



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

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

VERSION 1.1

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1. INTRODUCTION

Insolvency Professional Agency of Institute of Cost Accountants of India (IPA ICAI) is a company incorporated under Section 8 of the Companies Act, 2013, a wholly owned subsidiary of Institute of Cost Accountants of India and registered under Section 201 of the Insolvency and Bankruptcy Code, 2016 (“Code”) with Insolvency and Bankruptcy Board of India (“IBBI”). It was awarded its registration on 30th November, 2016. Its function is to enroll and regulate Insolvency Professionals (IPs) as its professional members in accordance with the Insolvency and Bankruptcy Code 2016 read with regulations and rules thereunder.

2. PREAMBLE

2.1 The role of Insolvency Professional Agencies (IPAs) as envisaged under Section 204, IBC inter alia includes monitoring the performance of its professional members (IPs) enrolled with it and registered with IBBI.

2.2 The mandates relating to Monitoring the Professional Members are specified in IBBI (Model Bye Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016 (hereinafter called ‘IBBI (IPA) Regulations’) and IBBI (Insolvency Professionals) Regulations, 2016(hereinafter called ‘IBBI (IP) Regulations’). Those are as below:

2.2.1. Clause 8(1)(b) of the Schedule to the IBBI (IPA) Regulations requires every Governing Board of an Insolvency Professional Agency (IPA) to constitute a Monitoring Committee. Further, Clause 8(2) thereof requires the Chairman of the Monitoring Committee to be an Independent Director from amongst the Independent Directors of the board of the IPA.

2.2.2. Regulation 15 to 20 of IBBI (IPA) Regulations lays down the monitoring mechanism in detail.

2.2.3. Clause 18 of the Schedule to the IBBI (IPA) Regulations requires every IPA to have a Monitoring Policy that shall inter alia cover the manner and format of submission or collection of information and records of the professional members including by way of inspection.

2.2.4. Clause 18 of first Schedule to IBBI (IP) Regulations states that an Insolvency Professional must appear, cooperate and be available for inspection and investigations carried out by the Board, any person authorised by the Board or the Insolvency Professional Agencies with which he is enrolled.

3. OBJECTIVE

The objective behind framing and laying down of this Inspection policy is to provide for mechanism with rules, guidelines and framework for IPA ICAI to comply with and carry out its monitoring mandate vis-à-vis its registered professional members which is to be in line with the letter and spirit of the Insolvency and Bankruptcy Code (IBC).

3.1 The objective behind this Inspection Policy is as below:

3.1.1. To ensure that the records are being maintained by all professional members (Insolvency Professional) in the manner as required under the relevant Code, Regulations, Circulars, Notifications, Guidelines, et al;

3.1.2. To ascertain whether adequate internal control systems, procedures and safeguards have been adopted and established and are being regularly followed by the registered members (Insolvency Professionals) to fulfil their obligations under the Code, relevant Regulations, Circulars, Notifications, Guidelines, et al;

3.1.3. To ascertain whether any circumstance exists which would render a professional member (registered Insolvency Professional) unfit or ineligible;

3.1.4. To ascertain whether the provisions of the Code, Rules & Regulations, Guidelines, Circulars, Notifications made thereunder and the directions issued by the IBBI, if any, issued from time to time, are being complied with;

3.1.5. To inquire into all reasonable and credible complaints received from any aggrieved person on any matter having a connection with or bearing on the activities of a professional member (registered Insolvency Professional); and

3.1.6. Such other purposes as may be deemed fit by the IPA ICAI in furtherance of the objectives of the Code, Rules, Regulations et al.

3.2 Inspections are also instruments/mechanisms to:

3.2.1. Keep and put in place checks and balances on any unauthorised action(s) of the professional members (registered Insolvency Professional) and take cognizance of all reasonable and credible complaints against such registered members and provide appropriate relief to the aggrieved person.

3.2.2. Ensure that no false or misleading information is provided by any of the professional member (registered Insolvency Professional) in regard to the assignments handled by him/her.

3.2.3. Give a fair chance of hearing to the professional member (Registered Insolvency Professional).

3.3 The policy shall be carried out through ascertaining the compliance, conduct and performance of the professional members who have taken up role as Resolution

Professionals/Liquidators/Voluntary Liquidators/Authorized representatives etc or in any other capacity as specified under the Code/Regulations thereunder, with an unbiased/impartial approach and without any discrimination.

