

GUIDANCE NOTE ON “AUTHORISATION FOR ASSIGNMENT”

Provisions under IBBI (Insolvency Professionals) Regulations, 2016

Insolvency and Bankruptcy Board of India (hereinafter referred as “IBBI”) introduced the concept of “Authorisation for Assignment” vide their notification dated 23rd July, 2019.

The term “Assignment” is defined under Regulation (2)(1)(a) of IBBI (Insolvency Professionals) Regulations, 2016 which means **any assignment of an insolvency professional as interim resolution professional, resolution professional, liquidator, bankruptcy trustee, authorised representative or in any other role under the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as “Code”).**

The term “Authorisation for Assignment” is defined under Regulation (2)(1)(aa) of IBBI (Insolvency Professionals) Regulations, 2016 which means **an authorisation to undertake an assignment, issued by an insolvency professional agency to an insolvency professional, who is its professional member, in accordance with its bye-laws.**

Regulation 7A of IBBI (Insolvency Professionals) Regulations, 2016 provides that an Insolvency Professional shall not accept or undertake any assignment after 31st December, 2019 unless he holds a valid authorisation for assignment on the date of such acceptance or commencement of such assignment, as the case may be.

Provided that the provisions of these regulation shall not apply to an assignment which an Insolvency Professional is undertaking as on 31st December, 2019 or on the date of expiry of his authorisation for assignment.

Alternatively, if an Insolvency Professional is accepting any assignment w.e.f 1st January, 2020; then he/she is required to have a valid “Authorisation for Assignment” duly issued by the Insolvency Professional Agency of which he/she is a member. An Insolvency Professional cannot accept any assignment under the Code w.e.f 1st January, 2020 if he/she doesn’t hold valid “Authorisation for Assignment”.

Illustration: If an Insolvency Professional registered with Insolvency Professional Agency of Institute of Cost Accountants of India wants to act as an Interim Resolution Professional for a corporate debtor on or after 1st January, 2020 then at the time of giving consent or at the time of commencement of assignment the concerned Insolvency Professional should hold a valid “Authorisation for Assignment” issued to him/her by Insolvency Professional Agency of Institute of Cost Accountants of India.

Further Regulation 11(8) (ba) of IBBI (Insolvency Professionals) Regulations, 2016 provides that in the event of passing of order to dispose of show cause notice (if any) issued to any Insolvency Professional, Disciplinary Committee of IBBI may even order for suspension or cancellation of authorisation for assignment issued to the Insolvency Professional.



Provisions under IBBI (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016 and Bye-Laws of Insolvency Professional Agency of Institute of Cost Accountants of India

Issuance/Renew of authorisation for assignment

Clause 12 A of Bye-Law VI of IBBI (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016 and Bye-Laws of Insolvency Professional Agency of Institute of Cost Accountants of India provides that:

- a) The Agency, on an application by its professional member, may issue or renew an authorisation for assignment.
- b) A professional member shall be eligible to obtain an authorisation for assignment, if he:
 - i. is registered with IBBI as an insolvency professional;
 - ii. is a fit and proper person in terms of the *Explanation* to clause (g) of regulation 4 of the IBBI (Insolvency Professionals) Regulations, 2016;
 - iii. is not in employment;
 - iv. is not debarred by any direction or order of the Agency or the Board;
 - v. has not attained the age of seventy years;
 - vi. has no disciplinary proceeding pending against him before the Agency or the Board;
 - vii. complies with requirements, as on the date of application, with respect to-
 - payment of fee to the Agency and the Board;
 - filings and disclosures to the Agency and the Board;
 - continuous professional education; and
 - other requirements, as stipulated under the Code, regulations, circulars, directions or guidelines issued by the Agency and the Board, from time to time.
- c) An application for issue or renewal of an authorisation for assignment, shall be in such form, manner and with such fee, as may be provided by the Agency:

Provided that an application for renewal of an authorisation for assignment shall be made any time before the date of expiry of the authorisation, but not earlier than forty- five days before the date of expiry of the authorisation.

- d) The Agency shall consider the application in accordance with the bye-laws and either issue or renew, as the case may be, an authorisation for assignment to the professional member in Form B or reject the application with a reasoned order.
- e) If the authorisation for assignment is not issued, renewed or rejected by the Agency within fifteen days of the date of receipt of application, the authorisation



shall be deemed to have been issued or renewed, as the case may be, by the Agency.

- f) An authorisation for assignment issued or renewed by the Agency shall be valid for a period of one year from the date of its issuance or renewal, as the case may be, or till the date on which the professional member attains the age of seventy years, whichever is earlier.
- g) An applicant aggrieved of an order of rejection of his application by the Agency may appeal to the Membership Committee within seven days from the date of receipt of the order.
- h) The Membership Committee shall pass an order disposing of the appeal by a reasoned order, within fifteen days of the date of receipt of the appeal.

Power of Disciplinary Committee to suspend/cancel authorisation for assignment

Clause 24(2) (ba) of Bye-Law X of IBBI (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016 and Bye-Laws of Insolvency Professional Agency of Institute of Cost Accountants of India provides that in the event of passing of any order by the Disciplinary Committee of Agency, the Disciplinary Committee may even order for suspension or cancellation of authorisation for assignment issued to the Insolvency Professional.

Process of surrender of authorisation for assignment

Clause 26 of Bye-Law XI of IBBI (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016 and Bye-Laws of Insolvency Professional Agency of Institute of Cost Accountants of India provides that if a professional member is willing to surrender his authorisation for assignment, then he/she shall make an application to surrender his authorisation for assignment to the Agency at least thirty days before he-

- a) becomes a person resident outside India;
- b) takes up an employment; or
- c) starts any business, except as specifically permitted under the Code of Conduct, and upon acceptance of such surrender, the same shall be intimated to the IBBI by the Agency within one working day of acceptance of surrender.

No application for surrender of authorisation for assignments shall be accepted by the Agency, if:

- a) the authorisation for assignment has been suspended;
- b) an assignment is continuing; or
- c) name of the professional member is included in any panel prepared by the Board for undertaking assignment.

