

Insolvency and Bankruptcy Board of India

Subject: Insolvency Professionals: Discussion paper along with draft Insolvency and Bankruptcy Board of India (Insolvency Professionals) (Amendment) Regulations, 2019.

Introduction

The Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016 (IP Regulations) were notified on 23rd November, 2016, and were subsequently amended by Insolvency and Bankruptcy Board of India (Insolvency Professionals) (Amendment) Regulations, 2018 w.e.f. 1st April, 2018 and Insolvency and Bankruptcy Board of India (Insolvency Professionals) (Second Amendment) Regulations, 2018 w.e.f. 11th October, 2018

2. As the profession has evolved, various issues as detailed in the note have come up warranting review of the IP Regulations.

3. The IBBI has evolved a transparent and consultative process to make regulations. It has been the endeavour of the IBBI to effectively engage stakeholders in the regulation-making process. Accordingly, IBBI had sought comments from the public on the existing IP Regulations. The analysis of these public comments is placed at Annexure-1.

4. Insolvency and Bankruptcy Board of India (Mechanism for Issuing Regulations) Regulations, 2018 specifies the mechanisms for issuing regulations, including the conduct of public consultation processes, before notification of regulations.

5. It is therefore proposed to release a discussion paper for seeking public comments on the following issues:

- a) Introduction of concept of Certificate of Practice (CoP) for Insolvency Professionals
- b) Imposition of restriction on age limit for undertaking assignments under the Code
- c) Conflict of interest in processes handled by an IP
- d) Imposition of certain restriction on professional association of IPs with stakeholders of the processes handled by them.

The aforesaid issues have been discussed in brief in the ensuing paragraphs.

Introduction of concept of Certificate of Practice (CoP) for Insolvency Professionals

6. The IPAs are the front-line regulators for the IPs and their model-byelaws provide that no individual can be enrolled as a member with the IPA if he is not eligible for registration with the Board. Thus, registration and enrolment for regulation of IPs becomes a single instrument for all practical purposes. Further, as per the extant regulations and related circular dated 23rd April, 2018, an IP is restricted from accepting any fresh assignment under the Insolvency and Bankruptcy Code, 2016 (Code) when a show cause notice (SCN) is issued against him. However, such an instrument is not available with IPAs for putting any restriction on the IPs. Another important aspect is mandatory requirement of undergoing Continuous Professional Education (CPE) by IPs in order to satisfy the criteria for continued registration with the Board. An IP comes from well-established professional background and as the functions under the Code are themselves very challenging, possibility of lapses on compliance of CPE requirements cannot be ruled out.

7. In such cases, routine and exhaustive monitoring by the Board would deviate its valuable resources from its core functions and the actions, if any, taken in such cases could possibly result in negative implications for the profession as well as the Board. Considering the aforesaid issues, it is being proposed to introduce a concept of Certificate of Practice (CoP) to the profession, to be issued by the IPA in the manner discussed in detail in the discussion paper.

Imposition of restriction on age limit for undertaking assignments under the Code

8. The Code provides a market mechanism for time bound and orderly resolution of insolvency, wherever possible, and ease of exit, wherever required. There is a mandate of completion of process in 180 days, extendable to 270 only in special circumstances. Thus, an IP is expected to be diligently involved in the process both physically as well as mentally. Recusal by an IP from his responsibilities at any point of time during the process due to his physical incapacity could handicap the entire insolvency resolution process. Hence, it is being proposed to introduce a restriction on upper age-limit for undertaking core functions under the code and to allow the IPs to make use of their professional expertise for non-core functions after attaining that particular age.

Conflict of interest in processes handled by an IP

9. The qualification and experience criteria for being registered as an IP requires extensive experience of 10 or 15 years, as the case may be. Thus, as IPs are having long professional background, it is imperative to have huge clientele out of existing professional practice.

Further, the Adjudicating Authority (AA) supervises the entire insolvency resolution process as one of the key institutional pillars under the Code. In this context, it may be noted that the practitioners in the legal profession, who are also acting as an IP have an expertise in dealing with the Judicial / Quasi-judicial Authorities, when compared with IPs from other disciplines.

10. They have very high probability of being appointed as counsels in most of the insolvency resolution cases. Thus, there might a situation wherein same individual is appointed in both capacities i.e. as a counsel and IRP/RP/Liquidator in the same matter. Such, situations would thus result in conflict of interest consequently resulting in advising, relationship or self-review threat. The Code of Conduct specified in IP Regulations, inter-alia, requires an IP to maintain integrity, avoid conflict of interest, remain independent and impartial. Therefore, he must not allow any bias or interest to cloud his objectivity and he must not only be fair, but also be seen to be fair. Considering the aforesaid discussion, it is being proposed to outline possible areas of conflict of interest and impose certain restrictions in this respect.

Imposition of certain restriction on professional association of IPs with stakeholders of the processes handled by them

11. The present regulatory framework of IPs i.e. IP Regulations read with Model Bye-Laws, envisages that a person must not play two roles – profession and employment simultaneously to ensure undivided loyalty and unflinching attention. The present provisions in Code of Conduct to IP Regulations, however, do not prohibit an IP to take up an employment or have a professional association with entities related / associated with the Corporate Debtor or with the other stakeholders of the process handled by him. If an IP, engages himself in such an association, post temporary surrender of his registration, or otherwise, it would lead to the conflict of interest. Considering the above, it is being proposed to put certain restrictions on the IP post temporary surrender of his certificate of membership or otherwise to take up employment or any professional engagement with a person or agency with whom he had any engagement under the Code, for a certain specified period. The draft of discussion paper has been attempted and the same, along with the draft IP Regulations, is placed at **Annexure-2** .

12. It is submitted for consideration and approval of the Governing Board.

Annexure-1

Public Comments - Analysis of responses received.

