

INDIA JURIS

Insolvency and Bankruptcy Board of India Introduces Platform for Better Facilitation of Code of Conduct for Insolvency professionals

The Insolvency and Bankruptcy Board of India vide circular dated 16th January 2018 has mandated that an Insolvency Professional shall render services for a fee which is a reasonable reflection of his work and shall also raise bills/invoices in his name for the fees. This step has been taken keeping in view the provisions of IBBI (Insolvency Professionals) Regulations, 2016, section 206 and section 23 read with section 5 (27) of Insolvency and Bankruptcy Code, 2016.

The Code of Conduct for Insolvency professional requires that 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 reputation of the profession.

As per section 206 of Insolvency and Bankruptcy Code, 2016 “no person shall render his services as insolvency professional under this Code without being enrolled as a member of an insolvency professional agency and registered with the Board”. Section 23 read with section 5 (27) requires that an Interim Resolution Professional who is appointed as Resolution Professional shall conduct the entire Corporate Insolvency Resolution Process including Fast Track Process.

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Condonation of Delay Scheme, 2018

All companies registered in India including private limited company, one person company, limited company section 8 company and others are required to file annual return with the Ministry of Corporate Affairs each year. Under the new Companies Act, 2013, Directors of Companies which have defaulted in filing annual return continuously for a period of 3 years are liable for disqualification. On disqualification, the Director would be unable to incorporate a new company or act as Director of an existing company for a period of three years.

In line with the Companies Act, 2013, the Ministry of Corporate Affairs has recently begun “striking-off” defaulting companies and has disqualified 3,09,614 Directors associated with companies that failed to file financial statements or annual returns for a continuous period

WORLD PRACTICE

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of three financial years 2013-14 to 2015-16.

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