



BACKGROUND GUIDANCE ON QUALITY CONTROL BY INSOLVENCY PROFESSIONALS

Study By
Indian Institute of Insolvency Professionals of ICAI (IIPI)



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NEW DELHI



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Published By

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ICAI Bhawan, P. O. Box No. 7100, Indraprastha Marg
New Delhi-110002.

Published in: March 2022

Website : www.iiipicai.in

Printed By

Infinity Advertising Services Pvt. Ltd.

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Email: iiipi.pub@icai.in

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FOREWORD

The Indian Institute of Insolvency Professionals of ICAI (IIPI) is pleased to present the publication ‘Background Guidance on Quality Control by Insolvency Professionals’ prepared by the ‘Study Group on Framework for Quality Control and Assurance Mechanism’ constituted by IIPI in this regard. This publication ‘Background Guidance on Quality Control by Insolvency Professionals’ was released by CA. (Dr.) Debashish Mitra, President-ICAI/Director IIPI in the International Conference on “IBC in India & International Perspective” organized by the IIPI jointly with the IBBI on March 26, 2022.

The purpose of this publication is to help IPs in maintaining and enhancing quality of their services while discharging responsibilities in relation to the professional assignments under IBC and related activities thereto. The guidance in this document is based on international best practices and are directory in nature. We hope that these guidelines will help the IPs in designing a system of quality control to provide reasonable assurance that the IP and his team comply with professional standards, best practices, regulatory and legal requirements.

I sincerely appreciate and thank CA. Subodh Kumar Agrawal, IP & Past President-ICAI for steering the Study Group and providing his valuable guidance, along with members of the group who all worked hard to prepare the draft report.

I also appreciate the efforts put in by CA. Rahul Madan, Managing Director, and the secretariat of IIPI for providing their technical and administrative support in bringing out this publication.

Further, after gaining more experience, this quality control framework shall be reviewed from time to time. I am sure that the professional members of IIPI and other stakeholders of IBC will find this publication immensely helpful.

Dr. Ashok Haldia,
Chairman, IIPI-Governing Board

Date: 25th March 2022

Place: New Delhi

PREFACE

The Study Group constituted by the Indian Institute of Insolvency Professionals of ICAI (IIPI), on 'Framework for Quality Control and Assurance Mechanism' is pleased to present this report.

The Study Group was given a mandate to deliberate and recommend on (i) 'Peer Review Policy for Professional Members of IIPI' and (ii) Background Guidance on Quality Control. The study group, consisting of members with rich experience in managing insolvency and liquidations, after wider consultations intra-group and with other stakeholders has attempted to develop a comprehensive document on 'Background Guidance on Quality Control by Insolvency Professionals'.

In context to the IBC, quality control refers to policies designed to achieve the objectives of the Code, compliance of related procedures, rules, and regulations framed by regulators. Accordingly, the IP is required to establish a system of quality control designed to provide it with reasonable assurance that the IP and his/her personnel comply with professional standards, best practices, regulatory and legal requirements, and that action taken are appropriate in the circumstances. This report on 'Background Guidance on Quality Control by Insolvency Professionals' presents a comprehensive document on IP's system of quality control under six elements viz Leadership responsibilities for quality, Ethical Requirements, Human and Technological Resources, Engagement Performances, Monitoring and Documentation.

The study group is thankful to IIPI for providing an opportunity to develop the knowhow as above and strengthen the IBC regime. In addition, the group expresses gratitude to several other professionals including experienced IPs, legal experts and other professionals who have contributed directly and indirectly to the development of this report on 'Background Guidance on Quality Control by Insolvency Professionals'.

Subodh Kumar Agrawal, IP (Chairman)

Abhilash Lal, IP

Krishan Vrind Jain, IP

Navneet Gupta, IP

Satish Gupta, IP

Vandana Garg, IP

Atul Mittal, IP

Mahalingam Suresh Kumar, IP

Parveen Bansal, IP

S Baheti, IP

Dhinal Shah, IP

Nitesh Kumar More, IP

Rekha Kantilal Shah, IP

Sajeve Bhushan Deora, IP

Date: 25th March 2022

Place: New Delhi

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Acronyms

AA	Adjudicating Authority
AFA	Authorisation for Assignment
CD	Corporate Debtor
CIRP	Corporate Insolvency Resolution Process
CoC	Committee of Creditors
IBBI/ Board	Insolvency and Bankruptcy Board of India
IM	Information Memorandum
IP	Insolvency professional
IRP	Interim Resolution Professional
RP	Resolution Professional

Background

The objective of Insolvency and Bankruptcy Code 2016 (IBC/Code), as an economic beneficial legislation is to provide effective legal framework for resolution of distressed businesses by reorganising such businesses. IBC's first order objective is rescuing a company in distress and liquidation can be viewed only as the last resort. The second order objective is maximizing value of assets of the company and the third order objective is promoting entrepreneurship, availability of credit and balancing the interests of all stakeholders. IBC provides for bifurcating the interests of the company from that of its promoters to ensure revival and continuation of the company by protecting it from its own management and from liquidation.

