

PROVISIONS PERTAINING TO REPORTING BY INSOLVENCY PROFESSIONAL UNDER THE CODE

- As per Section 208 (2)(d) of the Code, every Insolvency Professional shall (IP) submit a copy of the records of every proceeding before the Adjudicating Authority to the Insolvency and Bankruptcy Board of India (IBBI) as well as to the Insolvency Professional Agency of which he is a member.
- As per Clause 16 of the Schedule prescribed under IBBI (Model Bye-Laws & Governing Board of Insolvency Professional Agencies) Regulations, 2016; a professional member shall submit information, including records of ongoing and concluded engagements as an IP, in the manner and format specified by the respective Insolvency Professional Agency at least twice a year.
- An IP shall abide by the Monitoring Policy adopted by the Insolvency Professional Agency with whom he/she is enrolled and shall make timely reporting in accordance with the policy.
- An IP shall maintain and preserve complete and proper record of all the assignments (corporate insolvency resolution process/ voluntary liquidation/ liquidation) handled by them. IBBI in consultation with IPAs will soon notify the retention schedule of records by an IP. The reference of the same has been given under Regulation 39A notified via Insolvency and Bankruptcy Board of India (insolvency Resolution Process for Corporate Persons) (Fourth Amendment) Regulations, 2018.



REPORTING PURSUANT TO THE CIRCULARS ISSUED BY IBBI

IBBI Circular dated 16th January, 2018	Disclosures by Insolvency Professionals and other professionals appointed by Insolvency Professionals conducting Resolution Process
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Events for Filing Relationship Disclosure (*within 3 days from the occurrence of event*)

- Appointment as IRP/RP
- Constitution of CoC
- Appointment of other professionals
- Raising of Interim Finance
- Supply of Information Memorandum

Relationship shall mean any one or more of the four kinds of relationships at any time or during the three years preceding the appointment:

Kind 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.
Kind 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.
Kind 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.
Kind 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.



**INSOLVENCY PROFESSIONAL AGENCY
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA (IPA ICAI)**

Points to remember

- Enter correct dates for every event.
- File disclosure on the event of appointment of every professional eg. Registered Valuer, Accountant, Forensic Auditor etc.
- Check arms length relationship.
- File disclosure in the event of availing support services from IPE.
- Properly evaluate existence of relationship (if any).
- File within timelines.

**IBBI Circular dated
12th June,2018**

**Fee and other Expenses incurred for Corporate
Insolvency Resolution Process**

Events for Filing Relationship Disclosure (*within 7 days from the occurrence of event*)

- **Form I & II:** Within 7 days from demitting office as IRP
- **Form III:** Within 7 days from demitting office as RP

Demitting means leaving office either on completion of term as IRP, resignation, removal, reappointment as RP or otherwise.

Points to remember

- Enter correct dates with regard to the appointment as IRP/RP.
- Select relevant head before putting value in respect of any expense.
- Fee paid for support services taken from IPE to be disclosed in the forms.
- Enter correct values under each head and same should in sync with the supporting document available in respect of particular fees and expense.
- If an expense is not required to be ratified by CoC, then write NA under the head "Amount approved/ratified by CoC".
- Ensure sync between the relationship disclosure and cost disclosure especially with regard to the appointment of the professionals.
- File within timelines.



**INSOLVENCY PROFESSIONAL AGENCY
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA (IPA ICAI)**

IBBI Circular dated 17th October, 2018	Valuation under Insolvency and Bankruptcy Code, 2016
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- Appointment of any person, other than a 'registered valuer', that is, a valuer registered with the IBBI under the Companies (Registered Valuers and Valuation) Rules, 2017, on or after 1st February, 2019, to conduct any valuation required under the Insolvency and Bankruptcy Code, 2016, or any regulations made thereunder, including the Insolvency and Bankruptcy Board of India (Insolvency Resolution for Corporate Persons) Regulations, 2016, and the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, **is illegal and amounts to violation of the Circular aforesaid.**
- Any fees paid to any person, other than a 'registered valuer' for any valuation shall **not form part of the insolvency resolution process costs or liquidation cost.**

For the purpose of valuation under the Code and engagement letter being entered into should be either with IBBI Registered Valuer/Registered Valuers Entity clearly defining their name, address, IBBI registration number, their scope of work, fees and timeline within which report has to be provided.

Point to remember

- While making relationship disclosure IPs are mentioning name of the firm/company with respect to the appointment of registered valuers. IPs should specifically mention the individual name of the Registered Valuer (registered with IBBI).



**INSOLVENCY PROFESSIONAL AGENCY
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA (IPA ICAI)**

**IBBI Circular dated
14th August, 2019**

Filing of Forms for the purpose of monitoring corporate insolvency resolution processes and performance of insolvency professionals under the Insolvency and Bankruptcy Code, 2016 and the regulations made thereunder

Pursuant to this Circular, IBBI has developed an electronic platform for filing of the Forms above said. The said platform is hosted on the website of the IBBI. An IP shall access the said platform with the help of a unique username and password provided to him by the IBBI and upload / submit the Forms, along with relevant information and records, after affixing DSC or after e-signing.