S. No.	Particulars	No of Comments Received	Gist of Public Comments	Analysis
1	Regulation 5 (a) of IBBI (IP) Regulations 2016	22	Regulation 5 (a) of IP Regulations, amended vide IBBI (Insolvency Professional) (Amendment) Regulation, 2018 issued vide Notification No. IBBI/2017-18/GN/REG027 dated 27th March, 2018 (effective from April 1, 2018) [Amended Regulations] provide that subject to the other provisions of IP regulations, an individual shall be eligible for registration, if he has passed the Limited Insolvency Examination within twelve months before the date of his application for enrolment with the insolvency professional agency.	<p>Advisory Committee on the Service Provider held in February 2018 had recommended that in order to ensure that a candidate is updated with the latest operational knowledge, he should have passed the examination within the last 12 months of submission of application for enrolment as a professional member with an IPA.</p> <p>In view of the same, it is submitted that the suggestion lacks merit.</p>

			<p>The aforesaid amendment being unilateral in nature, may be withdrawn. (21 comments)</p> <p>The senior professionals with 50 years of age and continuous practice records (as CA/CS/CWA), who were registered as Insolvency Professionals (IPs) initially for limited period of 6 months, be appointed as regular IPs. (1 comment)</p>	
2	Regulation 5 (b) of IBBI (IP) Regulations 2016	3	<p>Regulation 5 (b) of IP Regulations amended vide Amended Regulations provide that subject to the other provisions of IP regulations, an individual shall be eligible for registration, 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.</p> <p>The qualification and experience criteria presently stipulated under the IP Regulations may be considered as adequate and as such, the aforesaid amendment may be withdrawn.</p>	<p>It is imperative for an IP to continuously upgrade his competence to meet the emerging challenges and needs. This was discussed in detail in the meeting of the Advisory Committee on the Service Provider held in February 2018 and accordingly, the committee had recommended the need for a pre-registration educational course.</p> <p>In view of the same, it is submitted that the suggestion lacks merit.</p>

3	Regulation 5 (c) of IBBI (IP) Regulations 2016	6	<p>Regulation 5 (c) (ii) of IP Regulations amended vide Amended Regulations provide that subject to the other provisions of IP regulations, an individual shall be eligible for registration, if he has successfully completed the Graduate Insolvency Programme (GIP), as may be approved by the Board.</p> <p><u>Comments in oppose (1):</u> This provision should be deleted and the Graduates should be entitled to enter in IP profession only after passing National Insolvency Examination.</p> <p><u>Other comments (5):</u> Young professionals should be allowed to pursue insolvency profession. When GIP shall be introduced?</p>	<p>While evolution and delivery of National Insolvency Programme would take some time, it was suggested by the Advisory Committee on Service Provider during its meeting held on February 2018, that keeping in view substantial knowledge already generated, to introduce a Graduate Insolvency Programme in between National Insolvency Programme and Limited Insolvency Examination so as to allow professionals with no experience to become an IP.</p> <p>Regulation 5 (c) (ii) of IP Regulations amended vide Amended Regulations whereby Graduate Insolvency Programme was introduced for young professionals. In view of the same, it is submitted that the suggestion in oppose of GIP lacks merit.</p> <p>On 15th February 2019, the Indian Institute of Corporate Affairs (IICA) launched a two-year Graduate Insolvency Programme (GIP). Also, Expression of Interest were invited from Prospective</p>
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			Eligible Institutions for Conducting Graduate Insolvency Programme in December, 2018.
4	Regulation 13 of IBBI (IP) Regulations 2016	11	<p>Regulation 12 (1) of IP Regulations amended vide Amended Regulations provide criteria for recognition of an IPE. (9 Comments)</p> <p>The Regulation / Act may be amended so that an Insolvency Professional Entities can be appointed as IP under the IBC. (1 Comment)</p> <p>The criteria for Net-Worth of Rs. 1 crore may be reconsidered.(1 Comment)</p> <p>The Code provides that an insolvency resolution process has to be run by an Insolvency Professional (an individual) and not by an Insolvency Professional entity (IPE). The Code also clearly specifies the functions and obligations of an IP. Further, the assignments of IP that demand huge infrastructural support which may go beyond the capability on an IP, being an individual, it would be appropriate on the part of an IP to engage services of an IPE which has since been recognised by IBBI.</p> <p>Number of suggestions were considered by the Advisory Committee during its meeting held in February 2018 and accordingly, the amendment to the regulations were effected so as to address the issue of clarity regarding the roles and responsibilities of IPEs.</p>

				In view of the same, aforesaid suggestion lacks merit.
5	Code of Conduct as mentioned under First Schedule of IBBI (IP) Regulations, 2016	8	<p>As per Clause 23 of Code of Conduct as mentioned under First Schedule of IBBI (IP) Regulations, 2016, 'an insolvency professional must not engage in any employment, except when he has temporarily surrendered his certificate of membership with the insolvency professional agency with which he is registered.'</p> <p>Is it permissible to practice as a IP along with practice of Advocate/Chartered Accountant?</p> <p>Can a registered IP, be a counsel for any stakeholder?</p> <p>Can a person continue with employment till he becomes Insolvency Professional / getting registered with the Board?</p>	The issue of professional engagement of an IP and possible conflict of interest has been taken up in the present discussion paper.
6	Code of Conduct as mentioned under	6	As per Clause 25 of Code of Conduct as mentioned under First Schedule of IBBI (IP)	This issues has already been addressed by IBBI vide its Circular dated 12 th June 2018.

	First Schedule of IBBI (IP) Regulations, 2016		<p>Regulations, 2016, ‘an insolvency professional must provide services for remuneration which is charged in a transparent manner, is a reasonable reflection of the work necessarily and properly undertaken, and is not inconsistent with the applicable regulations.’</p> <p>The Board may specify the remuneration that an IRP / RP charge as it has done for liquidation process to avoid unhealthy competition among IPs and also Banks from fixing arbitrary remunerations.</p>	
7	Others – Relevant	1	<p>To avoid routine threats, the district administration should be sensitized about Role of RPs and protections required so that they can perform their duties without any fear</p>	<p>An IP Introduction letter has been issued by IBBI to all the registered IPs</p>
	Total	57		

Discussion Paper for seeking public comments on the amendments proposed to the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016.

The Insolvency and Bankruptcy Code, 2016 (Code) provides for a class of regulated professionals, namely, Insolvency Professionals (IP), who constitute one of the four key pillars of the insolvency regime, other three being the Adjudicating Authority (AA), the Insolvency and Bankruptcy Board of India (Board), and the Information Utilities (IUs).

2. As per the Code, an IP means a person enrolled with an Insolvency Professional Agency (IPA) as its member and registered with the Board. Thus, the Code provide for two-stage process for becoming an IP i.e. first enrolment with an IPA and then registration with the Board, post such enrolment. The Code also provide for regulating structure of IPs and has empowered the Board and the respective IPA for monitoring of IPs on ongoing basis as well as for disciplinary actions against defaulting IPs, whenever warranted for.