Insolvency professional (IP), in the capacity of Resolution Professional (RP) or Liquidator is one of the key pillars as envisaged under IBC, for achieving the said objectives. The legal framework under IBC requires an IP to establish fair and transparent conduct of insolvency resolution process, casting upon an IP, inter alia, following responsibilities reflective of qualitative aspects in such processes (in a non-exhaustive manner):

Provisions under IBC, 2016

- a. Section 17 and Section 18 require that the IRP/RP is vested with the powers of the board of directors of the Corporate Debtor (CD). The officers and managers of the CD shall report to the IRP, providing him access to documents and records of the CD. The IRP/RP shall act and execute in the name and on behalf of the CD, all deeds, receipts, and other documents and take such actions, in the manner and subject to such restrictions, as may be specified by the Insolvency and Bankruptcy Board of India (IBBI).
- b. Section 20 requires that the IRP/RP shall make every endeavour to protect and preserve the value of the property of the CD and manage its operations as a going concern. IRP/RP shall have the authority to appoint professionals, to enter into contracts on behalf of the CD or to amend or modify the contracts or transactions, to raise interim finance, to issue instructions to personnel of the CD as may be necessary for keeping the CD as a going concern and to take all such actions as are necessary to keep the CD as a going concern.
- c. Section 23 requires RP to conduct the entire Corporate Insolvency Resolution Process (CIRP) and manage the operations of the CD during such processes. Further RP is required to continue to manage the operations of CD after the expiry of such process, until an order approving the resolution plan under sub-section (1) of section 31 or appointing a liquidator under section 34 is passed by

the Adjudicating Authority (AA). Further, in case there is a change in IRP to RP or from RP to RP/Liquidator, the incumbent IP shall provide all the information, documents and records pertaining to the CD in his possession and knowledge to the successor IP.

- d. Section 28 requires IRP/RP, during the CIRP, to take prior approval of the Committee of Creditors (CoC) for certain actions.
- e. Sec 29 requires that IRP/RP shall provide to the resolution applicant, an access to all relevant information in the form of Information Memorandum in physical and electronic form to formulate a resolution plan.
- f. Sec 30 requires that the IRP/RP shall examine each resolution plan received by him and shall present the same to the committee of creditors for approval.
- g. As per Section 208(2), an IP is obliged to take reasonable care and diligence while performing his duties, to comply with all requirements and terms and conditions specified in the byelaws of the insolvency professional agency of which he is a member; to allow the insolvency professional agency to inspect his records; to submit a copy of the records of every proceeding before the Adjudicating Authority to the Board as well as to the insolvency professional agency of which he is a member; and to perform his functions in such manner and subject to such conditions as may be specified.

Provisions as per Code of Conduct under Schedule-I of IBBI (IP) Regulations

- h. Clause 5 provides that an IP must maintain complete independence in his professional relationships and should conduct the insolvency resolution, liquidation or bankruptcy process, as the case may be, independent of external influences.
- i. Clause 12 provides that an IP must not conceal any material information or knowingly make a misleading statement to the IBBI, the AA or any other stakeholder, as applicable.
- j. Clause 13 provides that an IP must adhere to the time limits prescribed in the Code/ IBC and the rules, regulations and guidelines thereunder for insolvency resolution, liquidation or bankruptcy process, as the case may be, and must carefully plan his actions, and promptly communicate with all stakeholders involved for the timely discharge of his duties.
- k. Clause 15 provides that an IP must make efforts to ensure that all communication to the stakeholders, whether in the form of notices, reports, updates, directions, or clarifications, is made well in advance and in a manner which is simple, clear, and easily understood by the recipients.

- I. Clause 16 provides that an IP must maintain written contemporaneous records for any decision taken, the reasons for taking the decision, and the information and evidence in support of such decision. This shall be maintained to sufficiently enable a reasonable person to take a view on the appropriateness of his decisions and actions.

Monitoring by Insolvency Professional Agency (IPA)

- m. The Code under Section 204(c) mandates monitoring by IPA of the performance of IPs with respect to legal compliance and empowers IPAs to call for information and records.
- n. Clause 8 of IBBI (Model byelaws and Governing Board of IPAs) Regulations 2016, provide for constitution of Monitoring Committee by an IPA. Further, clause 15 of such regulations provide for formulation of Monitoring Policy by an IPA for the purpose.
- o. The objective of monitoring of IPs is to ascertain whether the conduct of IPs is in overall interest of the stakeholders, CD as going concern and to ensure that the position of trust held by IPs is not abused by them and in cases where it is, to ensure appropriate action is taken.

Inspections of IPs by IBBI and IPA

- p. Section 196(1) of the Code/IBC empowers IBBI to carry out inspections and investigations, monitor the performance and call for any information or records, inter alia, from IPs.
- q. As per Section 208(2)(c) of the Code/IBC, IPAs are authorized to conduct the inspection of IPs enrolled with it.
- r. Further as per Clause 18 of the Code of Conduct an IP must appear, co-operate and be available for inspections and investigations carried out by the IBBI, any person authorised by the IBBI or the IPA with which he is enrolled.

In view of many duties and responsibilities cast upon IPs, it is of paramount importance for an IP, whether part of an IPE or not, to observe and maintain high standards of quality in connection with any professional assignment. Such approach shall enthuse confidence in other stakeholders about IP's services on one hand and support IP to face any regulatory or legal challenge, on the other.



Introduction

1. The purpose of this Background Guidance on Quality Control is to help IPs in maintaining and enhancing quality of their services while discharging responsibilities in relation to the professional assignments under IBC and related activities thereto. IPs may apply the guidance provided in this document as they deem appropriate depending upon circumstances of each case.
2. This document is to be read in conjunction with the requirements of the IBC, 2016, any regulations and circulars/notifications issued thereunder. In case of any variation, the provisions of such law, regulations, notifications shall prevail over the requirements as per this document. Further, the document is based upon recommendations of study group constituted by IIIPI and does not carry the authority and views of IIIPI.
3. This document, in the following paras, provides uses two types of statements viz.:
 - i. **Requirement**, which is mentioned as text in **bold font**, and is desirable for IP to comply with the specific provision.
 - ii. **Reference matter**, which is mentioned as normal text explaining the context relevant for proper understanding of the said 'Requirement' as referred in Clause 3 (i).
4. The IP should establish a system of quality control designed to provide it with reasonable assurance that the IP and its personnel comply with professional standards, best practices, regulatory and legal requirements, and that action taken are appropriate in the circumstances.
5. A system of quality control consists of policies designed to achieve the objectives set out in paragraph 4 above and the procedures necessary to implement and monitor compliance with those policies.
6. The nature of the policies and procedures developed by an individual IP to comply with this document will depend on various factors such as the size and operating characteristics of the CD, and whether he is part of an IPE.



