

Insolvency and Bankruptcy Board of India

7th Floor, Mayur Bhawan, Connaught Place, New Delhi - 110001

CIRCULAR

No. IBBI/IP/65/2024

1st February 2024

To,
All Registered Insolvency Professionals
All Recognised Insolvency Professional Entities
All Registered Insolvency Professional Agencies
(By mail to registered email addresses)

Dear Madam/ Sir,

Subject: Measures for facilitating efficient conduct of the processes by the Insolvency Professionals

An Insolvency Professional (IP) assumes different roles and performs various functions under the Insolvency and Bankruptcy Code, 2016 (Code). The Code empowers an IP to appoint accountants, legal or other professionals to effectively discharge its functions. The IP can also avail support services from an insolvency professional entity (IPE). The fee to such professionals, fee to IPE and other expenses incurred by the IP form part of the respective process costs.

2. Section 208 of the Code read with the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016 (IP Regulations) mandates an IP to abide by the Code of Conduct. A detailed Code of Conduct is specified in the First Schedule to IP Regulations. To build confidence of the stakeholders in the insolvency profession and ensure its development, the Code of Conduct governs principles like integrity, independence, impartiality, remuneration and costs, etc.

3. Based on the feedback received from stakeholders and experiences encountered during implementation, it is considered imperative to provide clarity on few areas to facilitate smooth and efficient conduct of the processes. These issues and clarification thereupon have been elaborated in ensuing paragraphs:

3.1. Clarification in relation to rendering professional service by an IP in implementation of the resolution plan approved by the Adjudicating Authority

3.1.1. Regulation 2(1)(a) of IP Regulations defines 'assignment' as any assignment of an IP as interim resolution professional, resolution professional, liquidator, bankruptcy trustee, authorised representative or in any other role under the Code.

3.1.2. Clause 23A of Code of Conduct specified in First Schedule to IP Regulations provides a cooling off period of one year for the IP for seeking employment or rendering professional services to related stakeholders like corporate debtor (CD), certain creditors, successful resolution applicant and their relatives, after closure of the assignment.

3.1.3. Regulation 38 of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (CIRP Regulations) provides for mandatory contents of the resolution plan

inter alia including its implementation schedule, management, and control of the business of the CD during its term and adequate means for supervising its implementation.

3.1.4. In several instances, it is observed that the Adjudicating Authority (AA) approves the resolution plan with provisions for constitution of implementation or monitoring committees, subject to meeting other requirements. Such implementation mechanism is proposed to ensure effective implementation of the approved resolution plan and effective management of the CD during the transitional phase. Since, IP is already familiar with the nuances of the business of CD, IP is normally given a role in the implementation or monitoring committee.

3.1.5. **Clarification:** *In order to facilitate smooth implementation of the resolution plan, it is hereby clarified that an IP may render professional service in relation to implementation of resolution plan approved by the AA, provided details of such service are mentioned in the resolution plan approved by the AA.*

3.2. Clarification on compliance regarding billing / invoicing for services availed by IP from professionals

3.2.1. Clause 25C of Code of Conduct specified in First Schedule to IP Regulations stipulates that an IP shall ensure that the IPE or the professional engaged by it raises bills or invoices in their own name towards their fees, and such fees shall be paid to them through banking channel.

3.2.2. It is pertinent to note that as per the terms of engagement or the market practice, the bill or invoice may also be raised in the name of the firm in which the individual professional appointed by IP is a partner. Thus, it is considered prudent to clarify that the bill or invoice raised in the name of the firm would be an adequate compliance of the regulation by the IP.

3.2.3. **Clarification:** *It is hereby clarified that for the purposes of clause 25C of Code of Conduct specified in First Schedule to IP Regulations, the bill or invoice may be raised in the name of the IPE or the professional or the firm in which such professional is a partner.*

4. This circular is being issued in exercise of the powers conferred under the provisions of section 196 of the Insolvency and Bankruptcy Code, 2016.

Yours faithfully

Sd/-

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General Manager

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