3. The IPs play an important role in resolution, liquidation and bankruptcy processes of companies, LLPs, partnership firms and individuals. Section 206 of the Code provides that only a person registered as an IP with the Board can render services as an IP under the Code. IBBI (Insolvency Professionals) Regulations, 2016 [**IP Regulations**], provide for registration, regulation and oversight of insolvency IPs. It, *inter-alia*, stipulate the eligibility criteria for registration of IPs as well as Code of Conduct for IPs.

4. This paper solicits comments on the following issues:

Issue-1 Introduction of concept of Certificate of Practice (CoP) for Insolvency Professionals.

Issue-2 Imposition of restriction on age limit for undertaking assignments under the Code

Issue-3 Conflict of interest in processes handled by an IP

Issue-4 Imposition of certain restriction on professional association of IPs with stakeholders of the processes handled by them.

These are explained in detail as follows:

Issue-1 Introduction of concept of Certificate of Practice (CoP) for Insolvency Professionals.

The specific provision of the Code under which the Board proposes regulations-

5. Section 196 (1) (aa) and 196 (1) (d) of the Code.

Statement of Problem 1: Overlapping Jurisdiction of IPAs and IBBI

6. Under the Code, an IP plays a central role in resolution, liquidation and bankruptcy processes. He takes important business and financial decisions that may have substantial bearing on such persons and its stakeholders, including the value of the insolvent's asset, negotiates deals, settles claims, conducts meetings of the Committee of Creditors (CoC), invites and examines resolution plans, reports on the conduct of the directors of the company and discharge other onerous responsibilities. He is responsible for getting the best possible outcome in each case. He is, in fact, the driving force and the nerve centre in an insolvency proceeding. A whole array of statutory and legal duties and powers is vested in him. Section 20 of the Code requires him to makes every endeavour to protect and preserve the value of the property of the corporate debtor and manage its operations as a going concern. Section 23 requires him to conduct the entire corporate insolvency resolution process and manage the operations of the corporate debtor. He exercises powers of the Board of Directors of the corporate debtor under a corporate insolvency resolution process.

7. The present regulatory structure of the IPs under the Code provides for a two-tier regulatory structure which is comprising of IPAs, being the front-line regulator and the Board, as the principle regulator of IPs. The said two-tier regulatory structure under the Code, is also in consonance with the views of the Bankruptcy Law Reforms Committee (BLRC), which conceptualized the Code. It stated:

"...the Committee believes that a new model of "regulated self-regulation" is optimal for the IP profession. This means creating a two-tier structure of regulation. The Regulator will enable the creation of a competitive market for IP agencies under it... The IP agencies under the Board will, within the regulatory framework defined, act as self-regulating professional bodies that will focus on developing the IP profession for their role under the Code. They will induct IPs as their members, develop professional standards and code of ethics under the Code, audit the functioning of their members, discipline them and take actions against them if necessary."

8. Section 196 of the Code provides that monitoring and regulation of IPs is one of the key functions of the Board. As per Section 3 (19) of the Code, an IP means a person enrolled under section 206 of the Code with an IPA as its member and registered with the Board as an IP under section 207 of the Code. While, Section 206 of the Code prohibits any person to render his services as an IP under the Code without being enrolled as a member of an IPA and registered with the Board, the Section 207 (1) of the Code stipulates the requirement of registration with the Board, post obtaining the membership of an IPA.

9. Section 204 of the Code also sets out functions of an IPA as:

“204. An insolvency professional agency shall perform the following functions, namely: –
(a) grant membership to persons who fulfil all requirements set out in its bye-laws on payment of membership fee;
(b) lay down standards of professional conduct for its members;
(c) monitor the performance of its members;
(d) safeguard the rights, privileges and interests of insolvency professionals who are its members;
(e) suspend or cancel the membership of insolvency professionals who are its members on the grounds set out in its bye-laws;
(f) redress the grievances of consumers against insolvency professionals who are its members; and
(g) publish information about its functions, list of its members, performance of its members and such other information as may be specified by regulations.”

10. The IPAs have their Bye-Laws on the lines specified in the Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016 (Model-Bye-Laws Regulations). The Schedule of Model Bye-Laws Regulations provide for guidelines for disciplinary mechanism for regulating of IPs by the IPAs, as below:

“IX. DISCIPLINARY PROCEEDINGS

23. The Agency may initiate disciplinary proceedings by issuing a show-cause notice against professional members-

- (a) based on a reference made by the Grievances Redressal Committee;*
- (b) based on monitoring of professional members;*
- (c) following the directions given by the Board or any court of law; or*

(d) suo moto, based on any information received by it.

24. (1) *The Agency shall have a Disciplinary Policy, which shall provide for the following*

(a) the manner in which the Disciplinary Committee may ascertain facts;

(b) the issue of show-cause notice based on the facts;

(c) disposal of show-cause notice by a reasoned order, following principles of natural justice;

(d) timelines for different stages of disposal of show cause notice; and

(e) rights and obligations of the parties to the proceedings.

(2) The orders that may be passed by the Disciplinary Committee shall include-

(a) expulsion of the professional member;

(b) suspension of the professional member for a certain period of time;

(c) admonishment of the professional member;

(d) imposition of monetary penalty

(e) reference of the matter to the Board, which may include, in appropriate cases, recommendation of the amount of restitution or compensation that may be enforced by the Board; and

(f) directions relating to costs.

.....”

11. The registration as an IP is a one-time event, requiring due diligence on part of both i.e. IPA and the Board. Upon an individual (holding the enrolment of any one of the IPA's), fulfilling the qualification and eligibility criteria, by passing a limited insolvency examination and completing a mandatory pre-registration educational course, registration as an IP is granted by the Board, which is valid till such time the IP fulfils the specified conditions. In other words, the onus for taking away an IP's right to perform functions under the Code, for any reason lies on the regulator i.e. IPA or the Board.

12. Further, the Model Bye-Laws provide that no individual can be enrolled as a member with the IPA if he is not eligible for registration with the Board. So, if the registration of an IP with the Board is cancelled, then in that case, the enrolment of an IP with the respective IPA also stands cancelled. Similarly, the IP's status of registration with the Board is bound to be affected in an event of expulsion of IP by the IPA, because there is no provision of an IP, who is not a

member of an IPA. Thus, an IP, at all times, is required to possess both i.e. the enrolment with the IPA as well as the registration with the Board to perform his functions under the Code. Therefore, registration and enrolment for regulation of IPs becomes a single instrument for all practical purposes.