4. DEFINITIONS

In the Inspection Policy of IPA ICAI, unless the context requires:

- 4.1. "Board" means the Insolvency and Bankruptcy Board of India (IBBI);
- 4.2. "Code" means the Insolvency and Bankruptcy Code, 2016;
- 4.3. "Committee" means the Monitoring Committee constituted by the Governing Board of the Agency "IPA" means IPA ICAI;
- 4.4. "IPA ICAI" means the Insolvency Professional Agency of the Institute of Cost Accountants of India, a section 8 Company, registered with Insolvency and Bankruptcy Board of India under section 201 of the Insolvency and Bankruptcy Code, 2016;
- 4.5. "Governing Board" means the Board of Directors of IPA ICAI constituted under clause 5 of the Bye-Laws of IPA ICAI;
- 4.6. "Bye-Laws" means Bye-Laws of the IPA ICAI based on the Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016;
- 4.7. "IBBI" means the Insolvency and Bankruptcy Board of India established under section 188 of the Insolvency and Bankruptcy Code, 2016;
- 4.8. "MD/CEO" means Managing Director/CEO of IPA ICAI;
- 4.9. "Insolvency Professionals" means Professional Member enrolled with IPA ICAI
- 4.10. "Inspection" means inspection of a professional member in physical mode and/or electronic mode or virtual mode, as may be termed.
- 4.11. "Monitoring Officer" means the officer of IPA ICAI designated by the Board of IPA ICAI for monitoring the performance of professional members of IPA ICAI.
- 4.12. "Inspection Officer" means the officer designated by the office of IPA ICAI/Monitoring Committee to lead the team of inspection of an Insolvency Professional.

All words and expressions used and not defined in this Policy, but defined in the Code, shall have the same meaning as assigned to them in the Code.

5. REFERENCE OF MONITORING POLICY OF IPA ICAI

Clause 10 of the Monitoring Policy of IPA ICAI, as approved by the Governing Board of IPA ICAI, provides for the following two types of monitoring viz.:

5.1 Desktop Monitoring

5.2 Inspection of professional members which may be a Routine/Random Inspection or Trigger Based Inspection

6. APPLICABILITY

This Inspection Policy shall be applicable on all Professional Members of IPA ICAI and are registered as Insolvency Professionals with IBBI.

7. SCOPE OF POLICY

The scope of the Inspection Policy shall include but would not be restricted to the following:

- 7.1. Adherence to provisions of the Code, Rules, Regulations and Circulars.
- 7.2 Adherence to the directions of Adjudicating Authorities (NCLT) and the Appellate Authority (NCLAT) and apex Court /Hon'ble Supreme Court or any other competent court of law
- 7.3 Adherence to the Directions / orders of the IBBI.
- 7.4 Adherence of the order of the IPA ICAI.

8. AUTHORISATION

Each inspection to be carried out in terms of this policy shall require a pre-authorisation by the Monitoring Committee of IPA ICAI.

Inspecting Authority (IA) means an officer or a team of officers of IPA ICAI, including an independent expert, if required, as would be directed by the MD/CEO of IPA ICAI, to be selected from the pre-approved list of experts by the Monitoring Committee of IPA ICAI, to conduct the inspection of a professional member of IPA ICAI.

Independent experts can neither be relatives nor shall have any pecuniary interest with the professional member who is being inspected.

9. TYPES OF INSPECTION

Keeping in mind the objectives of the Monitoring Policy, IPA ICAI may carry out the on-site visit at the registered corporate office of the professional members or off-site inspections through e-platforms. On endorsement of Monitoring Committee, IPA ICAI may select the Professional Member to be inspected on following 2 criteriums:

- 9.1 Random Inspection:** Under this criterion IPA ICAI may randomly identify the Professional Member having assignments (other than those identified under trigger basis) during a particular Financial Year for the purpose of on-site/off-site inspection on the basis of Annual Inspection Plan, approved by the Monitoring

Committee of IPA ICAI according to the frequency and percentage of inspection for a Financial Year.