Form	Period Coverage and Scope	To be filed by	Timelines
IP 1	<p>Pre-Assignment:</p> <p>a) Consent to accept assignment of an IP as IRP / RP / Liquidator / Bankruptcy Trustee</p> <p>b) Details of IP and the Applicant</p> <p>c) Details of the person which will undergo the process</p> <p>d) Terms of consent</p> <p>e) Terms of engagement</p> <p>f) Filing of application before AA and withdrawal before admission</p>	IP	Within three days of the relevant date.
CIRP 1	<p>From Commencement of CIRP till Issue of Public Announcement:</p> <p>Details of IRP, CD, and the Applicant, admission of application by AA, public announcement, details of suggested Authorised Representatives, non-compliances with the provisions of the Code and other laws applicable to the CD.</p>	IRP	Within seven days of making Public Announcement under Section 13
CIRP 2	<p>From Public Announcement till replacement of IRP:</p> <p>Details of Authorised Representative selected by IRPs for a class of creditors, taking over management of the CD, receipt and</p>	IRP	Within seven days of replacement of IRP.



	verification of claims, constitution of Committee of Creditors (CoC), first meeting of CoC, confirmation / replacement of IRP, applications seeking co-operation of management (if any), expenses incurred on or by IRP, relationship of IRP with the CD, financial creditors and Professionals, support services sought from IPE, non-compliances with the provisions of the Code and other laws applicable to the CD.		
CIRP 3	<p>From Appointment of RP till issue of Information Memorandum (IM) to Members of CoC:</p> <p>Details of RP, details of registered valuers, handing over of records of CD by IRP to RP, taking over management of the CD, applications seeking co-operation of management (if any), details in IM, non-compliances with the provisions of the Code and other laws applicable to the CD.</p>	RP	Within seven days of issue of IM to members of CoC.
CIRP 4	<p>From Issue of IM till issue of Request for Resolution Plans (RFRP):</p> <p>Expression of interest, request for resolution plans (RFRP) and modification thereof, evaluation matrix, non-compliances with the provisions of the Code and other laws applicable to the CD, if any, etc.</p>	RP	Within seven days of the issue of RFRP.
CIRP 5	<p>From Issue of RFRP till completion of CIRP:</p> <p>Updated list of claimants, updated CoC, details of the resolution applicants, details of resolution plans received, details of approval or rejection of resolution RP Within seven days of the approval or rejection of the plans by CoC, application filed with AA for approval of resolution plan; details of resolution plan approved by the AA, initiation of liquidation, if</p>	RP	Within seven days of the approval or rejection of the resolution plan or issue of order for liquidation, as the case may be, by the AA.



	applicable, expenses incurred on or by RP, appointment of professionals and the terms of appointment, relationship of the RP with the CD, financial creditors, and professionals, support services sought from IPE, non-compliances with the provisions of the Code and other laws applicable to the CD.		
CIRP 6	Event Specific: <ol style="list-style-type: none"> Filing of application in respect of PUFEE transaction Raising interim finance Insolvency resolution process of guarantors Extension of period of CIRP and exclusion of time Premature closure of CIRP (appeal, settlement, withdrawal, etc.) Request for liquidation before completion of CIRP Non implementation of resolution plan as approved by the AA. 	IRP/RP	Within seven days of the occurrence of event.

Common errors observed on part of IPs while filing forms

- Reason for delay in filing Public Announcement not provided.
- Date of filing disclosure with IPAs not provided.
- Reason for delay in submission of IM was not provided.
- Date of filing the application to AA was not provided.
- Date of filing of list of creditors with the AA was not given though the list is duly attached in the forms.
- Incomplete attachments in the forms.
- Errors in date of admission, amount admitted as debt, date of confirmation of RP.
- Wrong CIN details of CD
- Timelines are not correctly incorporated.
- Details of the orders passed by Adjudicating Authorities/Courts are incomplete like date of order; brief of order etc. is not captured.
- Details of Authorized Representative not provided.
- Mismatch in the information pursuant to the relationship and cost disclosure submitted on IPA website and provided in CIRP forms.



- Disclosure pertaining to the IPE appointed not made to IPA.
- Difference in date of constitution of Committee of Creditors and actual date.
- Date of confirmation as RP not mentioned.
- Reason of liquidation not provided in the respective form.
- In case of withdrawal of CIRP, forms pertaining to the RP tenure are not filed.

IMPORTANT

As per Regulation 40 B of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016), the filing of a Form under this regulation after due date of submission, **whether by correction, updation or otherwise**, shall be accompanied by a fee of five hundred rupees per Form for each calendar month of delay after 1st January, 2020.

Example: A Form is required to be filed by 30th January, 2020. It shall be filed along with a fee as under:

If filed on	Fees (Rs.)
29th January, 2020	0
30th January, 2020	0
31st January, 2020	500
Any day in February, 2020	1000
Any day in March, 2020	1500

The insolvency professional or interim resolution professional or resolution professional, as the case may be, shall be liable to any action which the Board may take as deemed fit under the Code or any regulation made thereunder, including refusal to issue or renew Authorisation for Assignment, for-

- a) failure to file a form along with requisite information and records;
- b) inaccurate or incomplete information or records filed in or along with a form;
- c) delay in filing the form

