regulation 5, the following regulation shall be substituted, namely: -

“5. **Qualifications and experience.**- Subject to the other provisions of these regulations, an individual shall be eligible for registration, if he -

- (a) has passed the Limited Insolvency Examination within twelve months before the date of his application for enrolment with the insolvency professional agency;
- (b) has completed a pre-registration educational course, as may be required by the Board, from an insolvency professional agency after his enrolment as a professional member; and
- (c) has-
 - (i) successfully completed the National Insolvency Programme, as may be approved by the Board;
 - (ii) successfully completed the Graduate Insolvency Programme, as may approved by the Board;
 - (iii) fifteen years' of experience in management, after receiving a Bachelor's degree from a university established or recognised by law; or
 - (iv) ten years' of experience as -
 - (a) chartered accountant registered as a member of the Institute of Chartered Accountants of India,
 - (b) company secretary registered as a member of the Institute of Company Secretaries of India,
 - (c) cost accountant registered as a member of the Institute of Cost Accountants of India, or
 - (d) advocate enrolled with the Bar Council.”.

4. In the principal regulations, in regulation 7, in sub-regulation (2), after clause (b), the following clauses shall be inserted, namely: -

“(ba) undergo continuing professional education, as may be required by the Board;
 (bb) not outsource any of his duties and responsibilities under the Code, except those specifically permitted by the Board.”.

5. In the principal regulations, in regulation 12, for sub-regulation (1), the following sub-regulation shall be substituted, namely: -

“(1) A company, a registered partnership firm or a limited liability partnership may be recognised as an insolvency professional entity, if -

- (a) its sole objective is to provide support services to insolvency professionals, who are its partners or directors, as the case may be;
- (b) it has a net worth of not less than one crore rupees;
- (c) majority of its shares is held by insolvency professionals, who are its directors, in case it is a company;
- (d) majority of capital contribution is made by insolvency professionals, who are its partners, in case it is a limited liability partnership firm or a registered partnership firm;
- (e) majority of its partners or directors, as the case may be, are insolvency professionals;
- (f) majority of its whole time directors are insolvency professionals, in case it is a company; and
- (g) none of its partners or directors is a partner or a director of another insolvency professional entity;

Provided that the insolvency professional entities recognised as on the date of commencement of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) (Amendment) Regulations, 2018 shall comply with the provisions of clauses (a), (b) (c) and (d) on or before 30th September, 2018 and the provisions of clauses (e), (f) and (g) on or before 30th June, 2018.”.

6. In the principal regulations, in the First Schedule, -

(i) for “[Under regulation 7(2)(g)]” the following shall be substituted, namely: -

“[Under regulation 7 (2) (h)]”;

(ii) after item (8), the following item shall be inserted, namely: -

“8A. An insolvency professional shall disclose as to whether he was an employee of or has been in the panel of any financial creditor of the corporate debtor, to the committee of creditors and to the insolvency professional agency of which he is a professional member and the agency shall publish such disclosure on its website.”;

(iii) after item (25), the following item shall be inserted, namely: -

“25A. An insolvency professional shall disclose the fee payable to him, the fee payable to the insolvency professional entity, and the fee payable to professionals engaged by him to the insolvency professional agency of which he is a professional member and the agency shall publish such disclosure on its website.”.

7. In the principal regulations, in the Second Schedule, for FORM A, the following Form shall be substituted, namely: --

“FORM A

[Under Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016]

To

The General Manager (IP Division)

Insolvency and Bankruptcy Board of India

Subject: Application for registration as an insolvency professional

Sir / Madam,

I, having been enrolled as a professional member with the ____ (please write the name of the insolvency professional agency), hereby apply for registration as an insolvency professional under section 207 of the Insolvency and Bankruptcy Code, 2016 read with regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016.

My details are as under:

A. PERSONAL DETAILS

1. Title (Mr./Mrs/Ms.):
2. Name:
3. Father's Name:
4. Date of Birth:
5. Place of Birth:
6. PAN No.:
7. AADHAAR No. (if available):
8. Passport No. (if available):
9. Address for Correspondence:
10. Permanent Address:
11. E-Mail Address:
12. Mobile No.:

B. EDUCATIONAL, PROFESSIONAL AND INSOLVENCY EXAMINATION QUALIFICATIONS**1. Educational Qualifications**

[Please provide educational qualifications from Bachelor's degree onwards]

Educational Qualification	Year of Passing	Marks (%)	Grade/ Class	University/College	Remarks, if any

2. Professional Qualifications

Professional Qualification	Institute/ Professional Body	Membership No. (if applicable)	Date of registration/enrolment	Remarks, if any

3. Insolvency Qualifications

- 3.1. Have you passed Limited Insolvency Examination? (Yes / No)
- 3.2. Have you successfully completed National Insolvency Programme? (Yes / No)
- 3.3. Have you successfully completed the Graduate Insolvency Programme? (Yes / No)
- 3.4. Have you completed the pre-registration training with an insolvency professional agency? (Yes / No)