13. The disciplinary action against IPs is an inherently common function of both i.e. the Board and the IPAs. However, when a regulator and its regulated bodies (i.e. self-regulatory professional bodies) have jurisdiction over a common subject, there are likely to have concerns regarding concurrent jurisdiction of these two bodies.

14. The Code envisages that an insolvency professional may be appointed as interim resolution professional, resolution professional, liquidator, or a bankruptcy trustee if no disciplinary proceeding is pending against him. The Board, vide its Circular dated 23rd April 2018 on ‘Commencement of Disciplinary Proceeding,’ against IPs, has clarified that;

“(i) a disciplinary proceeding is considered as pending against an insolvency professional from the time he has been issued a show cause notice by the Insolvency and Bankruptcy Board of India till its disposal by the disciplinary committee; and
(ii) an insolvency professional who has been issued a show cause notice shall not accept any fresh assignment as interim resolution professional, resolution professional, liquidator, or a bankruptcy trustee under the Code.”

15. However, since the effect of Show Cause Notice (SCN) issued by an IPA to an IP, stands out of purview of the aforesaid Circular, the IPAs lack an instrument for restricting IPs from accepting any further assignment under the Code.

Statement of Problem 2: Issues related to monitoring of compliances

16. It is imperative for an IP to continuously upgrade his competence to meet the emerging challenges and needs. Therefore, vide amendment in the IP regulations dated 1st April 2018, the Board has specified that the registration as an IP shall be subject to the conditions that an IP shall undergo Continuous Professional Education (CPE). While, there are more than 2400 IPs currently registered with the Board, it is estimated that around one third of these IP are presently handling assignments under the Code. Considering that most of these IPs are professionals in the field of accountancy, secretarial practice and law having experience of

more than 10 years, it can be taken that they may be actively engaged in practicing their respective profession as well.

17. There is every likelihood that there will be spin-offs from the existing profession and as such many IPs may default on the requirement of CPE, thereby creating a dilemma regarding nature of action to be taken against defaulting IPs because such a default does not necessarily warrant for a stricter action like suspension or cancellation of their registration, as it would be a too drastic step for such non-compliances. Also, a launch of disciplinary action by way of issuance of SCN to IP would make it difficult for regulator in distinguishing such issues from other issues involving offences which could be serious in nature.

18. The Board and the IPAs need to ensure that the whole disciplinary mechanism is just, fair and in accordance with the principles of natural justice. To serve this purpose, post issuance of SCN, the IP is required to be given ample opportunity of defending himself (including the provision of personal hearing) and thereafter the Disciplinary authorities has to apply mind and pass a reasoned order. The entire process thus entails significant administrative cost. In cases of non-serious issues regarding non-compliances of certain conditions by an IP such as failure to file returns or non-completion of mandatory CPE or any such other conditions, the initiation of whole disciplinary proceeding doesn't seem to be the right course of action for a public institution. It tends to drive the crucial resources away from the more serious issues which needs focused attention. A public institution must discharge its duties efficiently with optimum utilization of resources. Such an approach negatively affects the quality and efficiency of the institution and fails it in public accountability aspect.

19. Also, there are some compliance requirements on IPs, in terms of submission of annual statement of turnover, filing of disclosures etc. The inception of new requirements requires fresh approach towards monitoring of compliance by professionals.

Proposed Amendment:

20. A draft of amended regulation is at **Enclosure**.

Economic Analysis:

21. Benefit: Putting in place the suitable mechanism would address the core issue of initiation of action against the IP upon breach of such compliances by an IP (viz. failure to provide

disclosures, comply with CPE hours, furnish such other documents as may be requested by IPA etc) that did not call for a stricter action which in turn will help reduce the regulatory costs, and also helps regulators channelize their efforts on serious offences. It would also provide better clarity of roles among IPAs and IBBI, increased monitoring and an effective monitoring tool with IPAs and thus would enhance the role and significance of IPAs. It would serve as an opportunity for the individuals currently in employment to save their probable idle time involved in obtaining enrolment with IPA and registration with IBBI, post resignation from the employment.

22. Cost: Considering that the arrangements under the mechanism proposed by IBBI is in the larger interest of IPA, as it would result in saving of considerable amount of monitoring time and regulatory cost of IPA, the same is required to be implemented by IPA, being a Self-Regulatory Organisation (SRO). An IPA therefore will have to commit resources for implementation of the said mechanism, which can be met by the fees paid by professionals seeking enrollment with IPA. Accordingly, no additional cost on existing professional members of IPA or professionals seeking enrollment with IPA is proposed for implementation of the said mechanism.

Norms advocated by domestic standard setting agencies

23. It has been observed that the other professional bodies in India in the field of accountancy, secretarial practice, law etc. follow the concept of 'Certificate of Practice (CoP)' as a part of their regulatory mechanism, even though they do not have a two-tier regulation over its professional members. For example, in case of Institute of Chartered Accountants of India (ICAI), Institute of Company Secretaries of India (ICSI) and Institute of Cost and Management Accountants of India (ICMAI), the members are granted CoP by the respective bodies to be eligible to practice as a Chartered Accountant or Company Secretary or Cost Accountant respectively and these bodies can suspend the CoP of its respective members in case if its member is found to be guilty of any misconduct. Similarly, State Bar Councils which are regulating the profession of advocates, can suspend its member advocates from practice if any such member is found to be guilty of any professional misconduct.

Norms advocated by international standard setting agencies

24. The concept similar to that of Certificate of Practice is also found to be adopted by professional bodies in the field of Accountancy / Insolvency Resolution in certain developed nations.

Australia and New Zealand

25. A member (i.e. Chartered Accountant) of the 'Chartered Accountants Australia and New Zealand (CAANZ),' who offers accounting services to the public for reward must hold a 'Certificate of Public Practice (CPP)'. The certification protects the public interest and ensures that members meet the high standards expected of them. An Australian member can apply for a CPP provided they have 2 years' experience in public practice, a knowledge of Australian company law and tax, complying professional indemnity insurance, completed the Public Practice Program (or equivalent) and Met their Continuing Professional Development (CPD) requirements. A New Zealand member can apply for a CPP provided they have two years' acceptable practical experience as a CA, have completed approved courses in New Zealand Company and Partnership Law and New Zealand Taxation, have completed the Public Practice Program (or equivalent) within the past two years.

