

MONITORING POLICY
OF
INSOLVENCY PROFESSIONAL AGENCY
OF THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

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MONITORING POLICY

Introduction

The Insolvency and Bankruptcy Code, 2016 ('Code') has endowed very critical functions and powers on the Insolvency Professionals (IPs) who are the drivers of resolution as well as that of liquidation or bankruptcy process. Besides, they have a major role to play in individual insolvency resolution/bankruptcy process. The success of the Code and in turn the economy is hugely dependent on them. It becomes extremely important in such a scenario to have a systematic process in place that would monitor and inspect the transactions, records and activities of the Insolvency Professionals.

Definitions

In this policy, unless the context otherwise requires, -

- (1) '**Agency**' means Insolvency Professional Agency of Institute of Cost Accountants of India (IPA ICAI);
- (2) '**IBBI**' means Insolvency and Bankruptcy Board of India as defined in Section 3(1) of the Code
- (3) '**Board of Directors**' means Governing Board of Insolvency Professional Agency of Institute of Cost Accountants of India;
- (4) '**Code**' means the Insolvency and Bankruptcy Code, 2016
- (5) '**Insolvency Professionals**' (IPs) means Insolvency Professionals enrolled with the Agency and registered with Insolvency and Bankruptcy Board of India
- (6) '**Member**' means a person enrolled with IPA ICAI as Insolvency Professional
- (7) '**Monitoring Committee**' means a committee constituted in terms of Clause 8 of Schedule under Regulation 3 read with Regulation 2(1)(c) of IBBI (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulation, 2016
- (8) '**Policy**' means the Monitoring Policy of IPA ICAI.

Objective

The objective of monitoring is to gather sufficient information and documents to enable the Monitoring Committee, Board of Directors of IPA ICAI and IBBI to monitor the performance and keep them informed with unbiased decisions about the performance of

Insolvency Professionals enrolled with the Agency. The objective of the policy is to create the framework for implementation of the functions of the IBBI as envisaged u/s 196(1) (g) of the Code and discharge of obligation of the Agency under Section 204 (c) of the Code and to achieve the object in line with Regulation 18 of Insolvency and Bankruptcy Board of India (Model bye-laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016 to provide for the following –

- (a) the frequency of monitoring;
- (b) the manner and format of submission or collection of information and records of the professional members, including by way of inspection;
- (c) the obligations of professional members to comply with the Monitoring Policy;
- (d) the use, analysis and storage of information and records;
- (e) evaluation of performance of members; and
- (f) any other matters that may be specified by the Governing Board.

Role and Responsibilities of Stakeholders

Insolvency and Bankruptcy Board of India (IBBI)

Section 196(1)(g) provides for monitoring the performance of Insolvency Professional Agencies, Insolvency Professionals and Information Utilities and pass any directions as may be required for compliance of the provisions of the Code and the Regulations issued hereunder.

Insolvency Professional Agency of ICAI - Monitoring Committee

Section 204 (c) of the Code stipulates that an Insolvency Professional Agency shall monitor the performance of its members. As per SCHEDULE of Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016 which have been adopted by IPA ICAI, vide Regulation 15, it is endowed with an obligation to formulate a “Monitoring Policy” to monitor the professional activities and conduct of professional members for their adherence to the provisions of the Code, Rules, Regulations and Guidelines issued thereunder, these Bye-Laws, the Code of Conduct and directions given by the Governing Board. Regulation 17 provides that the Monitoring Committee shall review the information and records submitted by the professional members in accordance with the Monitoring Policy.

Insolvency Professional

The Code requires Insolvency Professionals to submit certain information to IPA and IBBI under various provisions including Section 208 and Section 31 of the Code. The Code also requires Insolvency Professional to forward all records relating to the conduct of the Corporate Insolvency Resolution Process and the resolution plan to the Board. Regulation 16 of IBBI (Model Bye Laws and Governing Board of IPAs) Regulations provides that a professional member shall submit information, including records of ongoing and concluded engagements as an insolvency professional, in the manner and format specified by the Agency, at least twice a year and Code of Conduct of insolvency professionals under First Schedule of IBBI (Insolvency Professionals) also provides inter-alia that the insolvency professional should perform his work with honesty, integrity, objectivity and impartiality.

