

**INVITING SUGGESTIONS AT ROUND TABLE
INTERACTIONS**

TOPIC: Graduate Insolvency Programme (GIP)

DATE: 26th JULY, 2018

TIME: 4:30 – 6:00 P.M.

**VENUE: CMA BHAWAN, 3, INSTITUTIONAL AREA,
LODHI ROAD, NEW DELHI- 110003**

*Members can also e-mail their suggestions at
br.manager@ipaicmai.in
with subject caption as 'Suggestions – Graduate Insolvency
Programme'.*

Insolvency and Bankruptcy Board of India Discussion Note on Graduate (Global) Insolvency Programme

Insolvency and Bankruptcy Code, 2016

India did not have an insolvency resolution law that was pro-active, incentive-compliant, market-led, and time-bound. The Insolvency and Bankruptcy Code, 2016 (Code) was, in many ways, a leap into the unknown. Yet, there is probably no parallel of such swift enactment and implementation of any law, anytime and anywhere, as has been with the Code. The entire regulatory framework and the ecosystem relating to corporate insolvency are in place. Debtors and creditors alike are undertaking corporate insolvency resolution process (CIRP). About 1000 companies have been admitted into CIRP. The work relating to individual insolvency, cross border insolvency and valuation profession are underway.

Insolvency Professionals

2. The 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, the Insolvency and Bankruptcy Board of India (Board), and the Information Utilities. An IP plays a central role in resolution, liquidation and bankruptcy processes of companies, LLPs, partnership firms and individuals. The Bankruptcy Law Reforms Committee observes: *“This entire insolvency and bankruptcy process is managed by a regulated and licensed professional namely the Insolvency Professional or an IP, appointed by the adjudicator. In an insolvency and bankruptcy resolution process driven by the law there are judicial decisions being taken by the adjudicator. But there are also checks and accounting as well as conduct of due process that are carried out by the IPs. Insolvency professionals form a crucial pillar upon which rests the effective, timely functioning as well as credibility of the entire edifice of the insolvency and bankruptcy resolution process.”*

3. The European Bank for Reconstruction and Development notes: *“Insolvency process cannot be imagined without the involvement of an IP who in many respects is the lynchpin of the process; the link between the court, creditors, and the debtor.”* As per the UNCITRAL Legislative Guide on Insolvency Law, *“However appointed, the insolvency representative plays a central role in the effective and efficient implementation of an insolvency law, with certain powers over debtors and their assets and a duty to protect those assets and their value, as well as the interests of creditors and employees, and to ensure that the law is applied effectively and impartially. Accordingly, it is essential that the insolvency representative be appropriately qualified and possess the knowledge, experience and personal qualities that will ensure not only the effective and efficient conduct of the proceedings and but also that there is confidence in the insolvency regime.”*

4. Take the example of a CIRP under the Code where an IP is vested with a whole array of statutory and legal duties and powers. He exercises the powers of the board of directors of a company under CIRP, manages its operations as a going concern, makes every endeavour to protect and preserve the value of its property and complies with applicable laws on its behalf. He takes important business and financial decisions having substantial bearing on such persons and its stakeholders, negotiates deals, settles claims, resolves conflict of interests, conducts meetings of the committee of creditors, invites and examines resolution plans, reports on irregular transactions and discharges other onerous responsibilities. He conducts the entire insolvency resolution process - he is the fulcrum of the process and the link between the Adjudicating Authority and stakeholders - debtor, creditors - financial as well as operational, and resolution applicants. He is, in fact, the driving force and the nerve-centre in an insolvency proceeding.

5. An IP requires a range of skills to perform his role well. The process of insolvency is often turbulent and distressing for the company and its stakeholders. The proficiency of the IP can allow troubled business to stay afloat and where, this is not possible, enables vulnerable creditors to maximise their returns. His work affects the lives, prospects and livelihood of both creditors and debtors and often involves dealing with many competing interests. He must be able to balance the interests of all stakeholders, and such stakeholders should have confidence in the insolvency regime and its practitioners. Besides legal obligations, an IP has ethical and moral obligations to creditors, employees and other stakeholders. Integrity and experience of IPs is central to the functioning of the insolvency system. An IP must possess not only qualities such as resourcefulness and business acumen, but also a good sense of judgment and fairness when balancing the interests of stakeholders inter se or against other interests and statutory objectives. He also needs written and interpersonal skills to deal with creditors, anxious directors, concerned employees and a range of other stakeholders in the business. He must have a fair degree of appreciation of cultures, social and other factors surrounding an insolvency proceeding. The insolvency profession is not just another profession, but an institution onto itself.