(Source : <https://www.charteredaccountantsanz.com/member-services/being-in-public-practice/certificate-of-public-practice>)

England and Wales

26. A professional shall be entitled to engage in public practice in the United Kingdom or any other member state of the European Economic Area (EEA) only if he holds a current practising certificate from 'Institute of Chartered Accountants in England and Wales (ICAEW)'. A member shall be eligible to hold an ICAEW practising certificate only if the member has satisfied the Committee that he:

- has been a member for two years;
- is compliant with the requirements of Principal Bye-law 56 - Continuing Professional Development;
- understands the Fundamental Principles set out in the Code of Ethics and in particular Fundamental Principle (c);
- has undertaken to comply with the Council's Professional Indemnity Insurance Regulations;
- is a fit and proper person to hold a practising certificate;

- has submitted an application in such form as prescribed by the Committee including payment of set application fees;
- has passed an aptitude test if relevant.

27. A member of an ICAEW shall cease to be eligible to hold a practising certificate if he fails to certify his compliance with the provision of Principal Bye-law 56 (i.e. requirements for Continuing Professional Development) or fails to provide evidence required to demonstrate such compliance when required to do so.

(Source - <https://www.icaew.com/membership/regulations-standards-and-guidance/practice-management/practising-certificate-regulations>)

Ireland

28. In case of Ireland, before engaging in public practice the members of 'The Institute of Chartered Accountants in Ireland,' need to hold a Practising Certificate (PC) and comply with the Public Practice Regulations & Guidance. All members who hold a PC inter-alia are required to demonstrate compliance with the Continuing Professional Development (CPD) requirements and the Quality Assurance Committee (constituted for monitoring such compliances) has powers to take regulatory action against PC holders for failing to meet the CPD requirements; which may include suspension and ultimately withdrawal.

(Source - [https://www.charteredaccountants.ie/docs/default-source/dept-professional-standards-\(psd\)/support-and-guidance/PPR/ppr-guidance-updated-october-2018.pdf?sfvrsn=2](https://www.charteredaccountants.ie/docs/default-source/dept-professional-standards-(psd)/support-and-guidance/PPR/ppr-guidance-updated-october-2018.pdf?sfvrsn=2))

Implementation: The proposed regulatory framework

29. In order to address the various issues as discussed above, introduction of a concept of Certificate of Practice (CoP) to the profession of IP is being deliberated. The IP is required to obtain a CoP from his respective IPA for discharging the core functions under the Code viz. acting as an Interim Resolution Professional (IRP), Resolution Professional (RP), Authorised Representative (AR), Liquidator or a Bankruptcy Trustee. The IPA shall renew the said CoP ensuring that there is no breach of compliances by an IP. In case the CoP is not renewed, an IP would not be allowed to undertake any fresh assignment involving core functions of IP (i.e. IRP/RP/AR/Liquidator/Bankruptcy Trustee) under the Code. An IP without a CoP however would be allowed to complete his current assignments and will also remain part of the IP ecosystem, for the overall benefit of the IP profession. This is also expected to strengthen the

institution of an IPA as a frontline regulator of the IP, thereby clearing the air of any doubt which might persist regarding regulation of IP exercised by the IPA as well as the Board.

30. The proposed mechanism, governing the CoP is given below:

- (a) Issuance of CoP: - Registered IP shall apply to the IPA (of which he/she is member) for seeking grant of CoP which shall be in addition to the enrolment with IPA and registration as an IP with the Board.
- (b) Validity of CoP- A registered IP will be allowed to take up assignment as IRP, RP, AR, Liquidator or Bankruptcy Trustee only if he/she has a CoP from the IPA. An IP will not be allowed to accept any employment simultaneously while holding a CoP. Individuals can obtain professional membership of an IPA, undergo pre-registration educational course and seek registration as an IP while being an employment, but cannot obtain CoP.
- (c) Renewal of CoP - The CoP would be renewable by an IPA every year subject to fulfilment of criteria laid down such as completion of mandatory CPE hours by the IP, filing of required disclosures and returns etc. The IPA shall duly verify the fulfilment of such criteria by an IP before granting each renewal. IP will be required to meet CPE requirements, make necessary disclosures and compliances and apply for renewal of CoP on annual basis in a procedure laid down by the IPA. Further, the IPA shall lay down and administer the actions to be taken / consequences of other non-serious issues of non-conformance by IPs, like failing to complete CPE or failing to file required disclosures or any other condition as may be applicable. IPA will check for completion of all such compliances before renewal of CoP. The details of IP-wise non-compliance along with action taken on same by concerned IPA shall be reported by IPAs to the Board at such frequency as may be decided by the Board.
- (d) Surrender of CoP - After surrender of CoP, an IP would be allowed to accept employment subject to such conditions as may be prescribed by the Board. Thus, CoP shall eliminate the need for Temporary Surrender of Professional Membership with IPA and enable an Insolvency Professional to pursue employment while holding both i.e. enrolment with IPA as well as registration with IBBI.
- (e) Suspension of CoP - The IPA shall have an option to suspend the CoP, instead of Suspension of membership, and hold renewal of CoP for a period up to 5 years under their disciplinary mechanism. In case of suspension of CoP, the IP shall not take up any new assignment as an IRP/RP/AR/Liquidator/Bankruptcy Trustee but he shall be allowed to continue his existing assignment.

- (i) Any disciplinary action taken by IPA shall affect the CoP and/or the enrolment of IPs with IPAs. For instance, if an IP resigns from an ongoing assignment, the concerned IPA shall issue a SCN to him and seek his explanation. In case, the IPA is not satisfied by the explanation, and upon review of the facts and circumstances, it may decide to suspend the CoP of such IP for a period of up to 5 years.
- (ii) Issuance of a SCN by the IPA or by the Board shall tantamount to suspending the CoP, meaning that IP cannot take any further assignment under the Code but is required to continue to service his/her present assignments under the Code.

However, in all the aforementioned cases, the IP's registration with the Board and enrolment with IPA will remain intact despite of surrender/suspension of CoP.

Discussion Points:

- (i) Should IPs be required to have a CoP for undertaking assignments under the Code?
- (ii) If yes, then what changes do you recommend in the mechanism?