Monitoring Procedure

The Agency shall have procedural framework comprising of collection of the information and documents both from Insolvency Professionals and from independent sources to monitor the performance of Insolvency Professionals.

The scope of procedure is as follows:-

- (a) IP's who have not undertaken any appointments are required to file static data only.
- (b) IPs who have completed the assignment are required to file static data except where due to pending assignment/proceedings before the authority, any information emerges falling into other categories may require the submission of dynamic & qualitative data.
- (c) IP's who have undertaken any appointments are required to file all the data as detailed below.

1) Static Data

Static Data consists of information furnished by a person at the time of enrolment with Agency, which is less likely to change but is material in terms of the eligibility of the Member to continue as an Insolvency Professional (IP), example, Employment Status, Conviction, Change of Nationality, Suspension or Restoration of COP, etc. Any change in the Static Data will need to be informed by Insolvency Professional immediately to the IPA, but in no case later than 15 days of such change having occurred or its having come to the knowledge of the Member. In all cases, the IP/Member will be required to submit a fresh Status report to the IPA at the time of his annual renewal of Membership.

(i) Periodicity of Submission:

- (a) At the time of enrolment
- (b) At the time of renewal of membership
- (c) As and when called upon by IPA ICAI

(ii) Periodicity of submission of Changes in Static Data

Immediately on any change in Static Data, as provided above, but in any case not later than 15 days of the occurrence of the change.

2) Dynamic Data

1. Every Insolvency Professional is required to report each assignment under the Code on monthly basis latest by 7th day of the following month and submit a copy of the records of every proceeding before the Adjudicating Authority to Monitoring Committee.

The report should, inter alia, include comments for all cases being handled, on the following:

- a) All records relating to the conduct of the corporate insolvency resolution process and the resolution plan to the Board to be recorded on its database.
 - b) Non adherence to directions/regulations/laws, if any, with reasons;
 - c) Reasons for not maintaining time lines, if any, separately for all cases;
 - d) Nature of condonation sought, if applicable, and adjudicating authority's response thereto;
 - e) In case of pending proceedings, the Member would be required to submit a Status report till the case is finally closed
2. The Insolvency Professional shall immediately, and in no case later than 15 days of the appointment, inform IPA ICAI of the following:
 - a) Number and status of existing Resolution Processes being handled by the IP;
 - b) Date of fresh appointment as IRP/IP by NCLT;
 - c) Brief information about the new case awarded;
 - d) Proposed timelines for compliance with stipulations under the Act/Regulation or by NCLT or another agency with jurisdiction in the matter in respect of the new case;
 - e) Steps proposed to be taken for discharge of responsibilities as IP for the new and existing cases.
 - f) Any conflict of interest likely to arise.

3. The IP will be required to report within 48 hours

- (a) Any warnings or penalties or strictures imposed by the competent authority;
- (b) Initiation of legal action against the member.

4. The Insolvency Professional will also submit a summary of the outcome of each Resolution Process within 21 days of its conclusion.
5. The IP shall send a copy of all the communications sent to IBBI in so far as it relates to insolvency proceedings.

3) Other qualitative information

The following supplementary information also needs to be submitted by the Professionals:

- a) The details of the appointments made under the Insolvency & Bankruptcy Code,
- b) Summary of transactions conducted with stakeholders during the period of his appointment;
- c) Summary of transactions conducted with third parties during the period of his appointment; and
- d) The outcome of each appointment.

(i) Periodicity of submission

Details of the outcome of each appointment within 21 days of its conclusion.

Manner / Format of Submission of Information

Information will be submitted by IPs on the formats placed at Annexure 1 for Static Data and Annexure 2 for Dynamic Data & Annexure 3 for other Qualitative Information.

Use, Analysis and Storage of Information and Records

Monitoring Committee shall appoint a Monitoring Officer whose role is to perform:-

- (a) Maintain the data / reports received from IP.
- (b) Receive and communicate with all stakeholders on behalf of monitoring committee.
- (c) Prepare summary reports as required under the code for onwards submission to board of directors, IPAICAI and IBBI.
- (d) Prepare summary reports regarding non-compliance of the monitoring policy by the IPs and present before the monitoring committee on monthly basis.
- (e) Correspondence on behalf of the monitoring committee with members.