Definitions

7. In this document, the following terms have the meanings attributed below:

- (a) *Board: Insolvency and Bankruptcy Board of India (IBBI)*
- (b) *Code/IBC: Insolvency and Bankruptcy Code, 2016*
- (c) *Engagement documentation: The record of work performed, results obtained, and conclusions the IP reached (terms such as “working papers” or “workpapers” are also sometimes used). The documentation for a specific engagement is assembled in an engagement file;*
- (d) *Insolvency Professional (IRP/RP/ Liquidator/Administrator, Bankruptcy Trustee, Authorized Representative, etc.): The person who is registered with IBBI as IP and is in full time practice and who has been appointed as such.*
- (e) *Engagement team: All personnel performing an engagement, including any experts or professionals including accountants, legal counsels or other professionals, as envisaged under the Code, contracted or hired by the IP in connection with that engagement.*
- (f) *Inspection: In relation to completed engagements, procedures designed to provide evidence of compliance by engagement teams with the IP’s quality control policies and procedures.*
- (g) *Monitoring: A process comprising an ongoing consideration and evaluation of the IP’s system of quality control, including a periodic inspection of a selection of completed engagements, designed to enable the IP to obtain reasonable assurance that its system of quality control is operating effectively.*
- (h) *For definition of other terms used in the document but not defined under this clause, the Code and/or Regulations made thereunder should be referred to.*



Elements of a System of Quality Control

8. **The IP's system of quality control should include policies and procedures addressing each of the following elements:**
 - a. **Leadership responsibilities for quality.**
 - b. **Ethical requirements.**
 - c. **Human and technological resources.**
 - d. **Engagement performance.**
 - e. **Monitoring.**
9. **The quality control policies and procedures should be documented and communicated to the IP's personnel.** Such communication describes the quality control policies and procedures and the objectives they are designed to achieve and include the message that each individual has a personal responsibility for quality and is expected to comply with these policies and procedures. In addition, the IP recognizes the importance of obtaining feedback on its quality control system from its personnel. Therefore, the IP should encourage its personnel to communicate their views or concerns on quality control matters.



Leadership Responsibilities for Quality

10. **The IP should establish policies and procedures designed to promote an internal culture based on the recognition that quality is essential in performing engagements. Such policies and procedures should require the IP to assume ultimate responsibility for the system of quality control.**
11. The IP's leadership and the examples he sets significantly influence the internal culture. The promotion of a quality-oriented internal culture depends on clear, consistent, and frequent actions and messages across all levels of the management emphasizing the quality-control policies and procedures, and the requirement to:
 - a. Perform work that complies with professional standards, best-practices, and regulatory and legal requirements; and
 - b. Ensure that actions taken are appropriate in the circumstances.

Such actions and messages encourage a culture that recognizes and rewards high quality work. They may be communicated by training seminars, meetings, formal or informal dialogue, mission statements, newsletters, or briefing memoranda. They are incorporated in the internal documentation and training materials, and in staff appraisal procedures such that they will support and reinforce the IP's view on the importance of quality and how, practically, it is to be achieved.

12. Of particular importance is the need for the IP's leadership to recognize that the IP's business strategy is subject to the overriding requirement to achieve quality in all the engagements that the IP performs. Accordingly:
 - a. The IP assigns its management responsibilities so that commercial considerations do not override the quality of work performed;
 - b. The IP's policies and procedures addressing performance evaluation, compensation, and promotion (including incentive systems) with regard to its personnel, are designed to demonstrate the IP's overriding commitment to quality; and
 - c. The IP devotes sufficient resources for the development, documentation and support of its quality control policies and procedures.
13. **Any person or persons assigned operational responsibility for the quality control system by the IP, should have sufficient and appropriate experience and ability, and the necessary authority, to assume that responsibility.**
14. Sufficient and appropriate experience and ability enables the responsible person or persons to identify and understand quality control issues and to develop appropriate policies and procedures. Necessary authority enables the person or persons to implement those policies and procedures.



Ethical Requirements

15. **The IP should establish policies and procedures designed to provide it with reasonable assurance that the IP and IP's personnel comply with relevant ethical requirements as has been notified by IBBI/IPA and others as applicable.**
16. Some of the ethical requirements for IPs have been prescribed under Code of Conduct as per First Schedule of IBBI (Insolvency Professionals) Regulations, 2016. Such requirements have been categorised into areas of:
 - a. Integrity and Objectivity;
 - b. Independence and impartiality;
 - c. Professional competence;
 - d. Representation of correct facts and correcting misapprehensions;
 - e. Timeliness;
 - f. Information management;
 - g. Confidentiality;
 - h. Occupation, employability, and restrictions;
 - i. Remuneration and costs; and
 - j. Gifts and hospitality;
17. Besides, there may be additional or complementary ethical code that may be prescribed by IBBI/IPA including by way of non-mandatory guidance, which can act as reference for ensuring ethical conduct of IP and IP's personnel.
18. **The policies and procedures on ethics should emphasize the fundamental principles, which are reinforced in particular by (a) the leadership, (b) education and training, (c) monitoring, and (d) a process for dealing with non-compliance.** Given the criticality of 'Independence' during insolvency engagements, it is addressed separately hereinafter. These paragraphs need to be read in conjunction with the Code of Conduct.

