



DIRECTORATE FOR REGISTRATION AND RECOGNITION

**EVALUATION REPORT FOR THE RECOGNITION OF PROFESSIONAL BODIES AND
REGISTRATION OF PROFESSIONAL DESIGNATIONS**

Name of Professional Body	South African Restructuring and Insolvency Practitioners Association (SARIPA)
Statutory or Non-Statutory Body	Non-statutory
Sector	Business, Commerce and Management
Physical Address	46 15th Street, Parkhurst ,2193
Application Approved by Board/Council	Yes
Application Signed by CEO / Registrar/ Board Chairperson	Yes
Number of Designations Applied for	2
Date of Site Visit	28 September 2017
Date of Gazette Notice	
Name of the Chairperson	Mr Juanito Damons
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PROFESSIONAL BODY RECOGNITION AND PROFESSIONAL DESIGNATION REGISTRATION

EVALUATION REPORT

1. NAME OF BODY: SOUTH AFRICAN RESTRUCTURING AND INSOLVENCY PRACTITIONERS ASSOCIATION (SARIPA)

- 1.1 The South African Restructuring and Insolvency Practitioners Association (SARIPA) applied to SAQA for recognition as a professional body and for the registration of two professional designations on the NQF in terms of the NQF Act, Act 67 of 2008.
- 1.2 SARIPA is a Non-Profit Association (NPA) that was formed in 1986 to achieve professionalism in the insolvency profession in South Africa. Since its incorporation its membership has grown to over 600 members. Its membership consists of Insolvency Practitioners (IP) and Business Restructuring Professionals, attorneys, chartered accountants, tax consultants, academics and individuals predominantly in the financial lending sector, who are exposed to the liquidation, insolvency and restructuring profession.

SARIPA is actively involved in education programmes and has developed the SARIPA Certificate which is presented by the University of Pretoria. SARIPA also holds regular regional workshops and an annual national conference to keep members and stakeholders abreast of new case law and changing legislation.

SARIPA has open channels of communication with government and has been instrumental in giving input into policy guidelines and new legislation. SARIPA is currently involved with Government in establishing a framework for statutory regulation. In this regard, SARIPA would like to see such regulation imposing that all practitioners must belong to a statutorily regulated body, thereby giving the public at large confidence in the practitioners who are ultimately appointed by the Master of the High Court.

2. CRITERIA FOR RECOGNISING A PROFESSIONAL BODY

DRR evaluated the application against the *Policy and Criteria for Recognising a Professional Body and Registering a Professional Designation for the Purposes of the NQF Act*. SARIPA was found to meet all the criteria for recognising a professional body listed below:

2.1. Legally Constituted Entity

SARIPA is a non-statutory body registered as a Non-Profit Company (NPC) with the Companies and Intellectual Property Commission (CIPC). CIPC issued the registration certificate with registration number 1986/002363/08.

SARIPA submitted the following documents:

- Registration certificate as NPC with members.
- Unsigned Memorandum of Incorporation (MOI), which lists the objectives of the NPO.
- Recent CIPC disclosure certificate, listing their 15 Directors with copies of their ID documents.
- Letterhead reflecting the name of the company.
- The South African Revenue Services (SARS) tax clearance certificate.

2.2. Human Resources

- SARIPA is managed by a Chairperson, Deputy Chairperson and Secretary/Treasurer from the National Board. There are four Regional Councils that comprise of Regional Chairpersons in Eastern Cape, Kwazulu Natal, Gauteng and Western Cape. All the four Regional Chairpersons are part of the Directors in the National Board of SARIPA.
- SARIPA has two full time administrative staff.

2.3. Financial Resources

- SARIPA submitted its audited financial statement dated 29 February 2016.
- SARIPA keeps full and proper financial records of its business as a professional body.
- The audited financial statements of SARIPA affirm the organisation as a going concern.