A designed email Id would be provided on the website on IPAICAI enabling members to submit all the information as required under this policy.

Reports to be submitted to IBBI

IPA ICAI shall submit a report to IBBI on the Format presently in use (Annexure B), containing information collected from professionals, pertaining to -

- (a) the details of the appointments made under the Insolvency & Bankruptcy Code,
- (b) the transactions conducted with stakeholders during the period of his appointment;
- (c) the transactions conducted with third parties during the period of his appointment; and
- (d) the outcome of each appointment.
- (e) any other related information.

Storage of information and records

The data so collected shall be stored and recorded in a physical and/or digital manner for a period of 5 years, having due regard for:

- (a) ensuring the privacy of members and confidentiality of information received, except when disclosure of information is required by the Board or by law,
- (b) in a non-discriminatory, and
- (c) with proper safeguards, including Disaster Recovery Mechanism procedures.

Monitoring Visits

For each Insolvency Professional the Agency in pursuance of monitoring objective, a scheme to undertake monitoring visits of IPs for inspection to include review of compliance of obligations under the Code. The frequency of such visits will be determined using a risk-based approach and will have regard to the following:

- (a) Review of the information / documents received from the IPs
- (b) Any information received from stakeholders and regulators.
- (c) Information received from third party resources.
- (d) On the direction of Board of IPA ICAI.

The monitoring committee may direct the inspection to be carried out and also prescribing the scope of inspection by any member of the committee, officer / member of the Board of IPA ICAI, members (IP) or an Firm of practicing Cost Accountants individually or collectively or in any manner as determined by the Monitoring Committee.

On completion of a monitoring visit to insolvency professional, the Monitoring Team shall submit its report setting out the scope of the monitoring visit, the extent to which the insolvency professional comply with the terms of reference of Team and relevant law and practice and other legislation, the extent to which professional competence has been

tested and achieved and any other information which the Monitoring Team would like to add in the report.

Review of Information, Records And Documents

- (a) The Monitoring Committee shall review the information and records submitted by the professional members in its meeting.
- (b) The Monitoring Committee shall take all adequate measures to preserve the privacy and confidentiality of all submitted records unless required by the Board or by law enforced in the country
- (c) Based on the records submitted by the insolvency professionals, the Monitoring Committee will evaluate the performance of the members and categorise them into three categories:-

(i) Category A – Compliant

Members submitting the information regularly and comply with the regulations under the Code are considered as Compliant.

(ii) Category B – Semi-Compliant

Members submitting information with delay or irregular in complying with policy or partly complying with the regulations under the Code are considered as Semi-Compliant.

(iii) Category C – Non-Compliant

Members who are not complying with the regulations under the Code or not filing any information with the Monitoring Committee at all are considered as Non-Compliant.

The committee shall post the status of each member on its website.

Review of the Monitoring Policy

The Monitoring Committee will take reasonable step in seeking to confirm compliance on the part of Insolvency Professionals with all relevant aspects of Code, Rules, Regulations and Guidelines issued under the Code, and other legislations that may impact an individual while acting as Insolvency Professional. The above includes the requirements of Code of Conduct prescribed under First Schedule of Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations 2016, which have been adopted by Agency.

The implementation of the Policy will be monitored and reviewed by the Monitoring Committee at quarterly interval and half-yearly by the Governing Board of IPA ICAI.

The Monitoring Policy may be amended from time to time by the Governing Board and will remain in force till further instructions of the Governing Board or IBBI.

Obligations to comply with the Monitoring Policy

- (a) Every Professional registered with IPA ICAI is obliged to comply with the requirements of the Monitoring Policy.
- (b) The Monitoring Committee shall review the information and records submitted by the IP with the objective of monitoring the professional activities and conduct of each member.
- (c) Falsification, misreporting or non-reporting of information required under the Monitoring Policy or sought separately by the Monitoring Committee or any other competent authority may lead to initiation of Disciplinary Proceedings against the member.
- (d) The guidelines set here should be strictly adhered to, failing which action against the Professional may be recommended by the Monitoring Committee to the Disciplinary Committee of IPA ICAI.