Independence

19. **The IP should establish policies and procedures designed to provide it with reasonable assurance that the IP, its personnel and, where applicable, others subject to independence requirements (including experts, employed by the IP), maintain independence wherever required. Such policies and procedures should enable the IP to:**

- a. **Communicate its independence requirements to personnel and, where applicable, to others (including experts, employed by the IP) subject to them; and**
- b. **Identify and evaluate circumstances and relationships that create threats to independence, and to take appropriate action to eliminate those threats or reduce them to an acceptable level by applying safeguards, or, if considered appropriate, to withdraw from the engagement in accordance with law as applicable.**

20. Such policies and procedures should require:

- a. **Personnel to provide the IP with relevant information about client engagements, including the scope of services, to enable the IP to evaluate the overall impact, if any, on independence requirements;**
- b. **Personnel to promptly notify the IP of circumstances and relationships that create a threat to independence so that appropriate action can be taken; and**
- c. **The accumulation and communication of relevant information to appropriate personnel so that:**
 - i. **The IP and its personnel can readily determine whether they satisfy independence requirements;**
 - ii. **The IP can maintain and update its records relating to independence; and**
 - iii. **The IP can take appropriate action regarding identified threats to independence.**

21. The IP should establish policies and procedures designed to provide it with reasonable assurance that it is notified of breaches of independence requirements, and to enable it to take appropriate actions to resolve such situations. The policies and procedures should include requirements for:

- a. **All who are subject to independence requirements to promptly notify the IP of independence breaches of which they become aware;**
- b. **The IP to promptly communicate identified breaches of these policies and procedures to:**
 - i. **The personnel of IP who, needs to address the breach; and**
 - ii. **Other relevant personnel and those subject to the independence requirements who need to take appropriate action;**
- c. **Prompt communication to the IP, if necessary, by such personnel of the actions taken to resolve the matter, so that the IP can determine whether it should take further action.**

22. An IP receiving notice of a breach of independence policies and procedures promptly communicates relevant information to personnel, as appropriate and, where applicable, experts contracted by the IP and its personnel (if any), for appropriate action. Appropriate action by the IP and personnel includes applying appropriate safeguards to eliminate the threats to independence or to reduce them to an acceptable level or withdrawing from the engagement in accordance with law as applicable. In addition, the IP provides independence education to personnel who are required to be independent.
23. **At the beginning of professional engagement assignment, the IP should obtain written confirmation of compliance with its policies and procedures on independence from all personnel required to be independent with a declaration that if the independence is ever breached during the engagement the same shall be communicated to IP immediately.**
24. Written confirmation may be in paper or electronic form. By obtaining confirmation and taking appropriate action on information indicating non-compliance, the IP demonstrates the importance that it attaches to independence and makes the issue current for, and visible to, its personnel.



Human and Technological Resources

25. **The IP should establish policies and procedures designed to provide it with reasonable assurance that it has sufficient personnel with the capabilities, competence, and commitment to ethical principles necessary to perform its engagements in accordance with professional standards, best-practices, regulatory and legal requirements, and to enable the IP to complete the assignment that are appropriate in the circumstances.**
26. **The IP should establish policies and procedures designed to provide it with reasonable assurance that it has sufficient adoption of technological solutions necessary to perform its engagements in accordance with professional standards, best-practices, regulatory and legal requirements, and to enable the IP to complete the assignment that are appropriate in the circumstances.**
27. Such policies and procedures address the following personnel issues:
 - (a) Recruitment;
 - (b) Performance evaluation;
 - (c) Capabilities;
 - (d) Competence;
 - (e) Career development;
 - (f) Promotion;
 - (g) Compensation; and
 - (h) Estimation of personnel needs.
28. Addressing these issues enables the IP to ascertain the number and characteristics of the individuals required for the engagements. The IP's recruitment processes include procedures that help the IP select individuals with integrity as well as capacity and to develop the capability or competence necessary to perform the IP's work.
29. Capabilities and competence are developed through a variety of methods, including the followings:
 - a. Professional education.
 - b. Continuing professional development, including training.
 - c. Work experience.
 - d. Coaching by more experienced staff, for example, other members of the engagement team.

30. The continuing competence of the personnel depends to a significant extent on an appropriate level of continuing professional development so that personnel maintain and also enhance their knowledge and capabilities. The IP therefore emphasizes in its policies and procedures, the need for continuing training for all levels of personnel and provides the necessary training resources and assistance to enable personnel to develop and maintain the required capabilities and competence. Where internal technical and training resources are unavailable, or for any other reason, the IP may use a suitably qualified external person for that purpose.
31. The performance evaluation, compensation and promotion procedures give due recognition and reward to the development and maintenance of competence and commitment to ethical principles. In particular, the IP:
 - a. Makes personnel aware of the expectations regarding performance and ethical principles;
 - b. Provides personnel with evaluation of, and counseling on, performance, progress and career development; and
 - c. Helps personnel understand that advancement to positions of greater responsibility depends, among other things, upon performance quality and adherence to ethical principles, and that failure to comply with the policies and procedures may result in disciplinary action.
32. The size and circumstances of the IP will influence the structure of the performance evaluation process. Smaller IPs, in particular, may employ less-formal methods of evaluating the performance of his personnel.
33. The technological solutions may range across facilities of Records of Default (ROD) from Information Utility (IU), Virtual Data Room (VDR), eVoting, eAuction, Insolvency case management, invitation/evaluation of resolution plans, audio/video recordings of meetings/proceedings, e-filing of petitions, data storage services, etc.
34. The size and circumstances of the IP will influence the degree of the adoption of technological solutions.

