

Insolvency Professionals and Insolvency Professional Agencies

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ROLE OF AN INSOLVENCY PROFESSIONAL



INTERIM RESOLUTION PROFESSIONAL

- Term – 14 days
- Collect information
- Collate claims of creditors
- Monitor assets and operations
- Control and keep custody of all assets
- Manage firm as a going concern
- Constitute a Committee of Creditors

RESOLUTION PROFESSIONAL

- Term – remainder of IRP process
- Conduct of the committee of creditors
- Determines vote share in meetings
- Protect and preserve assets
- Act on behalf of the debtor in any legal proceedings
- Raise interim finance
- Prepare the information memorandum
- Application for avoidance transactions

LIQUIDATOR

- Consolidates, verifies, admits or rejects and values claims
- Protects and preserves assets
- Acts on behalf of the debtor
- Power to settle/institute legal proceedings
- Investigates into undervalued/preferential/extortionate transactions
- Fiduciary trustee of the liquidation trust

REGULATION OF IPAs AND IPs

INSOLVENCY PROFESSIONAL AGENCIES

- **Enrollment** – Certificate of Registration
- **Objectives**
 - Promote development of the profession
 - Create a competitive environment
 - Protect interests of stakeholders
 - Assist in smooth functioning of the bankruptcy and insolvency processes.

REGULATION OF IPAs AND IPs

INSOLVENCY PROFESSIONAL AGENCIES

- **Duties and Functions**
 - Set up a governing board for self regulation that lays down bye laws
 - Prescribe standards of professional and ethical conduct
 - Monitor performance of IPs
 - Redress grievances
 - Lay down grounds for expulsion
 - Furnish a performance bond to the Regulator

REGULATION OF IPAs AND IPs

INSOLVENCY PROFESSIONALS

- **Enrollment**
 - Membership with an IPA
 - Registration with the Regulator
- **Duties as a professional**
 - Act with utmost care and diligence
 - Adhere to bye-laws set out by the IPA
 - Furnish a performance bond to the IPA

REGULATION OF IPAs AND IPs

PENALTIES FOR IPs AND IPAs

- Grounds
 - Negligence or fraud
 - Failure to exercise due standard of care
- Disciplinary committee to be instituted by Regulator to conduct investigations
- Suspend/cancellation of registration
- Monetary penalty – three times of the loss or equivalent to unlawful gain

QUESTIONS TO BE DISCUSSED

- **Performance bond**
 - No upper limit
 - Ease of enforcing – sufficient deterrent?
- **Minimum qualifications**
 - No specifications
 - Different standards by each IPA – race to the bottom?

QUESTIONS TO BE DISCUSSED

- **IPA Dependency**
 - Are bye-laws robust enough to govern IPs?
- **Misconduct by IPs**
 - List of offences not comprehensive
 - Clarity on role of the Regulator, IPAs and the Adjudicating Authority

THANK YOU