Issue-2 Imposition of restriction on age limit for undertaking assignments under the Code

The specific provision of the Code under which the Board proposes regulations-

31. Section 196 (1) (aa) and 196 (1) (d) of the Code.

Statement of Problem: Age and efficiency of Insolvency Professional

32. The Code essentially provides a market mechanism for time bound and orderly resolution of insolvency, wherever possible, and ease of exit, wherever required. Time has been made the essence of resolution process. There is a mandate of completion of process in 180 days which is extendable up to 270 days only in special circumstance clearly reflecting the intention of the Code. To ensure timely completion of whole process an IP is supposed to work with full conviction and without any delay. Any expected situation of delay in resolution process due to any circumstance need to be addressed at the earliest. The whole process requires an effort on the part of the IP which can be physically as well as mentally demanding. Therefore, it becomes necessary that the person before appointed as an IP is in good health so that the whole resolution process completes in smooth manner. It has been observed that some of IPs after taking up the assignment requests for discharge from duties on account of various factors, poor health due to age, being one of them. There is a need for safeguard which can reduce the threat of an

Insolvency Professional declining or resigning from his engagement, unless it is to a level which allows the engagement to be discontinued.

33. In view of the aforesaid and in order to avoid any such instances wherein an IP is forced to leave the resolution process in between or is not able to commit himself to the whole process in full spirit, it is being considered as appropriate by the Board, to introduce a maximum age limit for an IP for the purpose of his engagement in core functions as an IRP/RP/AR/Liquidator/Bankruptcy Trustee under the Code.

34. Such a step will also make it congruous with the Companies Act, 2013. According to Section 196 of Companies Act, 2013, a Managing Director, Whole time director or Manager should not be more than the age of 70 years unless a special resolution is passed. During the corporate insolvency resolution process of a company, an IP replaces the Board of Directors and manages the affairs of the company. So, it is imperative to expect the similar if not more managerial effort from the IP. While, IP Regulations covers a wide arena to ensure high professional competence from the IP's, it does not provide for maximum age limit of IP. This has created a logical as well as a legal anomaly that one law directly prohibits a person of certain age from exercising managerial function in the company when it is in good health while another law allows similar person of same age to exercise such functions and that too when the company is in ill-health. Considering that the efficiency remains the key to whole insolvency and bankruptcy mechanism, the maximum age limit as proposed, would provide a generalized rational and objective approach towards ensuring efficiency as envisaged under the Code.

35. To harmonize the above digressing viewpoints, it will be a right approach to restrict the age limit of 70 years (in congruity with the Companies Act, 2013) of registered IPs for performing the core function as an IRP/RP/AR/Liquidator/Bankruptcy Trustee while allowing IPs above 70 years to continue to contribute their professional expertise to the overall development of insolvency and bankruptcy ecosystem. Taking the concept of CoP further, the same can be attained with a condition that the CoP shall be granted by an IPA only to those IPs having age of 70 years or below.

Proposed Amendment:

36. A draft of amended regulation is at **Enclosure**.

Economic Analysis:

37. Benefit: The age restrictions as proposed will ensure that an IP is able to commit the required effort for the entire process, thereby allowing timely and smooth completion of process in most effective and efficient manner. The role of professional experience in the whole ecology of IP can never be under-rated. In Indian scenario, the field of IP is still emerging and therefore, it needs to be enriched with the experiences of the professional persons. Therefore, it will be a regressive step to deny an individual, the registration as an IP solely on the consideration that he has reached a certain age. Further, it will also be unfair to deny an IP, the opportunities associated with the overall IBC ecosystem wherein his longstanding experience will in-fact be beneficial and support the IBC ecosystem.

38. Cost: Since the concept of CoP is to be implemented by IPA, the monitoring of the age restriction will add to regulatory oversight of IPA, who also have to commit resources for monitoring of restrictions.

Implementation:

39. It is proposed that registered IPs will be restricted in performing the core function as an IRP/RP/AR/Liquidator/Bankruptcy Trustee by making them ineligible to obtain CoP. It will restrict the IPs having attained the age of 70 years for taking up core functions while allowing them to continue to contribute their professional expertise to the overall development ecosystem for example by being partners/directors with IPEs.

Discussion Points:

- (i) Should a restriction be placed on IPs for undertaking assignments based on their age?
- (ii) If yes; is the age limit of 70 years appropriate?

Issue-3 Conflict of interest in processes handled by an IP.

The specific provision of the Code under which the Board proposes regulations-

40. Section 196 (1) (aa) and 196 (1) (d) of the Code.

Statement of Problem: Professional relationships of IP and conflict of interest

41. In addition to specific obligations and prohibitions under the Code and the regulations made there under, an Insolvency Professional must at all times abide by Code of Conduct as specified in the IBBI (Insolvency Professional) Regulations, 2016 [**IP Regulations**]. The Code of Conduct, inter alia, requires an Insolvency Professional to maintain integrity by being honest, straight forward and forthright in all professional relationships, avoid conflict of interest, remain independent and impartial, maintain confidentiality and comply with the restrictions on employment and occupation. Therefore, he must not allow any bias or interest to cloud his objectivity and he must not only be fair, but also be seen to be fair.

42. Clause 3 of the Code of Conduct of IP Regulations requires that an IP must act with objectivity in his professional dealings by ensuring that his decisions are made without the presence of any bias, conflict of interest, coercion, or undue influence of any party, whether directly connected to the insolvency proceedings or not. Clause 5 of the Code of Conduct of IP Regulations requires that an IP must maintain complete independence in his professional relationships and should conduct the insolvency resolution, liquidation or bankruptcy process, as the case may be, independent of external influences. Further, the possible areas of maintaining independence and impartiality have been outlined in Clauses 6-8A of the Code of Conduct. Also, Regulation 3 of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 [CIRP Regulations] provide for the eligibility requirements for IP to act as a resolution professional, while clearly stating that an IP is expected to be independent of the Corporate Debtor. Thus, the Code read with Regulations has incorporated sufficient safeguards to ensure that there remains no conflict of interest, thereby, undermining independence of the IP.

43. The Code has bestowed an insolvency professional with myriad duties for an efficient implementation of the law. Most critically, an insolvency professional is bound to avoid conflict of interest and act with integrity and independence throughout the time he/she is involved with any matter under the Code irrespective of the capacity as an IRP, RP AR, Liquidator or a Bankruptcy Trustee.