6. Keeping in view the responsibilities, the Code facilitates and empowers an IP to discharge them effectively. It obliges every officer of the company to report and the promoter of the company to extend all assistance and cooperation to him. He has the authority to appoint accountants, legal or other professionals and use support services from an insolvency professional entity as may be necessary for discharge of his duties. There is an assurance of supply of essential goods and services to, and a moratorium on proceedings against, the company. He can seek orders from the Adjudicating Authority if he comes across any preferential, undervalued, extortionate, or fraudulent transaction. He has protection for actions taken in good faith. His conduct can be investigated only by the Board / insolvency professional agencies (IPA), which must follow a due process for the purpose. There is bar on trial of offences against an IP except on a complaint filed by the Board. The appointment or removal of an IP requires approval of the Adjudicating Authority.

Eligibility Norms

7. The Board was established on 1st October, 2016. The Code vests the Board with powers to specify by regulations standards for the functioning of IPs and lay down by regulations the minimum curriculum for the examination of the IPs for their enrolment as members of the IPA. It empowers the Board to specify the categories of professionals or persons possessing such qualifications and experience in the field of finance, law, management, insolvency or such other field, as it deems fit, for registration as IP. In exercise of its powers, the Board has made the IBBI (Insolvency Professionals) Regulations, 2016 to provide, inter alia, for eligibility for registration as an IP, keeping in view standards of competence, expertise, integrity and professionalism required for the proper functioning of the insolvency regime.

8. To meet the immediate need in 2016, the regulations allowed registration of chartered accountants, company secretaries, cost accountants, and advocates in practice for 15 years as IPs. The window for such registration was open for one month (till 31st December, 2016) and such registrations had a validity of six months. With launch of the Limited Insolvency Examination on 31st December, 2016, the regulations effective from 1st January, 2017 allowed registration of chartered accountants, company secretaries, cost accountants and advocates with 10 years of post-membership experience (practice or employment) or graduates with 15 years of post-qualification managerial experience as IPs on passing the Limited Insolvency Examination.

9. Regulations effective from 1st April, 2018 allow registration of an individual who has successfully completed Graduate Insolvency Programme (GIP). Regulation 5 reads as under:

“Qualifications and experience.

5. 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.”

Graduate Insolvency Programme

10. Taking the above into consideration, the Board intends to promote a world-class educational programme to be called the Graduate Insolvency Programme (GIP) as under:

- a. It is an exquisite graduate programme of global standard that aims at producing top-quality IPs who can deliver world-class services as resolution professionals, liquidators or in other capacities at a level that surpasses the expectations of the market and the regulator in general and their consumers in particular.
- b. It broadens the horizon of thinking, perspective and outlook so that the graduates of the programme are able to innovate, challenge and change the norms, and think creatively and out of the box to enhance efficiency of processes and outcomes for stakeholders. The course should offer a 360-degree view of the insolvency sector and present an understanding of social, cultural and other dimensions that may have a bearing on insolvency process. It should also offer a ringside view of the insolvency system, including entrepreneurship.
- c. It has content and design serving an optimum utility not only for those who want to take up the discipline of insolvency profession as a career but also for those who seek to take up other roles in the value chain, in India and in foreign jurisdictions. The graduating students may choose to work as in-house counsels or act as advisors with stakeholders participating or associated with insolvency and liquidation proceedings or in turnaround industry. Some may even elect to become academics or researchers or work in media houses. Wherever they may operate, they should be able to add value for the insolvency system.
- d. It is positioned and developed as a prestigious programme that encourages and attracts the brightest minds. The leading insolvency professional entities, law firms, advisory firms, banks and other institutions, including those located out of India, should compete to hire the graduating students. The prospective students should see it as an investment that would bring them returns by way of their placements and challenging career opportunities. It

should be an attractive programme for foreign students as well who wish to find career opportunities in India or other jurisdictions.

- e. It commands acknowledgement and respect on the strength of the innovative, unique and high quality of its structure, content and delivery.
- f. It becomes a dream programme for those aspiring to be insolvency professionals, in and outside India. Its products should be proud flag bearers and ambassadors of the Indian insolvency profession not just within the country but also in foreign jurisdictions.
- g. It benefits at the macro-level significantly propelling the Indian insolvency regime amongst the most recognised insolvency systems in the world. It should form an important contributing tool in the development of Indian economy in general and insolvency system in particular.