Assignment of Engagement Teams

35. **The IP should assign responsibility for each engagement to an engagement team. The IP should establish policies and procedures requiring that:**
 - a. **The identity and role of the engagement team are communicated to key members of the Corporate Debtor;**
 - b. **The engagement team has the appropriate capabilities, competence, authority and time to perform the role; and**

- c. **The responsibilities of the engagement team are clearly defined and communicated to that team head.**
36. Policies and procedures include systems to monitor the workload and availability of IPs so as to enable these individuals to have sufficient time to adequately discharge their responsibilities.
37. **The IP should also assign appropriate staff with the necessary capabilities, competence, and time to perform engagements in accordance with professional standards, best-practices, regulatory and legal requirements.**
38. The IP establishes procedures to assess its staff's capabilities and competence. The capabilities and competence considered when assigning engagement teams, and in determining the level of supervision required, include the followings:
- a. An understanding of, and practical experience with, engagements of a similar nature and complexity through appropriate training and participation.
 - b. An understanding of professional standards, best practices, regulatory and legal requirements.
 - c. Appropriate technical knowledge, including knowledge of relevant information technology.
 - d. Knowledge of the relevant industries in which the clients operate.
 - e. Ability to apply professional judgment.
 - f. An understanding of the IP's quality control policies and procedures.



Engagement Performance

39. **The IP should establish policies and procedures designed to provide it with reasonable assurance that engagements are performed in accordance with professional standards, best-practices, regulatory and legal requirements and as per the Code, Rules and Regulations in this regard.**
40. Through its policies and procedures, the IP seeks to establish consistency in the quality of engagement performance. This is often accomplished through written or electronic manuals, software tools or other forms of standardized documentation, and industry or subject matter-specific guidance materials. The matters addressed include the followings:
- How are engagement teams briefed on the engagement to obtain an understanding of the objectives of their work?
 - Processes for complying with applicable engagement standards.
 - Processes of engagement supervision, staff training and coaching.
 - Methods of reviewing the work performed, the significant judgments made.
 - Appropriate documentation of the work performed and of the timing and extent of the review.
 - Processes to keep all policies and procedures updated.
41. It is important that all members of the engagement team understand the objectives of the work they are to perform. Appropriate team-working and training are necessary to assist less experienced members of the engagement team to clearly understand the objectives of the assigned work.
42. Supervision includes the followings:
- Tracking the progress of the engagement.
 - Considering the capabilities and competence of individual members of the engagement team, whether they have sufficient time to carry out their work, whether they understand their instructions and whether the work is being carried out in accordance with the planned approach to the engagement.
 - Addressing significant issues arising during the engagement, considering their significance, and appropriately modifying the planned approach appropriately.
 - Identifying matters for consultation or consideration by more experienced engagement team members during the engagement.

43. Responsibilities for review are determined on the basis that more experienced engagement team members, including the IP concerned, review work performed by less experienced team members. Reviewers consider whether:
- The work has been performed in accordance with professional standards, best-practices, regulatory and legal requirements;
 - Significant matters have been raised for further consideration;
 - Appropriate consultations have taken place and the resulting conclusions have been documented and implemented;
 - There is a need to revise the nature, timing and extent of work performed;
 - The work performed supports the conclusions reached and is appropriately documented;
 - The evidence obtained is sufficient and appropriate to support the action taken; and
 - The objectives of the engagement procedures have been achieved.

Consultation

44. **The IP should establish policies and procedures designed to provide it with reasonable assurance that:**
- Appropriate consultation takes place on difficult or contentious matters;**
 - Sufficient resources are available to enable appropriate consultation to take place;**
 - The nature and scope of such consultations are documented; and**
 - Conclusions resulting from consultations are documented and implemented.**
45. Consultation includes discussion, at the appropriate professional level, with individuals within or outside the IP's team who have specialized expertise, to resolve a difficult or contentious matter.
46. Consultation uses appropriate research resources as well as the collective experience and technical expertise of the IP. Consultation helps to promote quality and improves the application of professional judgment. The IP seeks to establish a culture in which consultation is recognized as a strength and encourages personnel to consult on difficult or contentious matters.
47. Effective consultation with other professionals requires that those consulted be given all the relevant facts that will enable them to provide informed advice on technical, ethical or other matters. Consultation procedures require consultation with those having appropriate knowledge, seniority and experience on significant technical, ethical and other matters, and appropriate documentation and implementation of conclusions resulting from consultations.

48. An IP needing to consult externally, for example, an IP without appropriate internal resources, may take advantage of advisory services provided by (a) other IP, or (b) or consultants (c) professional and regulatory bodies. Before contracting for such services, the IP considers whether the external provider is suitably qualified for that purpose.
49. The documentation of consultations with other professionals that involve difficult or contentious matters is agreed by both the individual seeking consultation and the individual consulted. The documentation is sufficiently complete and detailed to enable an understanding of:
 - a. The issue on which consultation was sought; and
 - b. The results of the consultation, including any decisions taken, the basis for those decisions and how they were implemented.

Differences of Opinion

50. **The IP should establish policies and procedures for dealing with and resolving differences of opinion within the engagement team, with those consulted and, where applicable, between the IP and the engagement quality control reviewer. Conclusions reached should be documented and implemented.**
51. Such procedures encourage identification of differences of opinion at an early stage, provide clear guidelines as to the successive steps to be taken thereafter, and require documentation regarding the resolution of the differences and the implementation of the conclusions reached.
52. An IP using a suitably qualified external person(s) to conduct an engagement quality control review recognizes that differences of opinion can occur and establishes procedures to resolve such differences, for example, by consulting with another practitioner or IP, or a professional or regulatory body.