44. In addition to specific obligations and prohibitions under the Insolvency and Bankruptcy Code, 2016 (Code) and the regulations made there under, an Insolvency Professional must at all times abide by Code of Conduct specified in the IBBI (Insolvency Professionals)

Regulations, 2016. The Code of Conduct, inter alia, requires an Insolvency Professional to maintain integrity by being honest, straight forward and forthright in all professional relationships. Therefore, he must not allow any bias or interest to cloud his objectivity and he must not only be fair, but also be seen to be fair.

45. As an insolvency professional, he is duty bound to avoid conflict of interest and act with integrity and independence. An Insolvency Professional should take reasonable steps to identify circumstances that could pose a conflict of interest. Such circumstances may give rise to threats to compliance with the fundamental principles of code of conduct and ethics.

46. Even after sufficient safeguard have been mentioned in the Code and Regulations, various examples where a conflict of interest has arisen have still emerged. The conflict is ought to have arisen where a significant relationship exists or has existed with the entity or someone connected with the entity or the IP himself.

47. Few such examples involving conflict of interest have been elaborated below:

(a) Mr. X in the capacity of a creditor applied for insolvency resolution of its debtors and appointed his wife, namely, Ms. Y as IRP for those debtors - The Code read with regulations does not explicitly bar a relative of a creditor from being appointed as an IRP / RP. However, the relative of a creditor who is an insolvency professional, plays the role of creditor by virtue of legal fiction. Ms. Y accepted transactions from a party related to her and compromised her independence.

(b) IPs, having appeared as a counsel for creditors (operational or financial), as a part of professional practice, and giving their consent to the said clients, to act as an IRP/RP in the same matter/s - An Insolvency Professional must avoid a situation which can create a doubt about his integrity and independence in the mind of another person. The fact situation (where a Counsel appearing for an applicant under section 7, 9 or 10 of the Code acts as IRP of the corporate insolvency resolution process, if the application is admitted) creates doubt about his intention, integrity and independence as a professional. Therefore, an Insolvency Professional must refrain from acting as an IRP/RP/Liquidator in a process where he is appearing as a counsel for any of the parties. While appearing as a counsel for a client, as a part of professional practice, there would be inclination towards achieving the maximum results in the interest of the client. In a situation, where the same person acts as IRP/RP and counsel

for creditors (operational or financial), there arises conflict of interest as to whose interest should be given priority. This would undermine an IP's objectivity and his ability to act independently.

48. It may also be noted that the possibility of such conflict of interest may also arise in cases where the IP provides his professional services in capacity of being a Chartered Accountant, Company Secretary, Cost Accountant, Auditor or any other while consenting to act or acting as an IRP/RP/AR/Liquidator/Bankruptcy Trustee.

49. Further, it could be deliberated upon whether the existing professional relationship of an IP in his professional capacity prior to getting himself registered as an IP, wherein the IP has developed a good professional rapport and clientele, thereby possible preference for them in future appointments during insolvency resolution, liquidation and bankruptcy proceedings would tantamount to creating conflict of interest or undermine his objectivity.

50. While, the Code read with regulations does not debar an IP to pursue his professional practice while acting as an Interim Resolution Professional (IRP) or Resolution Professional (RP) or AR or Liquidator or Bankruptcy Trustee, it is to be noted that insolvency and liquidation proceedings are a technically complex area and each case has its own peculiarities that require careful consideration. A distinguishing mark of the insolvency profession is its acceptance of the responsibility to act in the public interest. An IRP or RP or Liquidator is appointed by the Adjudicating Authority (AA). Thus, being an officer appointed by the Court, an IP acting as an IRP, RP or Liquidator is duty bound to discharge his responsibilities under the Code with fairness and diligence.

51. Hence, an Insolvency Professional should evaluate the significance of any threats. Evaluation includes considering, before accepting an insolvency appointment, whether the Insolvency Professional has any business interests, or relationships with the entity that could give rise to threats. If threats are other than trivial, safeguards may be considered and applied as necessary to eliminate them or reduce them to an acceptable level.

52. Where a conflict of interest poses a threat that cannot be eliminated or reduced to an acceptable level through the application of safeguards, the Insolvency Professional should

conclude that it is not appropriate to accept the appointment or that resignation from one or more conflicting appointments is required.

Proposed Amendment:

53. A draft of amended regulation is at **Enclosure**.

Economic Analysis:

54. Benefit: Addressing the issue of conflict of interest would enable the profession to attain higher ethical standard. It will also mitigate attempts by stakeholders to lure IPs by offering assignments after completion of CIRPs.

55. Cost: The monitoring of the restriction will add to regulatory oversight and their regulatory cost of the board. The major inputs for violation will be through complaints and therefore, the costs for surveillance may not be significant.

Dealing with Conflict of Interest - Foreign Legislations

Australia

56. Australian Restructuring Insolvency and Turnaround Association (ARITA) has rules that impose greater duties and obligations than those imposed by the law. The rule states that before accepting an appointment as liquidator or administrator of an insolvent company the insolvency practitioner must evaluate his or her relationships with the company and with those who are involved or have an interest in its affairs.

The three main step of the evaluation process are:

Step 1: The task is to ensure that the IP is not prohibited or disqualified from acting by the express laws on disqualification for reason of a specific connection that are contained in the Corporations Act 2001.

Step 2: It involves looking out for other relationships which the Act deems to be, prima facie, of interest to creditors of the company. If such a relationship exists, the IP must evaluate whether the relationship is “relevant”. Unless such a relationship is “trivial”, it will be “relevant”. If the IP is of the view that there is no relevant relationship, he or she may accept appointment. (His or her view that there are no relevant relationships must be declared in writing in the Declaration of Relevant Relationships presented to creditors).

Step 3: In the evaluation process is required if the IP considers that there is a relevant relationship. Relevant relationships need to be evaluated to see whether they give rise to, or are likely to give rise to, a conflict of interest or a conflict of duty for the IP in the

performance of his or her obligations. If the IP forms the view that because of a relevant relationship he or she has or is likely to have a conflict of interest or a conflict of duty, he or she must decline to take the appointment. On the other hand, if the IP's view is that there is no such conflict, the IP must – in the written Declaration of Relevant Relationships – give details of the relationship **and** explain why he or she believes that it does not and will not give rise to a conflict of interest or a conflict of duty.