2.4. Good Corporate Governance Practices

- SARIPA is governed by a Memorandum of Incorporation and a Board of Directors Charter as recommended in the Companies Act 71 of 2008 (as amended) and the King Report on Governance in South Africa (King III) respectively.
- The Board of SARIPA is elected by members at an Annual General Meeting (AGM). The responsibility of the Board of Directors is in general to provide leadership and guidance to SARIPA as a whole on strategic and policy level, and to oversee the responsible management and operations of the Association.
- Members of Board are immediately eligible for re-election on expiry of their three years term of office up to a maximum of three consecutive terms.
- The election, composition, authority and functioning of the Board of Directors is as determined by the Memorandum of Incorporation.

2.5. Protection of the Public Interest

- SARIPA has a code of ethics and professional conduct for its members.
- All their members are required to sign the code of ethics and professional conduct.
- In pursuit of protecting the public SARIPA has Regional Committees, each region appoints a Regional Disciplinary Officer who will conduct investigations for alleged breaches.
- The Regional Disciplinary Officer will receive a notice of complaint from SARIPA Admin office, each complaint is recorded in the National Disciplinary Register.
- If resolved, the outcome will be sent to the SARIPA Administrator to be recorded in the National Disciplinary Register.
- All resolved cases are referred to the National Disciplinary Officer, who will advise complainant and member of referral.
- The National Disciplinary Officer presents reports for all cases to the National Council.
- The National Council will make a final decision.

In addition, SARIPA has an appeal policy that was submitted to SAQA, any person who is aggrieved by any decision taken by SARIPA Board may follow the appeal procedure;

- Any appeal must be lodged in writing and addressed to the Chairperson the Board.
- The appeal must contain a statement outlining the basis of the appeal, any evidence that the appellant believes has been overlooked, additional information that the complainant believed might not have been in the possession of the Board when the decision was taken.
- An ad hoc committee established by the Board Chairperson is appointed specifically to hear the appeal. A new appeal committee must be set up for each appeal.
- Findings and recommendations are presented to the Board before a decision is made.
- The Board decision is conveyed to the appellant within 5 days of the Board meeting.

2.6. Membership and Affiliations

SARIPA membership

- SARIPA submitted a list of 607 individual members including their membership commencement date, their designations, gender and race.
- On site it was verified that SARIPA has an existing electronic database which provides for the following data fields: contact details and professional profile of the members / affiliates in terms of demographics, designations, CPD credits, good standing.

- All 607 members are South African citizens.

International affiliations:

- SARIPA is affiliated to INSOL International and is ranked as one of INSOL's top 10 Member Associations. SARIPA has representation on the INSOL International Board of Directors.
- INSOL is a forum to exchange knowledge and learn from the experiences of other countries. It is a world-wide federation of national associations of accountants and lawyers who specialise in turnaround, restructuring and insolvency.
- INSOL has a membership of more than 44 international insolvency organisations with over 10,000 professionals participating as members in over 90 countries.

2.7. Education and Training

SARIPA complies with Section 19 of the Policy and Criteria for the Recognising a Professional Body and Registering a Professional Designation for the Purposes of the National Qualification Framework Act, Act 67 of 2008 as:

- It is not accredited as an education and training provider by a Quality Council.
- It is not registered as an education and training provider with the Department of Higher Education and Training.

2.8 Continuing Professional Development (CPD)

- SARIPA submitted their CPD policy to SAQA.
- CPD criteria for retaining the professional designation are administered in line with this policy.
- Each SARIPA professional designation lists the CPD requirements with which the designees must comply, the CPD requirements list:
 - the minimum number variables and non-variables hours to be completed by the designees per CPD cycle; and
 - the points awarded for each type of CPD activity.
- Designees may obtain CPD points for activities organised by their workplaces or other professional bodies provided;
 - the activity should be relevant to the designees professional role;
 - approval must be obtained from SARIPA for the activity to be regarded as a CPD activity; and
 - proof must be provided to SARIPA that the designee was actively involved in the activity
- The Education Committee will coordinate the compulsory core CPD activities each year which will be held in each of the regions.
- Non-compliance in CPD obligations warrants the following:
 - a warning will be issued by the Board;
 - a further 6 months extension be granted, failure to comply within the extension will result in disciplinary hearing, which could lead to suspension or revocation of designation; and
 - designees whose designations are suspended or revoked may appeal against this decision in accordance with the SARIPA's policy