Engagement Quality Control Review

53. **The IP should establish policies and procedures requiring, for appropriate engagements, an engagement quality control review that provides an objective evaluation of the significant judgments made by the engagement team and the conclusions reached. Such policies and procedures should:**
 - a. **Set out criteria against which all engagements should be evaluated to determine whether an engagement quality control review should be performed; and**
 - b. **Require an engagement quality control review for all engagements meeting the criteria established in compliance with subparagraph (a).**
54. **The IP's policies and procedures should require the completion of the engagement quality control review before the report is issued.**

55. **The peer-review mechanism is to be considered for adoption, wherever provided by IBBI and/or IPA.**
56. The IP should establish policies and procedures setting out:
- The nature, timing and extent of an engagement quality control review;
 - Criteria for the eligibility of engagement quality control reviewers; and
 - Documentation requirements for an engagement quality control review.

Nature, Timing and Extent of the Engagement Quality Control Review

57. An engagement quality control review ordinarily involves discussion with the IP, personnel, a review of the decisions taken and, in particular, consideration of whether the decision taken is appropriate. It also involves a review of selected working papers relating to the significant judgments that the engagement team made and the conclusions they reached. The extent of the review depends on the complexity of the engagement and the risk that the decision taken might not be appropriate in the circumstances. The review does not reduce the responsibilities of the IP concerned.
58. An engagement quality control review includes considering the followings:
- Evaluation of the IP's and its team's independence in relation to the specific engagement.
 - Significant risks identified during the engagement and the responses to those risks.
 - Judgments made, particularly with respect to materiality and significant risks.
 - Whether appropriate consultation has taken place on matters involving differences of opinion or other difficult or contentious matters, and the conclusions arising from those consultations.
 - The matters to be communicated to management and those charged with governance and, where applicable, other parties such as regulatory bodies.
 - Whether working papers selected for review reflect the work performed in relation to the significant judgments and support the conclusions reached.
 - The appropriateness of the decision taken/ conclusions arrived.
59. The engagement quality control reviewer conducts the review in a timely manner at appropriate stages during the engagement so that significant matters may be promptly resolved to the reviewer's satisfaction before decision is taken.
60. Where the engagement quality control reviewer makes recommendations that the concerned IP does not accept and the matter is not resolved to the reviewer's

satisfaction, the decision should not be taken until the matter is resolved by following the IP's procedures for dealing with differences of opinion.

Criteria for the Eligibility of Engagement Quality Control Reviewers

61. **The IP's policies and procedures should address the appointment of engagement quality control reviewers and establish their eligibility through:**
 - a. **The technical qualifications required to perform the role, including the necessary experience and authority; and**
 - b. **The degree to which an engagement quality control reviewer can be consulted on the engagement without compromising the reviewer's objectivity.**
62. The IP's policies and procedures on the technical qualifications of engagement quality control reviewers address the technical expertise, experience, and authority necessary to perform the role. What constitutes sufficient and appropriate technical expertise, experience and authority depends on the circumstances of the engagement.
63. The IP's policies and procedures are designed to maintain the objectivity of the engagement quality control reviewer. For example, the engagement quality control reviewer:
 - a. Is not selected by the IP;
 - b. Does not otherwise participate in the engagement during the period of review;
 - c. Does not make decisions for the engagement team; and
 - d. Is not subject to other considerations that would threaten the reviewer's objectivity.
64. The concerned IP may consult the engagement quality control reviewer during the engagement. Such consultation need not compromise the engagement quality control reviewer's eligibility to perform the role. Where the nature and extent of the consultations become significant, however, care is taken by both the engagement team and the reviewer to maintain the reviewer's objectivity. Where this is not possible, another individual within the IP or a suitably qualified external person is appointed to take on the role of either the engagement quality control reviewer or the person to be consulted on the engagement. The IP's policies provide for the replacement of the engagement quality control reviewer where the ability to perform an objective review may be impaired.
65. Suitably qualified external persons may be contracted where sole practitioners or small IPs identify engagements requiring engagement quality control reviews. Alternatively, some sole practitioners or small IPs may wish to use other IPs to

facilitate engagement quality control reviews. The peer-review mechanism is to be considered for adoption, wherever provided by IBBI and/or IPA. Where the IP contracts suitably qualified external persons, the IP follows the requirements and guidance in *paragraph 47*.

Documentation of the Engagement Quality Control Review

- 66. Policies and procedures on documentation of the engagement quality control review should require that:**
- a. **The procedures required by the IP's policies on engagement quality control review have been performed;**
 - b. **The engagement quality control review has been completed before the report is issued; and**
 - c. **The reviewer is not aware of any unresolved matters that would cause the reviewer to believe that the significant judgments the engagement team made and the conclusions they reached were not appropriate.**

Engagement Documentation

Completion of the Assembly of Final Engagement Files

- 67. The IP should establish policies and procedures for engagement teams to complete the assembly of final engagement files on a timely basis after the engagement reports have been finalized.**
68. Law or regulation may prescribe the time limits by which the assembly of final engagement files for specific types of engagement should be completed. Where no such time limits are prescribed in law or regulation, the IP establishes time limits appropriate to the nature of the engagements that reflect the need to complete the assembly of final engagement files on a timely basis.

Confidentiality, Safe Custody, Integrity, Accessibility and Retrievability of Engagement Documentation

- 69. The IP should establish policies and procedures designed to maintain the confidentiality, safe custody, integrity, accessibility and retrievability of engagement documentation.**
70. Relevant ethical requirements establish an obligation for the IP's personnel to observe at all times the confidentiality of information contained in engagement documentation, unless specific client authority has been given to disclose information, or there is a legal or professional duty to do so. Specific laws or regulations may impose additional obligations on the IP's personnel to maintain client confidentiality, particularly where data of a personal nature are concerned.