9.2 Trigger based Inspection: Under this criterion, IPA ICAI may carry out on-site/off-site inspections as per the circumstances prescribed in the Monitoring Policy and approved by Monitoring Committee of IPA ICAI for the Professional Members during a particular financial year. The circumstances are as below:

9.2.1. Professional Member(s) flagged under Desktop Monitoring.

9.2.2. Professional Member(s) handling multiple assignments

9.2.3. Professional Member(s) making regular non-compliance under the Code

9.2.4. Professional Member(s) against whom a complaint has been received

9.2.5. Professional Member(s) identified by IBBI or the Governing Board of IPA ICAI or Monitoring Committee of IPA ICAI.

9.2.6. Such other event as may be deemed fit by the Board.

The Professional Member(s) so flagged for inspection shall be required to complete a compliance questionnaire (pre-inspection questionnaire) and submit various documents and records, if required, to the Inspection Authority for inspection. After assessing this documentation, Inspection Authority shall consider whether an inspection visit is necessary. The purpose of the visit shall be to confirm the accuracy of the information supplied on the compliance questionnaire. Professional Member(s) who fail to supply the requested information will be subjected to a scheduled inspection visit.

Random inspections are planned in advance. They usually cover all assignments handled by an IP during the relevant period. On the other hand, Trigger based inspections may cover a certain specific assignment, or a specific part of a process, or all the assignments or any combination depending on the facts of the case.

Where the Professional Member holds no appointment as an Insolvency Professional or has not taken up any assignment in a particular Financial Year, the on-site/off-site inspection may be undertaken at the discretion of the Monitoring Committee.

The on-site visit shall be undertaken by Inspection Authority with his/her team along with such other authorized officials as the MD/CEO deems fit with an approval of the Monitoring Committee.

10. DUTIES AND RIGHTS OF THE INSPECTING AUTHORITY (IA)

10.1. DUTIES

10.1.1. Confidentiality and least burden: Every effort should be made by the IPA and the IA to keep the inspection confidential and to cause least burden on, or to cause the least disruption to, the business of the IP under inspection.

10.1.2. Visit: The IA may visit the office(s) of the IP for conducting the on-site inspection.

10.1.3. Dress Code: While on duty, the IA will dress appropriately to safeguard their own image as well as the image of the IPA. The IA will carry their official Identity Card at all times during inspection.

Dress code is as defined below:

For Men	Formal White/Light coloured shirts Black/Dark coloured full pants/trousers Formal coats (during winters)
For Women	Light/sober coloured salwar suits Sober coloured sarees Formal sober coloured shirts and trousers Formal Coats/Sober coloured sweaters
<i>** sleeve less dresses are strictly prohibited</i>	

10.1.4. Timings: Unless it is specifically warranted for, the IA shall conduct inspection during the usual hours for business in a working day(s).

10.1.5. Entry: On entering the premise of the IP, the IA has to ensure the following:

10.1.5.1. Establish and use the legal entry into the office premises.

10.1.5.2. Identify self and present the official identification.

10.1.5.3. Sign the visitor's book which is used in the IP's office to keep a record of the visitors.

10.1.6. Professionalism: While interacting with the IP, the IA should maintain the following:

10.1.6.1. The IA must always maintain high standards of professionalism.

10.1.6.2. The IA shall strive to engage in dialogue with the IP and his team members in calm and composed manner.

10.1.6.3. Diplomacy, fairness and equity should be the cornerstone of the IA's position.

10.1.6.4. A firm but responsive attitude will encourage cooperation and initiate good working relations. Aggressiveness should show itself in thorough work rather than the IA's overbearing demeanour.

10.1.7. Public Relations: It is important that cooperation be obtained from the IP/Associates and his staff, and good working relations are established. This can best be accomplished by using diplomacy, tactfulness and

persuasion. Hostile persons should be treated with courtesy and respect. The IA should therefore abstain from providing personal opinions concerning any person, Board etc. The IA should always maintain his/her calm during the Inspection.

10.1.8. Conflict of Interest: Conflict of interest may exist whenever Inspecting Authority has a personal or private interest in a matter, which is related to his/her official duties and responsibilities. In cases where the IA feels that there is a conflict of interest that would undermine his/her integrity and the integrity of the IPA with respect to the outcome of the inspection, s/he must recuse himself from the inspection.

10.1.9. Gifts: The IA shall not accept favours, benefits, loan or job offers under any circumstance that might be construed as influencing the performance of their duties. Bribes may be blatant attempts to whitewash a serious violation or condition or to cause the withholding of damaging information or observation. The IA must not accept money or goods and should report the incident in detail as soon as possible to the MD/CEO. It is also prudent for IA to decline business luncheons while on duty.

