

**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**

**26<sup>th</sup> March, 2019**

The Securities and Exchange Board of India (Appointment of Administrator and Procedure for Refunding to the Investors) Regulations, 2018, (Regulations) provide for appointment of Insolvency Professionals (IPs) as Administrators for the purposes specified therein. A copy of the said Regulations is at Annexure A. These Guidelines have been prepared in consultation with SEBI to facilitate appointment of IPs as Administrators.

**Guidelines**

2. The IBBI and the SEBI have mutually agreed upon to use a Panel of IPs for appointment as Administrators for effective implementation of the Regulations. The IBBI shall prepare a Panel of IPs keeping in view the requirements of SEBI and the Regulations and the SEBI shall appoint the IPs from the Panel as Administrators, as per its requirement in accordance with the Regulations. A Panel shall be valid for six months and a new Panel will replace the earlier Panel every six months. For example, the first panel under these Guidelines will be valid for appointments during April - September, 2019, the next panel will be valid for appointments during October- March, 2020, and so on.

3. An IP will be eligible to be included in the Panel of the IPs if-

- a) there is no disciplinary proceeding, whether initiated by the IBBI or the IPA of which he is a member, pending against him;
- b) he has not been convicted at any time in the last three years by a court of competent jurisdiction;
- c) he expresses his interest to be included in the Panel for the relevant period; and
- d) he undertakes to discharge the responsibility as an Administrator, as and when he may be appointed by the SEBI.

4. The Panel shall have Zone wise list of IPs. An IP will be included in the Panel against the Zone where his registered office (address as registered with the IBBI) is located. For example, an IP located in the city of Surat (Gujarat) will be included in Ahmedabad Zone, which covers the State of Gujarat. The areas covered in different Zones are as under:

| <b>Zone</b> | <b>Area covered</b>  |
|-------------|--|
| New Delhi   | 1. Union territory of Delhi  |
| Ahmedabad   | 1. State of Gujarat<br>2. State of Madhya Pradesh<br>3. Union territory of Dadra and Nagar Haveli<br>4. Union territory of Daman and Diu |
| Allahabad   | 1. State of Uttar Pradesh  |

|            |  |
|------------|--|
|            | 2. State of Uttarakhand  |
| Bengaluru  | 1. State of Karnataka  |
| Chandigarh | 1. State of Himachal Pradesh<br>2. State of Jammu and Kashmir<br>3. State of Punjab<br>4. Union territory of Chandigarh<br>5. State of Haryana   |
| Chennai    | 1. State of Tamil Nadu<br>2. Union territory of Puducherry   |
| Guwahati   | 1. State of Arunachal Pradesh<br>2. State of Assam<br>3. State of Manipur<br>4. State of Mizoram<br>5. State of Meghalaya<br>6. State of Nagaland<br>7. State of Sikkim<br>8. State of Tripura |
| Hyderabad  | 1. State of Andhra Pradesh<br>2. State of Telangana  |
| Jaipur     | 1. State of Rajasthan  |
| Kolkata    | 1. State of Bihar<br>2. State of Jharkhand<br>3. State of Odisha<br>4. State of West Bengal<br>5. Union territory of Andaman and Nicobar Islands   |
| Kochi      | 1. State of Kerala<br>2. Union territory of Lakshadweep  |
| Mumbai     | 1. State of Chhattisgarh<br>2. State of Goa<br>3. State of Maharashtra   |

#### Expression of Interest

5. The IBBI shall invite expression of interest from IPs in Form A to act as Administrator by sending an e-mail to IPs at their email addresses registered with it. The expression of interest must be received by the IBBI in Form A by the specified date. For example, the IBBI shall invite expression of interest by 26<sup>th</sup> March, 2019 from IPs for inclusion in the Panel for April - September, 2019. The interested IPs shall express their interest by 2<sup>nd</sup> April, 2019. The IBBI will send the Panel to SEBI by 9<sup>th</sup> April, 2019.

6. It must be explicitly understood that an IP, who is included in the Panel based on his expression of interest, must not:

- (a) withdraw his interest to act Administrator; or
- (b) decline to act as Administrator, if appointed by SEBI; or

(c) surrender his registration to the IBBI or membership to his IPA, during the validity of the Panel.

7. It must also be explicitly understood that:

- a) an IP in the Panel will be appointed as Administrator, at the sole discretion of SEBI;
- b) the submission of expression of interest is an unconditional consent by the IP to act as Administrator in accordance with the Regulations; and
- c) an IP who declines to act as Administrator, on being appointed by SEBI, shall not be included in the Panel for the next five years, without prejudice to any other action that may be taken by the IBBI.

### **Inclusion of IPs in the Panel**

8. The IBBI shall include the IPs, who have expressed their interest, in the Panel based on the three parameters the weights of which are as under:

| Sl. No. | Parameter  | Weight (%) |
|---------|--|------------|
| 1       | Number of Ongoing Processes (A)                                      | 40         |
| 2       | Number of Completed Processes as IRP / RP (B)                        | 20         |
| 3       | Number of Completed Processes as Liquidator / Bankruptcy Trustee (C) | 40         |

#### **A] Ongoing Processes (40% Weightage)**

9. The IP, who has the lowest volume of ongoing processes, will get a score of 100. The IP who has the highest volume of ongoing processes will get a score of 0. The difference between the highest volume and the lowest volume will be equated to 100 and other IPs will get scores between 0 and 100 depending on volume of their ongoing processes.