C. WORK EXPERIENCE

1. Are you presently in practice / employment? (Yes/ No)
2. Number of years in practice (in years and months):
3. If in practice, address for professional correspondence:
4. Number of years in employment (in years and months):
5. Experience Details (from the date of enrolment as Advocate / Chartered Accountant / Company Secretary / Cost Accountant/ Bachelors' Degree)

Sl. No.	From Date	To Date	Employment / Practice	If employed, Name of Employer and Designation	If in practice, practice as Advocate / Chartered Accountant / Company Secretary / Cost Accountant	Area of work

D. INSOLVENCY PROFESSIONAL AGENCY

1. Please give details of the insolvency professional agency with which you are enrolled as a professional member:
2. Please state your professional membership number:

E. ADDITIONAL INFORMATION

1. Have you ever been convicted for an offence? (Yes/ No)
If yes, please give details.
2. Are any criminal proceedings pending against you? (Yes/ No)
If yes, please give details.
3. Have you ever been declared as an insolvent/bankrupt, or applied to be declared so? (Yes/ No)

If yes, please give details.

4. Please provide any additional information that may be relevant for your application.

F. ATTACHMENTS

1. Copy of proof of residence.
2. Copies of documents in support of educational qualification, professional qualification and insolvency examination qualification.
3. Copies of documents demonstrating practice as -
 - i. a chartered accountant registered with the Institute of Chartered Accountants of India;
 - ii. a company secretary registered with the Institute of Company Secretaries of India;
 - iii. a cost accountant registered with the Institute of Cost Accountants of India; or
 - iv. an advocate enrolled with the Bar Council;
4. Copies of certificate of employment from the employer(s), specifying the period of such employment.
5. Financial statement / Income-tax Returns for the last three years.
6. Copy of certificate of professional membership with an insolvency professional agency.
7. Passport-size photo.
8. Evidence of deposit / payment of five thousand rupees / ten thousand rupees, as applicable.

G. AFFIRMATIONS

1. Copies of documents, as listed in section F of this application form have been attached/ uploaded. The documents attached/ uploaded are
- I undertake to furnish any additional information as and when called for.
2. I am not disqualified from being registered as an insolvency professional under the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016.
3. I hereby certify and declare that I am not an undischarged insolvent/bankrupt and have not made any application to be adjudged so under the laws of any jurisdiction.
4. This application and the information furnished by me along with this application is true and complete. If found false or misleading at any stage, my registration shall be summarily cancelled.
5. I hereby undertake to comply with the requirements of the Insolvency and Bankruptcy Code, 2016, the rules, regulations, guidelines and circulars issued thereunder, the bye-laws of the insolvency professional agency with which I am enrolled, and the resolutions passed and directions given by the Board and the Governing Board of such insolvency professional agency.
6. The applicable fee has been paid.

Name and Signature of applicant

Place:

Date:

VERIFICATION BY THE INSOLVENCY PROFESSIONAL AGENCY

We have verified as under:

Verification	Finding
Whether any disciplinary proceedings are pending or any disciplinary action has been taken at any time in the preceding three years against the professional member by the ICAI, ICSI, ICAI(Cost), or Bar Council, of which he is a Member.	Yes / No. If Yes, give details. If required, attach additional papers
Whether a regulator ICAI, ICAI (Cost), ICSI, or Bar Council has initiated any criminal proceeding against the professional member and is pending for disposal?	Yes / No. If Yes, give details. If required, attach additional papers

Whether the professional member had an unblemished service with the last employer if he was in employment?	Yes / No. If No, give details. If required, attach additional papers
Whether the name of the professional member appears in the databases of Ministry of Corporate Affairs regarding- i. Directors disqualified under section 164 of the Companies Act, 2013, or ii. Proclaimed Offenders under section 82 of the Code of Criminal Procedure, 1973.	Yes / No. If Yes, give details. If required, attach additional papers
Whether the professional member has been penalised by a market regulator (SEBI and CCI) in the last three years?	Yes / No. If Yes, give details. If required, attach additional papers
Whether the name of professional member appears in the list of defaulters of RBI / Credit Information Company?	Yes / No. If Yes, give details. If required, attach additional papers

We have verified the above details submitted by ... who is our professional member with professional membership no. ... and confirm these to be true and correct. We recommend registration of ... as an insolvency professional.

Place:

Date:

(Name and Signature)

Authorised Officer of the Insolvency Professional Agency

(Seal of the Insolvency Professional Agency)".

DR. M. S. SAHOO, Chairperson

[ADVT.—III/4/Exty./496/17]

Note: The Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016 were published in the Gazette of India Extraordinary *vide* notification No. IBBI/2016-17/GN/REG003 on 23rd November, 2016 and these have not been amended so far.

4. This circular is issued in exercise of the powers conferred under sub-section (1) of section 196 read with clause (e) of sub-section (2) of section 208 of the Code.

5. The letter No. IBBI/IP/PUBLIC.ANN/218 dated 1st February, 2017 issued by the Board shall cease to have effect from the date of issue of this circular.

Yours faithfully,

-Sd-

(Dilip Arjun Khandale)
Deputy General Manager
Email: dilip.khandale@ibbi.gov.in