10.1.10. Transparency: The IA shall strive to conduct inspections in a fair, unbiased and impartial manner.

10.1.11. Knowledge: The IA shall have a correct understanding of various regulations, inspection manuals, etc. relating to IBC, and shall strive to gain knowledge and practical inspection expertise.

10.1.12. Follow procedures: The IA shall acknowledge that inspection constitutes the exercise of authority to step into private businesses and shall strive to ensure proper procedures when conducting inspections and conduct verification in an efficient and effective manner.

10.1.13. Not to seek unnecessary information: The IA shall not call unnecessary information which is not relevant for inspection purpose.

10.1.14. Not to take records for personal use: The IA shall not try to keep any copy of any of the records shared by the IP for his/her personalized use or purpose.

10. 1.15. Provide Inspection Report on time: The IA to provide with the final inspection report to the Insolvency Professional. IA is also to provide a summary report of the outcomes and observations of Inspection to Monitoring Committee, Governing Board of IPA ICAI and Board.

10.1.16. Maintain Timelines: The IA to ensure to start the inspection on the scheduled date and finish it in the given time framework. IA may allow for

change in the scheduled dates of inspection on receipt of request from the IP. The IA would reframe the dates accordingly and intimate the IP.

10.2. RIGHTS

10.2.1. Examination of Records: The IA may examine and take copy of the records of any associated document(s) of the IP in relation to the affairs of his business and which comes under the purview of the inspection, in course of inspection.

10.2.2. Requisitioning Records: The IA may raise requisition of any record(s) related to the scope defined in the Inspection order.

10.2.3. Examination of the Person(s): The IA may examine and record statements of any associated person of the IP in relation to the affairs of his business in the course of inspection and call for any clarification from the IP or the concerned person(s).

10.2.4. Reach for self-security: The IA has the right to reach to the nearest Police Station for his/her security in case of any such requirement.

11. DUTIES AND RIGHTS OF INSOLVENCY PROFESSIONAL

11.1. DUTIES

11.1.1. It shall be the duty of the IP to produce before the IA such records in his/her custody or control and furnish to the IA such statements and information relating to its activities within such time as the IA may require as per the Code.

11.1.2. The IP shall allow the IA to extend facility for examination of any records in the possession of the IP or such other person and provide copies of records or other material which in the opinion of the IA are relevant for inspection.

11.1.3. It shall be the duty of the IP to give to the IA, all assistance which the IA may reasonably require in connection with the inspection.

11.2. RIGHTS

11.2.1. The IP shall be provided with the scope of inspection before the commencement of inspection by the IA.

11.2.2. The IP shall get a receipt of the documents submitted to IA duly signed by IP & IA, in case of, onsite inspection.

11.2.3. The IP has the right to demand for his/her draft inspection report and the final inspection report on lapse of the due date.

11.2.4. The IP has the right to keep a record of the attendance of the IA in the form as convenient to him/her.

11.2.5. The IP has the right to keep a record of the documents shared during inspection to the IA.

12. PROCESS FLOW OF INSPECTION

12.1. Pre-Inspection Process:

12.1.1. Preparation of Annual Planner: The selection of the IPs based on the criteria mentioned in Section 9 should be done and an Annual Planner to be prepared. Additional names can be taken other than the names mentioned in the Annual Planner in case of occurrence of any instances mentioned in Section 9, sub-section 9.2.3 to 9.2.6.

12.1.2. Approval of the Annual Planner: The Annual Planner should be prepared and placed to the Monitoring Committee for approval before initiation of the Inspection(s).

12.1.3. Formation of IA: The structure of the Inspecting Authority to be decided and shared with the Monitoring Committee for approval.

12.1.4. Selection of independent experts: A panel of independent experts should be placed before the Monitoring Committee for approval on merit basis. Selection of the independent expert, if required, would be done from the approved panel according to availability of the expert before initiation of the inspection.

12.1.5. Issuance of Inspection Order: Members of the Inspection Authority should be issued Inspection Orders at least 5 days before the issuance of Inspection Notice to the IP. The Inspection Order is to be signed by MD/CEO, IPA ICAI.

12.1.6. Issuance of Inspection Notice: Inspection Authority to issue Inspection Notice to the IP at least 10 days before the scheduled inspection along with pre-inspection questionnaire. The duly filled questionnaire (along with required documents) must be submitted by the IP within 7 days from the issue of Notice. The Inspection Notice is to be signed by MD/CEO, IPA ICAI.