#### **Take an Example**

| IP | Volume of Ongoing Processes | Difference between the highest volume and the lowest volume of ongoing Processes of the IP | Formula           | Score |
|----|-----------------------------|--|-------------------|-------|
| 1  | 20                          | 100  | $100 / 100 * 100$ | 100   |
| 2  | 40                          | 80   | $80 / 100 * 100$  | 80    |
| 3  | 60                          | 60   | $60 / 100 * 100$  | 60    |
| 4  | 80                          | 40   | $40 / 100 * 100$  | 40    |
| 5  | 100                         | 20   | $20 / 100 * 100$  | 20    |
| 6  | 120                         | 0  | $00 / 100 * 100$  | 0     |

The volume of ongoing processes shall be arrived as under:

| Sl. No. | Ongoing Processes                                | Volume |
|---------|--|--------|
| 1       | IRP of a Corporate Insolvency Resolution Process | 05     |
| 2       | RP of a Corporate Insolvency Resolution Process  | 10     |

|   |   |    |
|---|---|----|
| 3 | IRP of a Fast Track Process                                 | 03 |
| 4 | RP of a Fast Track Process                                  | 06 |
| 5 | Liquidator of a Liquidation / Voluntary Liquidation Process | 25 |
| 6 | RP of an Individual Insolvency Resolution Process           | 01 |
| 7 | Bankruptcy Trustee of a Bankruptcy Process                  | 25 |

#### B] Completed Processes as IRP / RP (20% Weightage)

10. The IP, who has the highest experience of resolution, will get a score of 100. The IP who has the least experience will get a score of 0. The difference between the highest and the lowest experience will be equated to 100 and other IPs will get scores between 0 and 100 depending on their experience.

#### Take an Example

| IP | Volume of Completed Processes as IRP / RP | Difference between the lowest volume and highest volume of completed processes of the IP | Formula           | Score |
|----|---|--|-------------------|-------|
| 1  | 120                                       | 100  | $100 / 100 * 100$ | 100   |
| 2  | 100                                       | 80   | $80 / 100 * 100$  | 80    |
| 3  | 80  | 60   | $60 / 100 * 100$  | 60    |
| 4  | 60  | 40   | $40 / 100 * 100$  | 40    |
| 5  | 40  | 20   | $20 / 100 * 100$  | 20    |
| 6  | 20  | 0  | $00 / 100 * 100$  | 0     |

The volume of completed processes shall be arrived as under:

| Sl. No. | Completed Processes                              | Volume |
|---------|--|--------|
| 1       | IRP of a Corporate Insolvency Resolution Process | 05     |
| 2       | RP of a Corporate Insolvency Resolution Process  | 10     |
| 3       | IRP of a Fast Track Process                      | 03     |
| 4       | RP of a Fast Track Process                       | 06     |
| 5       | Individual Insolvency                            | 01     |

#### C] Completed Assignments as Liquidator / Bankruptcy Trustee (40% weightage)

11. The IP, who has the highest experience of liquidation and bankruptcy, will get a score of 100. The IP, who has the least experience, will get a score of 0. The difference between the highest and the lowest experience will be equated to 100 and other IPs will get scores between 0 and 100 depending on their experience.

#### Take an Example

| <b>IP</b> | <b>Volume of Completed Processes as Liquidator / Bankruptcy Trustee</b> | <b>Difference between the lowest volume and highest volume completed processes</b> | <b>Formula</b>    | <b>Score</b> |
|-----------|---|--|-------------------|--------------|
| 1         | 120   | 100  | $100 / 100 * 100$ | 100          |
| 2         | 100   | 80   | $80 / 100 * 100$  | 80           |
| 3         | 80  | 60   | $60 / 100 * 100$  | 60           |
| 4         | 60  | 40   | $40 / 100 * 100$  | 40           |
| 5         | 40  | 20   | $20 / 100 * 100$  | 20           |
| 6         | 20  | 0  | $0 / 100 * 100$   | 0            |

The volume of completed processes shall be arrived as under:

| <b>Sl. No.</b> | <b>Completed Processes</b>          | <b>Volume</b> |
|----------------|-------------------------------------|---------------|
| 1              | Liquidation / Voluntary Liquidation | 25            |
| 2              | Bankruptcy Trustee                  | 25            |

12. The score of an IP will be the sum total of the three scores as calculated at Paras 9 to 11 above. IPs will be placed in the list as per order of their scores. The IP with higher score will be placed above the IP securing lower score. Further, where two or more IPs get the same score, they will be placed in the Panel in order of the date of their registration with the IBBI. The IP registered earlier will be placed above the IP registered later.

13. The above process will be undertaken by a team of officers of the IBBI, as may be identified by a Whole-Time Member.

#### **Review**

14. These guidelines will be reviewed by the IBBI, in consultation with the SEBI, from time to time.

15. These Guidelines shall come into effect for appointments as Administrator with effect from 10<sup>th</sup> April, 2019.

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