

Announcement

Permitting members to act as Insolvency Professional under the Insolvency and Bankruptcy Code, 2016 and related matters

Pursuant to Section 2 (2) (iv) of the Chartered Accountants Act, 1949, the Council of the Institute has decided to include "acting as Insolvency Professional" under Management Consultancy Services. Thus members enrolled as Insolvency Professional under the Insolvency and Bankruptcy Code, 2016 can render services under the said Code either individually or as an entity. Such members may also become a full time director of a company registered as Insolvency Professional Entity in compliance with Council guidelines for Management Consultancy Services.

Charging of fee on percentage basis

The Council considered the question whether Chartered Accountants who are enrolled as Insolvency Professionals may be allowed to charge fees as a percentage of recovery/ assets for the purpose of Insolvency and Bankruptcy Code, 2016. In this connection the Council noted the provisions of Regulation 192 of the Chartered Accountants Regulations, 1988. The Council pursuant to the authority vested under clause (h) of the said regulation decided that the members of the Institute enrolled as Insolvency professional be allowed to charge fee as a percentage of recovery/assets for the services rendered either individually or as an entity under Insolvency and Bankruptcy Code, 2016 and rules made thereunder.

Clarification provided by the Council in relation to holding COP and acting as Insolvency Professional.

The Council also clarified the following in relation to Member holding Certificate of Practice and registration as Insolvency Professionals (IP) and formation of the Insolvency Professional Entity (IPE).

Q1. Can an IP provide other attest and advisory services while in practice as an IP?

- A. Yes, a member of the institute in full time practice can also act as an Insolvency Professional. In other words, an Insolvency Professional can continue to provide attest and advisory services.

Q2. Can an existing CA firm be converted into an IPE with majority of its partners holding IP license?

- A. Yes, it is possible to convert existing CA firm/LLP into Insolvency Professional entity in compliance with the Chartered Accountants Act, 1949 and the Chartered Accountants Regulations 1988 and the Insolvency and Bankruptcy Code, 2016 and Rules made thereunder.

Q3. Can an IPE provide attest and advisory services, unrelated to insolvency and bankruptcy?

Yes, an Insolvency Professional Entity (IPE) can provide attest and other advisory services in addition to acting as Insolvency Professional under the Insolvency and Bankruptcy Code, 2016. The IPE needs to be registered with ICAI and has to comply

with the Chartered Accountants Act, 1949 and Chartered Accountants Regulations 1988 and Guidelines.

Q4. Can an IP be partner in a CA firm as well as an IPE? Will the answer be different for a multidisciplinary IPE?

- A. Yes, Member of ICAI in full time practice can be a partner in a CA firm as well as the IPE. The norms relating to empanelment with C&AG or Banks or any other regulators will need to be complied separately.

Q5. Can an IPE be appointed as IP for a Corporate debtor instead of an individual IP?

- A. Yes, the IPE can be appointed as an IP for corporate debtors or on behalf of the creditors.

Q6. How does the interplay between the IP and IPE work in terms of appointment?

- A. The appointment of IP or IPE is a commercial decision between the professional and the creditor/debtor.

Q7. What will be the form of contracting, if any, for appointment as an IP?

- A. It is commercial understanding between creditor and IP/IPE.

Q8. Can an IPE be a multi-disciplinary firm?

- A. Yes, only with Chartered Accountants and the professionals referred to in Regulation 53B of Chartered Accountants Regulation, 1988 and subject to Multi Disciplinary Guidelines issued by Council (Yet to be issued)

Q9. Are there any guidelines for name of the IPE?

- A. Any IPE which is registered with ICAI will need to comply with Chartered Accountants Act, 1949 and Chartered Accountants Regulations 1988 and Guidelines issued from time to time.

Q10. Whether a Company could be an IPE and Member can be a whole time director as IP?

- A. Any company could be an IPE in compliance with the IBC Code, 2016 and Rules made thereunder. Any member holding COP may be a whole time director of IPE which is a company only in compliance with Management Consultancy Guidelines issued by ICAI.

(V. Sagar)
Secretary

The Institute of Chartered Accountants of India

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