2.9 Unfair Exclusionary Practices

- SARIPA has 15 Board of Directors, with only four people of colour. SARIPA has a transformation policy in place to address the transformation agenda and acknowledges the past imbalances that existed.
- The professional body sector is one where transformation has progressed relatively slowly with management and members still dominated by white males and people of colour in the minority.
- SARIPA has adopted a transformation process whereby all persons working in the reconstruction and insolvency sector may apply for and be granted membership of SARIPA if they so wish;
- SARIPA will take active steps to provide opportunities to the previously disadvantaged to be awarded SARIPA membership and/or SARIPA professional designations.

- SARIPA will take active steps to ensure that its Board, sub-committees and regional committees are fully representatives of the various demographic groups in the country, this will be done through;
 - Making the organisation welcoming to all;
 - Encouraging women, people of colour and people with disabilities to volunteer to serve on various SARIPA committees including the Board
- SARIPA will act against any instances of unfair discrimination of any type and description perpetrated by members.

2.10 Proliferation of Professional Bodies

- Currently, there is no professional body in the sector that has been established through an Act of Parliament.
- There is no recognised professional body in the sector.

3. CRITERIA FOR REGISTERING A PROFESSIONAL DESIGNATION

3.1 Recognition of Prior Learning (RPL)

- SARIPA submitted their Recognition of Prior Learning (RPL) policy to SAQA.
- RPL will be awarded in line with this policy as outlined below:
 - Applicants who have the requisite number of years' experience in this sector, without the underlying qualification may apply for membership and/or a professional designation through recognition of prior learning
 - Such applicants must formally request in writing to undergo the SARIPA competency assessment.
 - Successful applicants are required to complete the membership/professional designation application form and submit to the SARIPA.

3.2 Awarding and Retention of Professional Designations

- Applicants to be awarded a professional designation must apply on the prescribed form to SARIPA in writing.
- Completed application forms must be accompanied by relevant qualifications, statements of work experience and recommendations by existing SARIPA members must be submitted to the SARIPA administration office.
- The application forms will be checked by the SARIPA administrator, if necessary outstanding documents will be requested.
- The Administrator will submit the applications forms and the supporting documents to the SARIPA Board together with the recommendations regarding the award in terms of the applications compliance with the criteria.
- The Board will consider all the applications received and decide on the awarding of the designation.
- The applicants will be informed of the outcome from the Board in writing by the Board Chairperson.
- Successful applicants will be awarded their designations on payment of the relevant membership fee and signing of acceptance of the SARIPA Code of Conduct.
- Successful applicants will be required to comply with the on-going requirements of SARIPA's Continuing Professional Development Policy for the retention of their rewarded designation.
- Unsuccessful applicants will be informed of the Board's decision and given the reasons for refusal in writing by the SARIPA Board Chairperson plus a list of remedial actions, if applicable, that are required for the application to be approved at a later date.
- Unsuccessful applicants may appeal against the decision in accordance with the SARIPA appeals policy and procedure.

