

# **CODE OF CONDUCT FOR INSOLVENCY PROFESSIONALS**

**Insolvency Professional Agency of Institute of Cost Accountants of India has adopted the Code of Conduct for Insolvency Professionals as prescribed under “First Schedule” of Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016**

**(Amended up to 4<sup>th</sup> July 2022)**



**INSOLVENCY PROFESSIONAL AGENCY  
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA**

## **INTEGRITY AND OBJECTIVITY**

1. An insolvency professional must maintain integrity by being honest, straightforward, and forthright in all professional relationships.
2. An insolvency professional must not misrepresent any facts or situations and should refrain from being involved in any action that would bring disrepute to the profession.
3. An insolvency professional 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.

[3A. An insolvency professional must disclose the details of any conflict of interests to the stakeholders, whenever he comes across such conflict of interest during an assignment.]

4. An insolvency professional appointed as an interim resolution professional, resolution professional, liquidator, or bankruptcy trustee should not himself acquire, directly or indirectly, any of the assets of the debtor, nor knowingly permit any relative to do so.

## **INDEPENDENCE AND IMPARTIALITY**

5. An insolvency professional 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.
6. In cases where the insolvency professional is dealing with assets of a debtor during liquidation or bankruptcy process, he must ensure that he or his relatives do not knowingly acquire any such assets, whether directly or indirectly unless it is shown that there was no impairment of objectivity, independence or impartiality in the liquidation or bankruptcy process and the approval of the Board has been obtained in the matter.
7. An insolvency professional shall not take up an assignment under the Code if he, any of his relatives, any of the partners or directors of the insolvency professional entity of which he is a partner or director, or the insolvency professional entity of which he is a partner or director is not independent, in terms of the Regulations related to the processes under the Code, in relation to the corporate person/ debtor and its related parties.
8. An insolvency professional shall disclose the existence of any pecuniary or personal relationship with any of the stakeholders entitled to distribution under sections 53 or 178 of the Code, and the concerned corporate person/ debtor as soon as he becomes aware of it, by making a declaration of the same to the applicant, committee of creditors, and the person proposing appointment, as applicable.

[8A. An insolvency professional shall disclose as to whether he was an employee of or has been in the panel of any financial creditor of the corporate debtor, to the committee of creditors and to the insolvency professional agency of which he is a professional member and the agency shall publish such disclosure on its website.]

[8B. An insolvency professional shall disclose his relationship, if any, with the corporate debtor , other professionals engaged by him, financial creditors, interim finance providers, and prospective resolution applicants to the insolvency professional agency of which he is a member, within the time specified hereunder:

<b>Relationship of the insolvency professional with</b>	<b>Disclosure to be made within three days of</b>
(1)	(2)
Corporate debtor	His appointment.
Registered valuers/ accountants/ legal professionals/ other professionals appointed by him	Appointment of the professionals.
Financial creditors	The constitution of committee of creditors.
Interim finance providers	The agreement with the interim finance provider.
Prospective resolution applicants	The supply of information memorandum to the prospective resolution applicant.
If relationship with any of the above, comes to notice or arises subsequently	Of such notice or arising.

8C. An insolvency professional shall ensure disclosure of the relationship, if any, of the other professionals engaged by him with himself, the corporate debtor, the financial creditor, the interim finance provider, if any, and the prospective resolution applicant, to the insolvency professional agency of which he is a member, within the time specified as under :

<b>Relationship of the other professional with</b>	<b>Disclosure to be made within three days of</b>
Insolvency professional	The appointment of the other professional
Corporate debtor	The appointment of the other professional
Financial creditor	Constitution of committee of creditors.
Interim finance providers	The agreement with the interim finance provider or three days of the appointment of the other professional, whichever is later.
Prospective resolution applicants	The supply of information memorandum to the prospective resolution applicant or three days of the appointment of the other professional, whichever is later.
If relationship with any of the above, comes to notice or arises subsequently	Of such notice or arising.

Explanation: For the purpose of clause 8B and 8C above, 'relationship' shall mean any one or more of the following four kinds of relationship at any time or during the three years preceding the appointment of other professionals:

<b>Kind of relationship</b>	<b>Nature of relationship</b>
(1)	(2)
A	Where the insolvency professional or the other professional, as the case may be, has derived 5% or more of his/ its gross revenue in a year from professional services to the related party.
B	Where the insolvency professional or the other professional, as the case may be, is a shareholder, director, key managerial personnel or partner of the related party.
C	Where a relative (spouse, parents, parents of spouse, sibling of self and spouse, and children) of the insolvency professional or the other professional, as the case may be, has a relationship of kind A or B with the related party.

D	Where the insolvency professional or the other professional, as the case may be, is a partner or director of a company, firm or LLP, such as, an insolvency professional entity or registered valuer, the relationship of kind A, B or C of every partner or director of such company, firm or LLP with the related party.
---	--

8D. An insolvency professional shall ensure timely and correct disclosures by him, and other professionals appointed by him and shall provide a confirmation to the insolvency professional agency of which he is a professional member to the effect that the appointment, if any, of every other professional has been made at arms' length relationship. ]

9. An insolvency professional shall not influence the decision or the work of the committee of creditors or debtor, or other stakeholders under the Code, so as to make any undue or unlawful gains for himself or his related parties, or cause any undue preference for any other persons for undue or unlawful gains and shall not adopt any illegal or improper means to achieve any *mala fide* objectives.

### **PROFESSIONAL COMPETENCE**

10. An insolvency professional must maintain and upgrade his professional knowledge and skills to render competent professional service.

