

Insolvency and Bankruptcy Board of India
7th Floor, Mayur Bhawan, Connaught Place, New Delhi – 110001

CIRCULAR

No. IBBI/IP/021/2019

2nd May, 2019

To

All Registered Insolvency Professionals

All Recognised Insolvency Professional Entities

All Registered Insolvency Professional Agencies

(By mail to registered email addresses and on website of the IBBI)

Dear Madam / Sir,

Sub: Temporary Surrender and Revival of Professional Membership of an Insolvency Professional.

Regulation 10 of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016 (IP Regulations) read with clause 26 of the Schedule to the Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016 (Model Bye-Laws Regulations) provide for temporary surrender and revival of professional membership by an Insolvency Professional (IP).

2. Temporary surrender of professional membership creates inconveniences where the IP is:

- (a) conducting a process - corporate insolvency resolution, corporate liquidation, individual insolvency resolution and individual bankruptcy - under the Code;
- (b) is acting as an authorised representative representing any class of financial creditors;
- (c) is included in the panel under 'Insolvency Professionals to act as Interim Resolution Professionals or Liquidators (Recommendation) Guidelines, 2018' or similar Guidelines,
- (d) is included in the panel under 'the Guidelines for Appointment of Insolvency Professionals as Administrators under the Securities and Exchange Board of India (Appointment of Administrator and Procedure for Refunding to the Investors) Regulations, 2018' or similar Guidelines; or
- (e) is acting as an Administrator under 'the Guidelines for Appointment of Insolvency Professionals as Administrators the Securities and Exchange Board of India (Appointment of Administrator and Procedure for Refunding to the Investors) Regulations, 2018' or similar Guidelines.

3. It is, therefore, advised that the Insolvency Professional Agency (IPA) shall not ordinarily accept temporary surrender of professional membership of an IP in cases under Para 2.

4. It is further advised that the following forms may be used to process acceptance of temporary surrender and revival of professional membership of an IP:

- a. Form A: Application by an IP to IPA for temporary surrender;
- b. Form B: Intimation to the Board on acceptance of temporary surrender by the IPA;
- c. Form C: Letter of acceptance of temporary surrender by the IPA to IP;
- d. Form D: Application by an IP for revival of his professional membership;
- e. Form E: Intimation to the Board on revival of professional membership by the IPA; and
- f. Form F: Letter of revival of professional membership by the IPA to IP.

5. This circular is issued in exercise of the powers conferred under clause (aa), (g) and (p) of sub-section (1) of section 196 of the Insolvency and Bankruptcy Code, 2016 in consultation with the Insolvency Professional Agencies.

Yours faithfully,

-Sd-

(Dilip Arjun Khandale)
Deputy General Manager
dilip.khandale@ibbi.gov.in

Encl.: Annexure I - VI for Form A - F

FORM A

(APPLICATION BY AN IP TO IPA FOR TEMPORARY SURRENDER)

To
The Managing Director / Chief Executive Officer
.....(*Name of IPA*)
.....(*Address of IPA*)

Subject- Application for temporary surrender of professional membership.

Dear Sir/Madam,

I _____ (*the name of the IP*), having Enrolment No. _____ and Registration No. _____ hereby request to surrender my professional membership on temporary basis.

2. I, hereby solemnly affirm, confirm and declare that -

- i. I do not have any pending assignments under the Code.
- ii. I have not been empanelled by the IBBI in accordance with 'Insolvency Professionals to act as Interim Resolution Professionals and Liquidators (Recommendation) (Second) Guidelines, 2018,' or any such subsequent guidelines prevailing/pertaining to the empanelment of IPs, as on date.
- iii. I have not been empanelled by the IBBI in accordance with 'Guidelines for Appointment of IPs as Administrators under the SEBI (Appointment of Administrator and Procedure for Refunding to the Investors) Regulations, 2018,' or any such subsequent guidelines prevailing/pertaining to the empanelment of IPs, as on date.
- iv. I do not have any pending assignments in which I am acting as an Administrator under the Securities and Exchange Board of India (Appointment of Administrator and Procedure for Refunding to the Investors) Regulations, 2018 or any such subsequent guidelines prevailing/pertaining to the empanelment of IPs, as on date.
- v. There is no disciplinary proceedings pending against me before the IPA or IBBI.
- vi. I undertake to co-operate with the _____ (*name of IPA where the IP is enrolled*) and Insolvency and Bankruptcy Board of India in case of any grievance, complaint, inspection, investigation or disciplinary proceeding, even if it arises after the temporary surrender of my membership.
- vii. I have not become non-resident in India.
- viii. I am not in any employment
- ix. I shall not engage in any business, except as specifically permitted under the Code of Conduct as given in the First Schedule of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016.
- x. I have paid the fee due to IBBI/IPA as on date.

3. Reason for Surrender: _____

4. I am eligible to temporarily surrender the membership.

5. I herewith attach my original certificate of membership and original certificate of registration.

Regards,

Date:

(_____)

Place:

(Name and Signature of the Insolvency Professional)

FORM B
(INTIMATION TO THE BOARD ON ACCEPTANCE OF TEMPORARY
SURRENDER BY THE IPA)

To,
General Manager,
IP Division,
Insolvency and Bankruptcy Board of India.

Subject- Intimation to the Board of acceptance of application for temporary surrender of professional membership of Mr/Mrs./Ms_____ (name of IP) bearing (*professional membership number*) and having (IBBI registration number).