71. Whether engagement documentation is in paper, electronic or other media, the integrity, accessibility or retrievability of the underlying data may be compromised if the documentation could be altered, added to or deleted without the IP's knowledge, or if it could be permanently lost or damaged. Accordingly, the IP designs and implements appropriate controls for engagement documentation to:
- Enable the determination of when and by whom engagement documentation was created, changed or reviewed;
 - Protect the integrity of the information at all stages of the engagement, especially when the information is shared within the engagement team or transmitted to other parties via the Internet;
 - Prevent unauthorized changes to the engagement documentation; and
 - Allow access to the engagement documentation by the engagement team and other authorized parties as necessary to properly discharge their responsibilities.
72. Controls that the IP may design and implement to maintain the confidentiality, safe custody, integrity, accessibility and retrievability of engagement documentation include, for example:
- The use of a password among engagement team members to restrict access to electronic engagement documentation to authorized users.
 - Appropriate back-up routines for electronic engagement documentation at appropriate stages during the engagement.
 - Procedures for properly distributing engagement documentation to the team members at the start of engagement, processing it during engagement, and collating it at the end of engagement.
 - Procedures for restricting access to, and enabling proper distribution and confidential storage of, hardcopy engagement documentation.
73. For practical reasons, original paper documentation may be electronically scanned for inclusion in engagement files. In that case, the IP implements appropriate procedures requiring engagement teams to:
- Generate scanned copies that reflect the entire content of the original paper documentation, including manual signatures, cross-references and annotations;
 - Integrate the scanned copies into the engagement files, including indexing and signing off on the scanned copies as necessary; and
 - Enable the scanned copies to be retrieved and printed as necessary.
74. The IP considers whether to retain original paper documentation that has been scanned for legal, regulatory or other reasons.

Retention of Engagement Documentation

75. **The IP should establish policies and procedures for the retention of engagement documentation for a period sufficient to meet the needs of the IP or as required by law or regulation.**
76. The needs of the IP for retention of engagement documentation, and the period of such retention, will vary with the nature of the engagement and the IP's circumstances, for example, whether the engagement documentation is needed to provide a record of matters of continuing significance to future engagements. The retention period may also depend on other factors, such as whether local law or regulation prescribes specific retention periods for certain types of engagements, or whether there are generally accepted retention periods in the jurisdiction in the absence of specific legal or regulatory requirements. In general, the retention period is eight years for digital records and three years for physical records in the context of insolvency assignment/engagement.
77. An IP must ensure that he maintains written contemporaneous records for any decision taken, the reasons for taking the decision, and the information and evidence in support of such decision. This shall be maintained so as to sufficiently enable a reasonable person to take a view on the appropriateness of his decisions and actions.
78. Procedures that the IP adopts for retention of engagement documentation include those that:
 - a. Enable the retrieval of, and access to, the engagement documentation during the retention period, particularly in the case of electronic documentation since the underlying technology may be upgraded or changed over time.
 - b. Provide, where necessary, a record of changes made to engagement documentation after the engagement files have been completed.
 - c. Enable authorized external parties to access and review specific engagement documentation for quality control or other purposes.

Ownership of Engagement Documentation

79. Unless otherwise specified by law or regulation, engagement documentation is the property of the IP. The IP may, at its discretion, make portions of, or extracts from, engagement documentation available to stakeholders, provided such disclosure does not undermine the validity of the work performed, or, in the case of assurance engagements, the independence of the IP or its personnel.



Monitoring

80. **The IP should establish policies and procedures designed to provide it with reasonable assurance that the policies and procedures relating to the system of quality control are relevant, adequate, operating effectively and complied with in practice. Such policies and procedures should include an ongoing consideration and evaluation of the IP's system of quality control, including a periodic inspection of a selection of completed engagements.**
81. The purpose of monitoring compliance with quality control policies and procedures is to provide an evaluation of:
- Adherence to professional standards, best-practices, regulatory and legal requirements;
 - Whether the quality control system has been appropriately designed and effectively implemented; and
 - Whether the IP's quality control policies and procedures have been appropriately applied, so that reports that are issued by the IP concerned are appropriate in the circumstances.
82. The IP entrusts responsibility for the monitoring process to a partner or partners or other persons with sufficient and appropriate experience and authority in the IP to assume that responsibility. Monitoring of the IP's system of quality control is performed by competent individuals and covers both the appropriateness of the design and the effectiveness of the operation of the system of quality control.
83. Ongoing consideration and evaluation of the system of quality control includes matters such as the followings:
- Analysis of:
 - New developments in professional standards, best-practices, regulatory and legal requirements, and how they are reflected in the IP's policies and procedures where appropriate;
 - Written confirmation of compliance with policies and procedures on independence;
 - Continuing professional development, including training; and
 - Decisions related to acceptance and continuance of client relationships and specific engagements.