### **REPRESENTATION OF CORRECT FACTS AND CORRECTING MISAPPREHENSIONS**

11. An insolvency professional must inform such persons under the Code as may be required, of a misapprehension or wrongful consideration of a fact of which he becomes aware, as soon as may be practicable.
12. An insolvency professional must not conceal any material information or knowingly make a misleading statement to the Board, the Adjudicating Authority or any stakeholder, as applicable.

### **TIMELINESS**

13. An insolvency professional must adhere to the time limits prescribed in the Code and the rules, regulations, and guidelines thereunder for insolvency resolution, liquidation or bankruptcy process, as the case may be, and must carefully plan his actions, and promptly communicate with all stakeholders involved for the timely discharge of his duties.
14. An insolvency professional must not act with *mala fide* or be negligent while performing his functions and duties under the Code.

### **INFORMATION MANAGEMENT**

15. An insolvency professional must make efforts to ensure that all communication to the stakeholders, whether in the form of notices, reports, updates, directions, or clarifications, is made well in advance and in a manner which is simple, clear, and easily understood by the recipients.
- [15A. An insolvency professional shall prominently state in all his communications to a stakeholder, his name, address, e-mail, registration number and validity of authorisation for assignment, if any, issued by the insolvency professional agency of which he is a member.]

16. An insolvency professional must ensure that he maintains written contemporaneous records for any decision taken, the reasons for taking the decision, and the information and evidence in support of such decision. This shall be maintained so as to sufficiently enable a reasonable person to take a view on the appropriateness of his decisions and actions.
17. An insolvency professional must not make any private communication with any of the stakeholders unless required by the Code, rules, regulations and guidelines thereunder, or orders of the Adjudicating Authority.
18. An insolvency professional must appear, co-operate and be available for inspections and investigations carried out by the Board, any person authorised by the Board or the insolvency professional agency with which he is enrolled.
19. An insolvency professional must provide all information and records as may be required by the Board or the insolvency professional agency with which he is enrolled.
20. An insolvency professional must be available and provide information for any periodic study, research and audit conducted by the Board.

#### **CONFIDENTIALITY**

21. An insolvency professional must ensure that confidentiality of the information relating to the insolvency resolution process, liquidation or bankruptcy process, as the case may be, is maintained at all times. However, this shall not prevent him from disclosing any information with the consent of the relevant parties or required by law.

#### **OCCUPATION, EMPLOYABILITY AND RESTRICTIONS**

22. An insolvency professional must refrain from accepting too many assignments, if he is unlikely to be able to devote adequate time to each of his assignments.

[Clarification: An insolvency professional may, at any point of time, not have more than ten assignments as resolution professional in corporate insolvency resolution process, of which not more than three shall have admitted claims exceeding one thousand crore rupees each.]

23. An insolvency professional must not engage in any employment when he holds a valid authorisation for assignment or when he is undertaking an assignment.

[23A. Where an insolvency professional has conducted a corporate insolvency resolution process, he and his relatives shall not accept any employment, other than an employment secured through open competitive recruitment, with, or render professional services, other than services under the Code, to a creditor having more than ten percent voting power, the successful resolution applicant, the corporate debtor or any of their related parties, until a period of one year has elapsed from the date of his cessation from such process.

23B. An insolvency professional shall not engage or appoint any of his relatives or related parties, for or in connection with any work relating to any of his assignment.

23C. An insolvency professional shall not provide any service for or in connection with the assignment which is being undertaken by any of his relatives or related parties.

Explanation.- For the purpose of clauses 23A to 23C, “related party” shall have the same meaning as assigned to it in clause (24A) of section 5, but does not include an insolvency professional entity of which the insolvency professional is a partner or director.]

24. An insolvency professional must not conduct business which in the opinion of the Board is inconsistent with the reputation of the profession.

#### **RENUMERATION AND COST**

25. 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.

[25A. An insolvency professional shall disclose the fee payable to him, the fee payable to the insolvency professional entity, and the fee payable to professionals engaged by him to the insolvency professional agency of which he is a professional member and the agency shall publish such disclosure on its website.

25B. An insolvency professional shall raise bills or invoices in his name towards his fees, and such fees shall be paid to him through banking channel.

25C. An insolvency professional shall ensure that the insolvency professional entity or the professional engaged by him raises bill or invoices in their own name towards their fees, and such fees shall be paid to them through banking channel.]

26. An insolvency professional shall not accept any fees or charges other than those which are disclosed to and approved by the persons fixing his remuneration.

27. An insolvency professional shall disclose all costs towards the insolvency resolution process costs, liquidation costs, or costs of the bankruptcy process, as applicable, to all relevant stakeholders, and must endeavour to ensure that such costs are not unreasonable.

[27A. An insolvency professional shall, while undertaking assignment or conducting processes, exercise reasonable care and diligence and take all necessary steps to ensure that the corporate person complies with the applicable laws.

27B. An insolvency professional shall not include any amount towards any loss, including penalty, if any, in the insolvency resolution process cost or liquidation cost, incurred on account of non-compliance of any provision of the laws applicable on the corporate person while conducting the insolvency resolution process, fast track insolvency resolution process, liquidation process or voluntary liquidation process, under the Code.]

#### **GIFTS AND HOSPITALITY**

28. An insolvency professional, or his relative must not accept gifts or hospitality which undermines or affects his independence as an insolvency professional.

29. An insolvency professional shall not offer gifts or hospitality or a financial or any other advantage to a public servant or any other person, intending to obtain or retain work for himself, or to obtain or retain an advantage in the conduct of profession for himself.