United Kingdom

57. The UK courts in a series of judgments have provided useful guidance on the level of previous professional engagement which would rule an administrator out of accepting a role in the insolvency of a company. One such judgement is presented below:

VE Vegas v Shinnars

The board and management of Company A formed a new company (Company B). Company A then engaged an accounting firm that advised it to conduct a pre-pack sale to Company B and also advised on insolvency options. When Company A went into administration, the administrators were appointed from this same firm, leading Company A's creditors to apply to have them removed on the basis that an investigation was needed into whether there were breaches of duty by the directors and/or the accountants in relation to the sale of Company A's assets.

Decision

The Court removed the administrators, finding that they were conflicted because their firm was bound up in the process by reason of their contractual retainer.

New Zealand

58. A reflection of these principles can be found in the RITANZ Code of Conduct, in particular clauses 2.1.1 and 2.4.

- Clause 2.1.1 sets out that the test for independence focuses on the nature of the contact and the relationship between the practitioner and the insolvent company, its creditors or directors prior to the appointment.
- Clause 2.4 requires that practitioners provide a declaration of independence to creditors as soon as possible. As part of the declaration, practitioners are required to declare whether they provided any advice to the insolvent company, or its directors before the

appointment, and why they believe that such advice does not give rise to a conflict of interest.

The Courts are likely to have regard to professional standards in assessing whether there was an actual or perceived conflict of interest, or lack of independence.

Implementation

59. In view of the above, it is proposed that if an Insolvency Professional believes that conflict of interest arises or is likely to arise or remains unresolved, he shall, wherever possible, refuse to remain associated with the matter creating the conflict. In the related context, Insolvency Professional shall exercise judgment to determine how best to deal with threats that are not at an acceptable level, whether by applying safeguards to eliminate the threat or reduce it to an acceptable level or, where possible, by refusing to remain associated with the matter creating the conflict.

Discussion Points:

- (i) Whether there is a need to outline the possible areas of conflict of interest?
- (ii) If yes, what would be the parameters for identifying the conflict of interest and implications of breach of conflict of interest?

Issue-4 Imposition of certain restriction on professional association of IPs with stakeholders of the processes handled by them.

The specific provision of the Code under which the Board proposes regulations-

60. Section 196 (1) (aa) and 196 (1) (d) of the Code.

Statement of Problem: Issues related to professional engagement / employment of an IP post temporary surrender of professional membership with IPA.

61. The present regulatory framework of IPs i.e. IP Regulations read with Model Bye-Laws, envisages that a person must not play two roles – profession and employment simultaneously. In the same way, a person who in employment is debarred from practicing as an Advocate and vice-versa. The solemn objective behind such a requirement is that a professional must have undivided loyalty and unflinching attention towards his professional obligations.

62. The present provisions in Code of Conduct, however does not prohibit an IP to take up an employment or have a professional association with entities related / associated with the

Corporate Debtor or with the other stakeholders of the Process handled by him. If an IP, engages himself in such an association, post temporary surrender of his registration, or otherwise, it would lead to the conflict of interest.

Proposed Amendment:

63. A draft of amended regulation is at **Enclosure**.

Economic Analysis:

64. Benefit: The restriction on an IP to seek assignment or employment with the stakeholders of the processes handled by him will enable the profession to attain higher ethical standard. The restriction will mitigate attempts by stakeholders to lure IPs by offering assignments after completion of CIRPs.

65. Cost: The monitoring of the restriction will add to regulatory oversight and their regulatory cost of the board. The major inputs for violation will be through complaints and therefore, the costs for surveillance may not be significant. The restriction reduces the avenues of IPs after handling processes under the Code, but a time frame of 3 years may be considered a reasonable trade-off.

Implementation:

66. It is proposed to restrict an IP, who has temporarily surrendered his certificate of membership or otherwise, must not engage in any employment or any other professional engagement with a person or agency with whom he had engagement in the capacity of IP handling a process under the Code, for a period of three years from the date of cessation of such engagement. An Insolvency Professional must not engage in any business, occupation or activity that impairs or might impair integrity, objectivity or the reputation of the profession and as a result would be incompatible with the fundamental principles of ethics.

Discussion Points:

- (i) Should restriction be placed on IPs for undertaking employment or getting into professional engagement with a stakeholder as proposed above?
- (ii) If yes, is the time period of 3 years appropriate for such restriction?

**GAZETTE OF INDIA
EXTRAORDINARY
PART III, SECTION 4
PUBLISHED BY AUTHORITY
NEW DELHI, _____ March, 2019**

**INSOLVENCY AND BANKRUPTCY BOARD OF INDIA
NOTIFICATION
New Delhi, ____ March, 2019**

Insolvency and Bankruptcy Board of India (Insolvency Professionals) (Amendment) Regulations, 2019

IBBI/2018-19/GN/REG0__ - 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, 2019.
(2) They shall come into from the date of publication in the Official Gazette.
2. In the principal regulations, after clause (bb) of sub-regulation (2) of regulation 7, the following sub-regulations shall be inserted, namely:-
“(bc) hold a Certificate of Practice issued by the insolvency professional agency with which he is enrolled, before giving his consent to accept any assignment as interim resolution professional, resolution professional, authorised representative, liquidator or a bankruptcy trustee under the Code.”
3. In the principal regulations, in the First Schedule, after Clause (3), the following Clauses shall be inserted, namely: -

“3(A). An Insolvency Professional must ascertain whether any conflict of interest arises before giving his consent for acceptance of any assignment.”

4. In the principal regulations, in the First Schedule, in place of Clause (23), the following Clauses shall be substituted, namely: -

“23. An insolvency professional shall not accept any employment till such time, as he holds a Certificate of Practice issued by the insolvency professional agency with which he is enrolled.

23 (A). An insolvency professional, must not engage in any employment or professional engagement with any stakeholders of the process handled by him in the capacity of interim resolution professional, resolution professional, authorised representative, liquidator or a bankruptcy trustee under the Code, until a period of three years have elapsed from the date of cessation of such assignment.”

(Dr. M. S. Sahoo)

Chairperson

[ADVT . - _____]

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 29th November, 2016 and were subsequently amended by,

- (1) Insolvency and Bankruptcy Board of India (Insolvency Professionals) (Amendment) Regulations, 2018 vide notification number IBBI/2017-18/GN/REG027 dated 27th March, 2018 and,
- (2) Insolvency and Bankruptcy Board of India (Insolvency Professionals) (Second Amendment) Regulations, 2018 vide notification number IBBI/2018-19/GN/REG036 dated 11th October 2018.