3.3 Designation(s) to be Registered

Designation Title: Business Restructuring Professional

CRITERION	DESCRIPTION
Underlying NQF Registered Qualification/Part-Qualification	One of the following qualifications: <ul style="list-style-type: none"> • LLB, Level 7 or 8; • BCom, Level 7 with Accounting (first year) • BA Law, Level 7; • BProc Level 7; • BJuris, Level 7; • Any foreign qualification evaluated by SAQA as equivalent/comparable to a relevant NQF registered Level 7 qualification; • Any relevant NQF level 7 qualification.
Experiential Learning / Practical Experience	A minimum of 5 years' relevant business rescue or business turnaround experience.
Board / Admission Examination / Assessment	N/A
Continuing Professional Development (CPD) Requirements	20 Hours per year as follows: <ul style="list-style-type: none"> • 12 hours of verifiable activities of which 8 hours are compulsory as arranged by SARIPA; and • 8 hours of non-verifiable activities.
Application of Recognition of Prior Learning (RPL)	RPL is applied in the following cases: <ul style="list-style-type: none"> • Any member or prospective member of SARIPA who does not hold one of the prescribed qualifications, but who is/was registered/licensed as a Business Restructuring Professional by CIPC prior to the implementation of this designation; <p style="text-align: center;">or</p> <ul style="list-style-type: none"> • Any member or prospective member of SARIPA who does not hold one of the prescribed qualifications, but who has been operating as a Business Restructuring Professional or turnaround professional for at least ten years, having regard to the requirements of Section 138 and Regulations 126 and 127 of the Company Act.

Designation competences:

Sections 140 and 141 of the Companies Act provides for the general powers and duties of a Business Restructuring Professional and describes this as a person appointed, to oversee a company during its business rescue proceedings.

During a company's business rescue proceedings, the Business Restructuring Professional (a) has full management control of the company in substitution for its board and pre-existing management;

(b) may delegate any power or function of the practitioner to a person who was part of the board or pre-existing management of the company;

(c) may:

(i) remove from office any person who forms part of the pre-existing management of the company; or

(ii) appoint a person as part of the management of a company; and

(d) is responsible to -

(i) develop a business rescue plan to be considered by affected persons, and

(ii) implement any business rescue plan that has been adopted

A practitioner must investigate the company's affairs, business, property, and financial situation,

CRITERION	DESCRIPTION
and after having done so, consider whether there is any reasonable prospect of the company being rescued (as defined in the Companies Act).	

Designation Title: Insolvency Practitioner (IP)

CRITERION	DESCRIPTION
Underlying NQF Registered Qualification/Part-Qualification	One of the following qualifications: <ul style="list-style-type: none"> • LLB, Level 7 or 8; • BCom, Level 7 with Accounting (first year); • BA Law, Level 7; • BProc Level 7; • BJuris, Level 7; • Any foreign qualification evaluated by SAQA as equivalent/comparable to a relevant NQF registered Level 7 qualification; • Any relevant level 7 qualification.
Experiential Learning / Practical Experience	5 years' relevant insolvency related service or experience.
Board / Admission Examination / Assessment	N/A
Continuing Professional Development (CPD) Requirements	20 Hours per year as follows: <ul style="list-style-type: none"> • 12 hours of verifiable activities of which 8 hours are compulsory as arranged by SARIPA; and 8 hours of non-verifiable activities.
Application of Recognition of Prior Learning (RPL)	RPL is applied in the following cases: <ul style="list-style-type: none"> • Any member or prospective member of SARIPA who does not hold one of the prescribed qualifications, but who is/was registered/licensed as an Insolvency Practitioner on the national panel of the Master; or • Any member or prospective member of SARIPA who does not hold one of the prescribed qualifications, but who has been operating as an Insolvency Practitioner for at least 5 years and who has successfully completed an NQF registered part qualification recognised by SARIPA.

Designation competences:

Insolvency Practitioners are appointed as either trustees of the insolvent estates of individuals or as liquidators of liquidated companies. The competencies of Insolvency Practitioners are found in the respective legislations that govern the appointment of trustees and liquidators.

Trustees are appointed in terms of the provisions of the Insolvency Act, Act 24 of 1936 (The Insolvency Act). How a trustee is elected, the requirements for such an appointment, what disqualifies a person from acting as a trustee and his/her remuneration is legislated in series of sections and regulations to the Insolvency Act, but in particular Sections 54 to 63 of the Insolvency Act.

Liquidators in turn are appointed in terms of the provisions of Chapter 14 of the Companies Act, Act 61 of 1973 (The Old Companies Act) As with the Insolvency Act how a liquidator is elected, the requirements for such an appointment, what disqualifies a person from acting as a liquidator and his/her remuneration is legislated in series of sections and regulations to the Old Companies Act, but in particular Sections 367 to 403 of the Old Companies Act.