- b. Determination of corrective actions to be taken and improvements to be made in the system, including the provision of feedback into the IP's policies and procedures relating to education and training.
 - c. Communication to appropriate personnel of weaknesses identified in the system, in the level of understanding of the system, or compliance with it.
 - d. Follow-up by appropriate personnel so that necessary modifications are promptly made to the quality control policies and procedures.
84. The inspection of a selection of completed engagements is ordinarily performed on a cyclical basis. The manner in which the inspection cycle is organized, including the timing of selection of individual engagements, depends on many factors, including the followings:
- a. The size of the corporate debtor.
 - b. The number and geographical location of offices.
 - c. The results of previous monitoring procedures.
 - d. The degree of authority both personnel and offices have (for example, whether individual offices are authorized to conduct their own inspections or whether only the head office may conduct them).
 - e. The nature and complexity of the IP's practice and organization.
 - f. The risks associated with the IP's clients and specific engagements.
85. The inspection process includes the selection of individual engagements, some of which may be selected without prior notification to the engagement team. Those inspecting the engagements are not involved in performing the engagement or the engagement quality control review. In determining the scope of the inspections, the IP may take into account the scope or conclusions of an independent external inspection program. However, an independent external inspection program does not act as a substitute for the IP's own internal monitoring program.
86. Small IPs and sole practitioners may wish to use a suitably qualified external person or another IP to carry out engagement inspections and other monitoring procedures. Alternatively, they may wish to establish arrangements to share resources with other appropriate organizations to facilitate monitoring activities.
87. **The IP should evaluate the effect of deficiencies noted as a result of the monitoring process and should determine whether they are either:**
- a. **Instances that do not necessarily indicate that the IP's system of quality control is insufficient to provide it with reasonable assurance that it complies with professional standards, best-practices, regulatory and legal requirements, and that conclusions arrived are appropriate in the circumstances; or**

- b. **Systemic, repetitive or other significant deficiencies that require prompt corrective action.**
- 88. **The IP should communicate to relevant team members and other appropriate personnel deficiencies noted as a result of the monitoring process and recommendations for appropriate remedial action.**
- 89. **The IP's evaluation of each type of deficiency should result in recommendations for one or more of the followings:**
 - a. **Taking appropriate remedial action in relation to an individual engagement or member of personnel;**
 - b. **The communication of the findings to those responsible for training and professional development;**
 - c. **Changes to the quality control policies and procedures; and**
 - d. **Disciplinary action against those who fail to comply with the policies and procedures of the IP, especially those who do so repeatedly.**
- 90. **Where the results of the monitoring procedures indicate that conclusion arrived may be inappropriate or that procedures were omitted during the performance of the engagement, the IP should determine what further action is appropriate to comply with relevant professional standards, best-practices, regulatory and legal requirements. It should also consider obtaining legal advice.**
- 91. **At least annually, the IP should communicate the results of the monitoring of its quality control system to its team. Such communication should enable the IP and these individuals to take prompt and appropriate action where necessary in accordance with their defined roles and responsibilities. Information communicated should include the followings:**
 - a. **A description of the monitoring procedures performed.**
 - b. **The conclusions drawn from the monitoring procedures.**
 - c. **Where relevant, a description of systemic, repetitive or other significant deficiencies and of the actions taken to resolve or amend those deficiencies.**
- 92. **The reporting of identified deficiencies to individuals other than the relevant team members ordinarily does not include an identification of the specific engagements concerned, unless such identification is necessary for the proper discharge of the responsibilities of the individuals other than the relevant team members.**

Complaints and Allegations

93. **The IP should establish policies and procedures designed to provide it with reasonable assurance that it deals appropriately with:**
 - a. **Complaints and allegations that the work performed by the IP fails to comply with professional standards, best-practices, regulatory and legal requirements; and**
 - b. **Allegations of non-compliance with the IP's system of quality control.**
94. Complaints and allegations (which do not include those that are clearly frivolous) may originate from within or outside the IP organisation. They may be made by personnel or external stakeholders. They may be received by engagement team members or other IP personnel.
95. As part of this process, the IP establishes clearly defined channels for personnel to raise any concerns in a manner that enables them to come forward without fear of reprisals.
96. The IP investigates such complaints and allegations in accordance with established policies and procedures. The investigation is supervised by a partner with sufficient and appropriate experience and authority within the IP's organisation but who is not otherwise involved in the engagement, and includes involving legal counsel as necessary. Small IPs and sole practitioners may use the services of a suitably qualified external person or another IP to carry out the investigation. Complaints, allegations and the responses to them are documented.
97. Where the results of the investigations indicate deficiencies in the design or operation of the IP's quality control policies and procedures, or non-compliance with the IP's system of quality control by an individual or individuals, the IP takes appropriate action as discussed in *paragraph 51*.

Documentation

98. **The IP should establish policies and procedures requiring appropriate documentation to provide evidence of the operation of each element of its system of quality control.**
99. How such matters are documented is the IP's decision. For example, large IPs may use electronic databases to document matters such as independence confirmations, performance evaluations and the results of monitoring inspections. Smaller IPs may use more simpler and informal methods such as manual notes, checklists, and forms.

100. Factors to be considered when determining the form and content of documentation evidencing the operation of each of the elements of the system of quality control include the followings:
 - a. The size of the IP and the number of offices.
 - b. The degree of authority both personnel and offices have.
 - c. The nature and complexity of the IP's practice and organization.
101. The IP retains this documentation for a period of time sufficient to permit those performing monitoring procedures to evaluate the IP's compliance with its system of quality control, or for a longer period if required by law or regulation.



Feedback

The book “**Background Guidance on Quality Control by Insolvency Professionals**” is part of an initiative of the Indian Institute of Insolvency Professionals of ICAI (IIPI) aimed at dissemination of information and knowledge on evolving ecosystem of insolvency and bankruptcy profession and developing a global world view among practicing and aspiring insolvency professionals in India. IIPI firmly believes in innovations in communication approaches and strategies to present complicated information of insolvency ecosystem in a highly simplified and interesting manner. Your views and suggestions will be of great importance for improvement in upcoming publications of IIPI. Please write to us at iiipi.pub@icai.in



Indian Institute of Insolvency Professionals of ICAI (IIPI)

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Regd. Office: Post Box No: 7100, ICAI Bhawan, Indraprastha Marg, new Delhi - 110002

Admin. Office: ICAI Bhawan, 8th Floor, Hostel Block, A-29, Sector-62, Noida - 201309

 +91 120 2975680/81/82/83,  ipa@icai.in,  www.iiipicai.in