12.1.7. Contents of the Inspection Notice: The Inspection Notice should bear the name, address, email id, contact number, IBBI registration number, date of letter, inspection reference number, details of the assignments to be inspected, date of submission of pre-questionnaire, date of inspection, mode of inspection, duration of inspection, tentative date of draft report and final report, details of the Inspection Authority.

12.1.8. Contents of the Inspection Order: The Inspection order should bear the name, address, email id, contact number, IBBI registration number, date of letter, inspection reference number, details of the assignments to be inspected, date of submission of pre-questionnaire, date of inspection, mode of inspection, duration of inspection, date of draft report and final report, details of the Inspection Authority, number of assignments and scope, purpose and type of inspection (random/trigger based).

12.2. Inspection Process:

12.2.1. Off-Site/On-Site Inspection Analysis by IA: The maximum time to be allotted for an inspection of an IP will be 3 days in case of the IP handling 7 assignments and 5 days in case of 15 assignments. IPs handling assignments more than 15 would be inspected in two phases in the same Financial Year.

12.2.2. Off-Site Inspection Analysis: On the basis of available information or data, the IA would assess divergences from the provisions of Code, Regulations, Circulars, Notifications, Guidelines issued under the Code from time to time.

12.2.3. On-Site Inspection Analysis: On-site Inspection Analysis is to physically ascertain the reasons for the deficiencies identified during Off-Site Inspection Analysis, by exhaustive inspection of all the records maintained by the Insolvency Professional. The horizon of On-site Inspection Analysis includes data-management and data room, Human Resources, infrastructure Facilities etc. In addition to the discussion(s) with the IP should be made on key issues to better understand the constraints faced by her/him and a structured exit meeting would be possible.

12.3. Post Inspection:

12.3.1. Draft Inspection Report: The Draft inspection report will be submitted by the Inspecting Authority to the MD/CEO, IPA ICAI within 5 days of completion of Inspection and post approval of draft inspection report by the MD/CEO, IPA ICAI, the same will be sent to the IP for his comments within 7 days of completion of Inspection vide e-mail.

12.3.2. Reply of Draft Inspection Report: Insolvency Professional will provide his comments on draft Inspection Report to the IA within 7 days of receipt of Draft Inspection Report in case of the IP is handling 7 assignments and within 10 days in case of the IP handling more than 7 and less than or equal to 15 assignments.

12.3.3. Final Report of Inspection: Post review of submissions of Insolvency Professional, final Inspection Report will be shared with the MD/CEO, IPA ICAI within 3 days of submission of IP. The final inspection report will be shared within next 2 working days to the IP.

12.3.4. Summary Report of Inspection: The summary report of the Inspection would be placed before the Monitoring Committee for consideration and further action, if any required within 3 days for final report.

13. TIMELINE CHART FOR FLOW OF INSPECTION

S. No.	Function	Timelines	Qualifier 1 Upto 7 (seven) Assignments	Qualifier 2 Assignments >7 but <= 15
1.	Issuance of Inspection Notice and Pre-Questionnaire	0	0	0
2.	Submission of Pre-Questionnaire by IP	0+7=7	0+7=7	0+7=7
3.	Date of Inspection	7+3=10	7+3=10	7+3=10
4.	Days of Inspection	10+3=13	10+3=13	10+5=15
5.	Draft Inspection Report to MD/CEO	13+5=18	13+5=18	15+5=20
6.	Draft Inspection to IP	18+2=20	18+2=20	20+2=22
7.	Reply to Draft Inspection Report	20+7=27	20+7=27	22+10=32
8.	Final Inspection Report to MD/CEO	27+3=30	27+3=30	32+3=35
9.	Final Report to IP	30+2 [*] =32	30+2 [*] =32	35+2 [*] =37
10.	Summary Report to Monitoring Committee	32+3=35	32+3=35	37+3=40

* Working days

14. REVIEW OF THE POLICY

The Inspection Policy will be monitored, reviewed, amended and recommended by the Monitoring Committee and approved by the Governing Board of IPA ICAI, as and when may be required from time to time or when deemed fit.

15. POLICY AMENDMENT HISTORY

This will include the history from incorporation, updates, amendments and circumstances requiring changes in the policy from time to time or as the policy would be revised.

S. No.	Activity	Approved	
		By	Date
1.	Inspection Policy version 1.1.	BOD	16 TH June, 2021

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