11. The initial thoughts about design of the GIP include the following:

- a. The GIP may be a 27-month programme comprising an intensive class room residential phase of 12 months, a hand-on internship at the cutting edge of the practice for 12 months, and a 3-month international exposure.
- b. Only the young and brightest minds, who have completed a basic professional course such as company secretary, chartered accountancy, cost accountancy, law, management, etc. and have competence and confidence to lead from the front of the profession, may be allowed to join the GIP after proper screening. The enrollment for GIP should be designed to “catch them young” and enable them to start with a clean slate.
- c. The batch size may be limited to 40 for effective learning, though the commercial viability needs to be balanced with exclusivity. Number of seats may be equitably allocated amongst candidates from diverse organisations, streams of professions and segments of industry.
- d. While the GIP should comprehensively educate about the entire spectrum of insolvency and turnaround related policies, laws and regulations (through theory and practice), it must inculcate the requisite soft skills, ethics, integrity and other virtues required of an IP. The programme should be conceptualised keeping in view that insolvency profession requires multiple abilities serving multiple stakeholders. The graduates should be trained and oriented to serve across diverse range and profile of cases, small to large, corporate to individual insolvency, across jurisdictions. Accordingly, it may have four-verticals:
 - (i) Theory: May be delivered through a fine mix of lectures, case studies and discussion fora so that graduating students appreciate practical application of theory;
 - (ii) Practice: May include moots, effective and purposeful internship with IPs, attachment with adjudicating authority and other stakeholders;
 - (iii) Soft Skills and Conduct: May include cultivating inter-personal and communication skills, entrepreneurship, commitment, emotional IQ, ethics and virtues; and
 - (iv) Thought Leadership: May be through inter-action and mentorship with thinkers, leaders and role models from across the spectrum of economy and society, domestic and overseas, invited to share their thoughts, perspective, experiences and vision.
- e. Quality delivery of content may be the silver line running through the GIP. A pool of select academics, experts and practitioners should deliver the theory and practical verticals. The personality development should be through lectures from experts in respective fields.
- f. The standard of GIP should be such that it earns rating amongst the most recognised insolvency courses in the world, is inter-changeable with similar programmes around the globe and receives recognition by prestigious universities and institutes across borders.

12. The Board has constituted a Working Group to recommend the structure, content and delivery of GIP. The Group comprises:

- a. Mr. T. V. Mohandas Pai, Chairman, Manipal Global Education

- b. Mr. P. R. Ramesh, Chairman, Deloitte India
- c. Mr. Sumant Batra, President, Society of Insolvency Practitioners of India
- d. Dr. K. V. Subramanian, Professor, Indian School of Business
- e. Dr. Sameer Sharma, Director General, Indian Institute of Corporate Affairs, and
- f. Dr. M. S. Sahoo, Chairperson, Insolvency and Bankruptcy Board of India.

13. The Working Group is scheduled to meet on 29th July, 2018 to interact with stakeholders and seek inputs and ideas on the structure, content and delivery mechanism for the GIP. It solicits ideas and inputs on the following:

- a. Eligibility (Qualification, Age, Experience, Aptitude) for admission in to the GIP
- b. Screening for admission into GIP
- c. Duration of the GIP, and of each vertical (Theory, Practice, Soft Skills and Conduct, Thought Leadership)
- d. Scope / Coverage of Learning in each Phase (Class Room, Internship and Foreign Exposure)
- e. Method of Learning / Delivery of GIP
- f. Academy and Faculty for Delivery
- g. Inculcation of Soft Skills and Integrity and Ethics
- h. Study Material
- i. Assessment, including assessment of Ethics and Integrity
- j. Demand for GIP and Batch Size
- k. Strategy for Placement
- l. Pricing and Scholarship,
- m. Motivation for Stakeholders, and
- n. Branding, Partnership, Collaboration for Delivery, etc.

14. While seeking inputs and guidance as indicated in Para 13 above, it may be useful to develop a schematic table as under:

Coverage			No. of Hours	No. of Credits	Phase (I. Class Room / II. Internship / III. International)	Mode of Delivery (a. Class, b. Moot, c. Case Study, d. Project, e. On-the-Job, f. Talk, g. Mentorship, h. Attachment, i. Field Visit, j. Any other)
1.0	1.1	1.1.1				
Theory						
The Insolvency and Bankruptcy Code, 2016	Institutional Infrastructure	Ministry of Corporate Affairs				
		Adjudicating Authority				
		Insolvency and Bankruptcy Board of India				
		Insolvency Professionals				
		Insolvency Professional Agencies				
		Insolvency Professional Entities				
		Information Utilities				
		Registered Valuers				
		Professionals				
		Registered Valuer Organisations				
		Rules and Regulations				
		Debtors, Creditors and Other Stakeholders				
Public Authorities						
Supporting Technology						

Corporate Insolvency Resolution	Admission of Application				
	Moratorium				
	Authorised Representative				
	Committee of Creditors				
	Resolution Professional				
	Registered Valuers				
	Information Memorandum				
	Contingent Liability				
	Resolution Applicants				
	Evaluation Matrix				
	Resolution Plan				
	Irregular Transactions				
	Compliances				
Corporate Liquidation and Voluntary Liquidation					
Individual Insolvency Resolution					
Individual Bankruptcy					
Practical					
Soft Skills and Conduct					
Thought Leadership					