

Insolvency and Bankruptcy Board of India

Discussion Paper

Date: 3rd November, 2017

Sub: Strengthening Limited Insolvency Examination

The Insolvency and Bankruptcy Code, 2016 (Code) provides for a class of regulated persons, namely, Insolvency Professionals (IP), who play an important role in resolution, liquidation and bankruptcy processes of companies and individuals. Take the example of corporate insolvency resolution process of a company. When a company undergoes this process, an IP is vested with the management of the affairs of the company and he exercises the powers of its board of directors. He becomes the custodian of the property of the company and manages its affairs as a going concern. Further, he examines each resolution plan to confirm that it does not contravene any of the provisions of the law for the time being in force. He renders services in a time bound manner. These responsibilities require the highest level of capability and integrity. Accordingly, the Code allows only individuals who have the required qualification and experience and are registered as IP with the Insolvency and Bankruptcy Board of India (Board) to render services as IP.

2. Section 196 (1) (d) and (e) of the Code vest the Board with powers to specify by regulations standards for the functioning of IPs and lay down by regulations the minimum curriculum for the examination of the IPs for their enrolment as members of the insolvency professional agencies. In sync with the responsibilities of the IPs, the Board has specified the requirements for registration as IP. Regulations 5 of the IBBI (Insolvency Professional) Regulations, 2016 reads as under:

“Qualifications and experience.

5. Subject to the other provisions of these Regulations, an individual shall be eligible for registration, if he-

(a) has passed the National Insolvency Examination;

(b) has passed the Limited Insolvency Examination, and has fifteen years of experience in management, after he received a Bachelor’s degree from a university established or recognized by law; or

(c) has passed the Limited Insolvency Examination and has ten years of experience as –

- (i) a chartered accountant enrolled as a member of the Institute of Chartered Accountants of India,*
- (ii) a company secretary enrolled as a member of the Institute of Company Secretaries of India,*
- (iii) a cost accountant enrolled as a member of the Institute of Cost Accountants of India,*
or
- (iv) an advocate enrolled with a Bar Council.”*

3. Accordingly, the Board has been conducting Limited Insolvency Examination since 31st December, 2016. It is an online examination conducted every day from 100+ locations. The Board puts out syllabus, test definition, and a model question paper on its web site for guidance of prospective candidates and revises the same every six months, to assimilate the learning from transactions under the Code. By the end of October, 2017, 1799 Candidates have passed the examination and of them, 1181 have been registered as IPs.

4. The examination has mostly met the requirements of the job in the initial days. However, an IP needs in ample measure multi-dimensional skills, including leadership, inter-personal, communication, negotiation, conflict resolution, and stress management, in addition to professional knowledge and maturity. He may hire some of the knowledge and skills required for transactions under the Code and may delegate some of his non-core responsibilities, yet he needs to lead the initiative from front and drive value creation, while taking with him all the stakeholders with varied and conflicting interests. Though it includes case studies and case laws, the examination in the current format does not test these skills adequately.

5. Keeping in view the job requirements of an IP, based on informal feedback from stakeholders and on the advice of the Examination Committee of the Board, it is proposed to change the Limited Insolvency Examination pattern to have two stages as under:

- a. The examination in the current format will constitute Stage I;
- b. Stage II will be a group discussion for four hours (two hours to read a case followed by two hours of discussion) on a case study to test a person's ability to handle stress and pressure, conflict management, balancing the interests of stakeholders, negotiation, leadership, communication, etc.
- c. A candidate, who has cleared Stage I, would be allowed to attempt Stage II.

- d. A person, who has cleared both the Stages, will be considered to have passed the Limited Insolvency Examination.
 - d. Stage II will be conducted once in a month or quarter, depending on the number of candidates eligible and interested to participate in the group discussion, in every metropolitan city.
 - e. A candidate, who has cleared Stage-I, may make at most 2 attempts at Stage-II within one year of clearing Stage-I.
 - f. The new pattern would be effective from 1st April, 2018.
6. This discussion paper solicits comments on the following:
- a. Is there a need to supplement or strengthen the Limited Insolvency Examination? If so, how?
 - b. Is the approach suggested in Para 5 above appropriate? If not, please suggest an alternate appropriate approach or modifications in the same.
7. The comments may please be sent at exam@ibbi.gov.in by 31st December, 2017.