Sir/ Madam,

Mr/Mrs./Ms_____ (name of IP) bearing (*professional membership number*) and having IBBI registration no _____ had applied for temporary surrender of his professional membership with us.

2. It is hereby confirmed that Mr/Mrs./Ms_____ (name of IP) has complied with Regulation 26 (1) and (2) of IBBI (Model Bye Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016 and that,

- i. IP do not have any pending assignments under the Code as per the disclosure/return filed by IP which has been duly verified by the IPA.
- ii. IP has not been empanelled by the IBBI in accordance with 'Insolvency Professionals to act as Interim Resolution Professionals and Liquidators (Recommendation) (Second) Guidelines, 2018,' or any such subsequent guidelines prevailing/pertaining to the empanelment of IPs.
- iii. IP has not been empanelled by the IBBI in accordance with 'Guidelines for Appointment of IPs as Administrators under the SEBI (Appointment of Administrator and Procedure for Refunding to the Investors) Regulations, 2018,' or any such subsequent guidelines prevailing/pertaining to the empanelment of IPs.
- iv. IP does not have any pending assignments in which he is acting as an Administrator under the Securities and Exchange Board of India (Appointment of Administrator and Procedure for Refunding to the Investors) Regulations, 2018 as per the disclosure/return filed by IP which has been duly verified by the IPA.
- v. There is no disciplinary proceedings pending against IP before the IPA or the IBBI.

3. It is hereby intimated that the application of Mr/Mrs./Ms_____ (name of IP) for temporary surrender has been accepted and his professional membership has been temporarily struck down from the register of the Agency w.e.f. _____ (write the date on which the membership was struck) in accordance with IBBI (Model Bye Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016

Regards,

Date:

(_____)

Place:

Managing Director / Chief Executive Officer

FORM C

(LETTER OF ACCEPTANCE OF TEMPORARY SURRENDER BY THE IPA TO IP)

To,

.....(*Name of the IP*)

.....Address

.....(*Membership number*)

.....(*Registration number*)

Subject- Letter of acceptance of temporary surrender of professional membership.

Dear Sir/Madam,

Please refer to your application for temporary surrender of your professional membership.

2. The application is accepted and your professional membership (no.....) has been temporarily struck off from the register of the Agency w.e.f. _____.

Regards,

Date:

(_____)

Place:

Managing Director / Chief Executive Officer

FORM D

(APPLICATION BY AN IP FOR REVIVAL OF PROFESSIONAL MEMBERSHIP)

To,
Managing Director/Chief Executive Officer
.....(Name of IPA)

Subject- Application for revival of professional membership.

Dear Sir/Madam,

I _____ (write the name of the IP here), having Enrolment no. _____ (write the last held enrolment number) and Registration No. _____ (write the last held registration number) seek to apply under the applicable provisions of the IBBI (Insolvency Professional) Regulations, 2016 and the IBBI (Model Bye Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016 for revival of my membership.

2. Being aware of the provisions of temporary surrender/revival of professional membership under the IBBI (Insolvency Professional) Regulations, 2016 and the IBBI (Model Bye Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016, I hereby solemnly affirm that -

- i. I am a resident of India.
- ii. I am not in any employment.
- iii. I am not engaged in any business which is not permitted under the Code of Conduct as given in the First Schedule of the IBBI (Insolvency Professional) Regulations, 2016.
- iv. I confirm that I am in compliance of all the applicable provisions of IBBI (Insolvency Professional) Regulations, 2016 and the IBBI (Model Bye Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016 and any such provisions in force pertaining to revival of professional membership after temporary surrender as on the date of application.

3. I verify that the above certification is true and correct to the best of my knowledge and belief.

Regards,

Date:

Place:

(_____)

Signature of the Individual

Attachments to be provided:

- (i) Approval of temporary surrender as provided by the IPA;
- (ii) Proof of residence in India;
- (iii) Relieving Letter (in case of employment)

FORM E
(INTIMATION TO THE BOARD ON REVIVAL OF PROFESSIONAL
MEMBERSHIP BY THE IPA)

To,
General Manager,
IP Division,
Insolvency and Bankruptcy Board of India

Subject- Intimation to the Board on Revival of Professional Membership of Shri / Smt/ Ms.....(name of IP) by the IPA (name of IPA)

Dear Sir/ Madam,

It is hereby informed that professional membership of Mr/Mrs/Ms. _____ (write the name of the IP here) having Enrolment no. _____ (write the last held enrolment number) and (IP) Registration No.(last held registration number) _____ has been revived and re-instated in the register of the Agency w.e.f. _____. (write the date on which the membership was re-stored).

2. It is verified that the revival of professional of Mr/Mrs/Ms _____ (write the name of the IP here) has been granted on verification of the documents provided by the applicant and eligibility in accordance with applicable provision of the Code and Regulations.

Regards,

Date:

(_____)

Place:

Managing Director / Chief Executive Officer

FORM F

(LETTER OF REVIVAL OF PROFESSIONAL MEMBERSHIP BY THE IPA TO IP)

To,

..... (Name of Applicant)

.....(Address)

.....(*Membership number*)

.....(*Registration number*)

Subject- LETTER OF REVIVAL OF PROFESSIONAL MEMBERSHIP BY THE IPA TO IP.

Dear Sir/Madam,

Please refer to your application dated _____ for revival of the membership. The application has been accepted on the basis of submission made by you.

2. Your name has been re-instated in the register of the Agency w.e.f. _____ .

Regards,

Date:

(_____)

Place:

Managing Director / Chief Executive Officer