**Reporting Format
Static Data**

Name:

Enrolment Number:

Address for Correspondence:

Email/Mobile:

Reporting Format for Static Data:

Sr. No.	Static DataChangeParticulars	Date ofChange	Reason forChange	Implications for Current/ Concluded Proceedings

Remarks:

Date:

Name and Signatures of IP

**Reporting Format
Dynamic Data**

Name:

Enrolment Number:

Address for Correspondence:

Email/Mobile:

Monthly Report

(To be provided separately for each Resolution Process)

Reporting Parameter	IP's Comments
a) All records relating to the conduct of the corporate insolvency resolution process and the resolution plan to the Board to be recorded on its database.	
b) Non adherence to directions/regulations/laws, if any, with reasons;	
c) Reasons for not maintaining time lines, if any, separately for all cases;	
d) Nature of condonation sought, if applicable, and adjudicating authority's response thereto;	
e) In case of pending proceedings, the Member would be required to submit a brief Status Report till the case is finally closed	

Report of New Appointment as IRP/IP (Max Time 15 days)

Reporting Parameter	IP's Comments
a) Number and status of existing Resolution Processes being handled by the IP;	
b) Date of fresh appointment as IRP/IP by NCLT;	
c) Brief information about the new case awarded;	
d) Proposed timelines for compliance with stipulations under the Act/Regulation or by NCLT or another agency with jurisdiction in the matter in respect of the new case;	
e) Steps proposed to be taken for discharge of responsibilities as IP for the new and existing cases.	
f) Any conflict of interest likely to arise	

Remarks:

Date:

Name and Signatures of IP

Flash Report (Within 3 working days of receipt of notice/order by IP)

Reporting Parameter	IP's Comments
a) Any warnings or penalties or strictures imposed by the competent authority	
b) Initiation of legal action against the member	

Remarks:

Date:

Name and Signatures of IP

**Reporting Format
Other Qualitative Information**

Name:

Enrolment Number:

Address for Correspondence:

Email/Mobile:

1.(a) Appointment Status – Resolution Process

Sr.No.	Key Items – Order Date	Comments

2.(b) Summary Report of Transactions with Stake Holders

Sr.No.	Date of Transaction	Amount (Rs.)	Purpose
	Total		

2.(c) Summary Report of Transactions with Third Parties

Sr.No.	Date of Transaction	Amount (Rs.)	Purpose
	Total		

2.(d) Outcome Report of Each Appointment

Sr.No.	Key Items – Order Date	Comments

Remarks:

Date:

Name and Signatures of IP

Report to IBBI

MIS Format for the transactions handled by the Insolvency Professionals enrolled with IPA-ICMAI

S · N o ·	Name of Corporate Debtor	Name of Petitioner	Category of Applications under CIRP						Date of filing of application with NCLT	Insolvency Commencement date(ICD)	NCLT reference to Board		Recommendation of IRP by the Board		Appointment of IRP	
			Section 7		Section 9		Section 10				Date	Days from ICD	Date	Days from NCLT Reference	Date	Days from ICD
			Normal	Fast Track	Normal	Fast Track	Normal	Fast Track								

Name of IRP	Public Announcement		Appointment of registered valuers by IRP		Constitution of CoC by IRP		Date of first meeting of CoC	
	Date	Days from ICD	Date	Days from ICD	Date	Days from ICD	Date	Days from ICD

Date of Appointment of RP	No. of meetings held for CoC till date	Date of submission of IM		Date of approval of resolution plan by CoC	Extension, if any, granted by AA	Date of approval/ rejection of resolution plan			Date of Liquidation order, if any
		Date	Days from ICD			If Approved	If Rejected	Days from ICD	

Voluntary

Winding Up

S N	Name of Company	Date of declaration by directors	Date of spl resolution/ Insolvency Commencement Date	Name of Liquidator	Date of notifying to ROC and Board	Date of Public Announcement	Date of application for dissolution before AA	Date of dissolution order	Intimation to ROC	Intimation to Board	Remarks